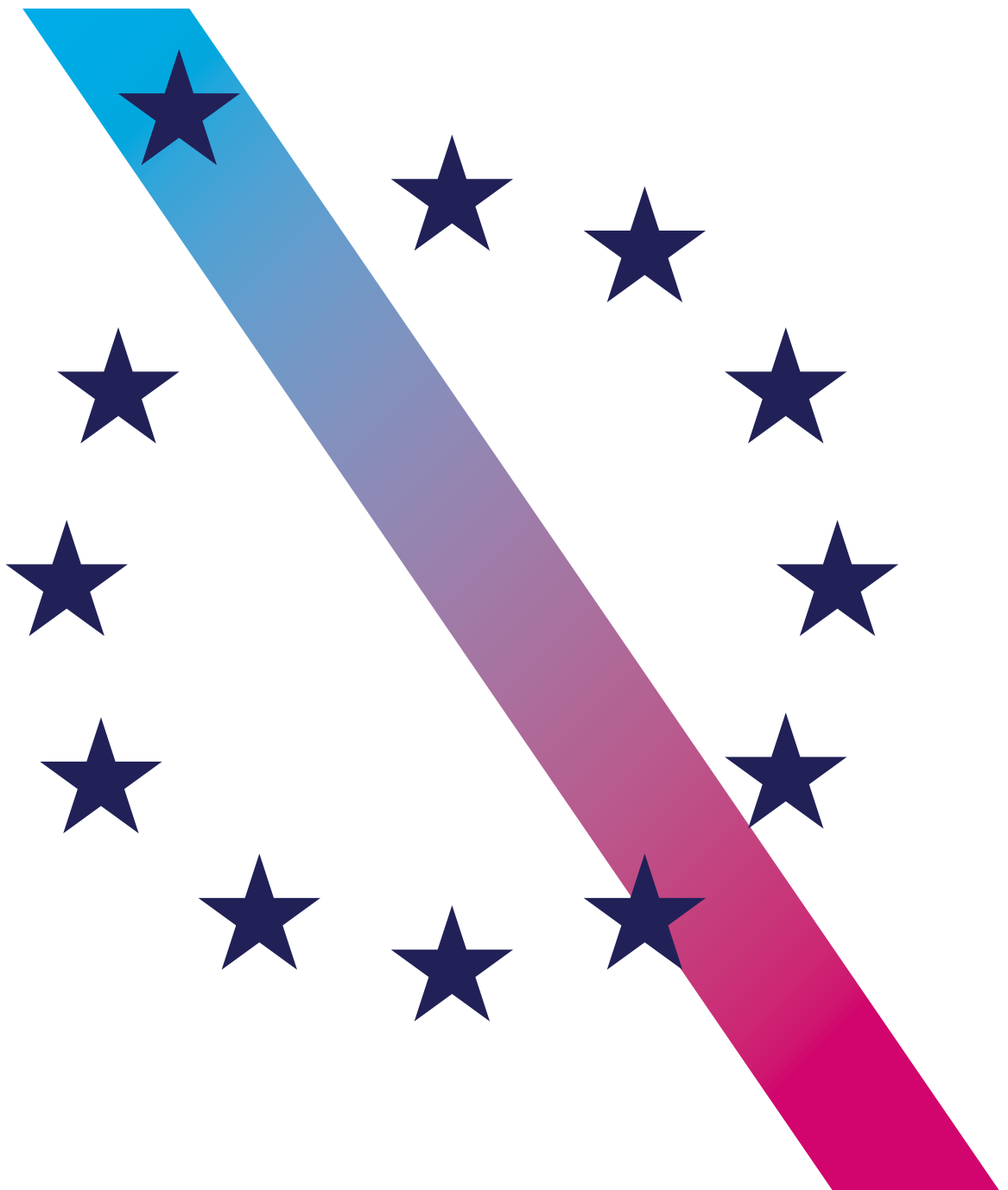# Managing migration after Brexit

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About this report

Leaving the European Union (EU) will allow the UK to 'take back control' of aspects of migration policy previously determined by EU law. The Government will be able to restrict EU immigration in a way that has not been possible for decades.

But the Government and, in particular, the Home Office must transform if they are to rise to this challenge. Policy decisions – which will need to balance the concerns of voters with the demands of businesses – will be even more significant for the economy after Brexit.

This report presents a six-point plan for managing migration after Brexit.

Our Brexit work

The Institute for Government has a major programme of work looking at the negotiations, the UK's future relationship with the EU and how the UK is governed after Brexit. Keep up to date with our comment, explainers and reports, read our media coverage, and find out about our events at: **www.instituteforgovernment.org.uk/brexit**

March 2019

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Leaving the European Union (EU) will allow the UK to 'take back control' of aspects of migration policy previously determined by EU law. The Government will be able to restrict EU immigration in a way that has not been possible for decades. But the Government and, in particular, the Home Office must transform if they are to rise to the challenge.

'Taking back control' of immigration is about much more than just designing and implementing a new immigration system. Over the past 15 years, the UK has come to depend on the free movement of workers from the EU to meet skills gaps and labour shortages. Large numbers have moved to the UK from the EU without coming into contact with the UK immigration system.

The task of managing immigration completely changes in both scale and strategic importance once free movement ends. Government policy decisions – which will need to balance the concerns of voters with the demands of businesses – will be even more significant for the economy. This new challenge comes at a time when, because of high-profile failures, public confidence in the Home Office is low.

Problems that must be addressed

Problems in the UK immigration system must be fixed if the Government is to have any chance of meeting the Brexit challenge. These problems, outlined below, have driven the major crises in the Home Office in recent decades.

- **Unrealistic targets and the lack of a clear strategy.** Ministers have relied on high-level political rhetoric about migration. Beyond that, the Government has not put forward a detailed or coherent account of what it wants from immigration; instead, it has set blunt numerical targets that cannot be met. The failure to make trade-offs, decide priorities and articulate objectives has damaged public confidence and made it impossible for government to run the system effectively.

- **The way the Home Office is set up makes it less effective.** The structure of the Home Office has been changed repeatedly, each time a reaction to the previous crisis in the immigration system. The system depends on charging applicants high fees and shifting problems elsewhere in government. Ministers are regularly asked to act as caseworkers, making specific operational decisions in a way that bears no comparison to other departments.

- **Disconnection between policy and operations.** Despite ministers' involvement in some specific immigration cases, there is a big gap between what politicians and policy officials think happens in the system and what actually happens on the front line more generally. In 2018 alone, one Home Secretary lost her job and another had to apologise to Parliament because they had misled the House of Commons about what was happening on the ground.

- **Poor data and old systems.** The Home Office is run on decades-old information technology (IT) systems and paper files. The single-minded political focus on the net migration target obscures the availability of other data which might help to provide a more transparent picture of the immigration system.

- **Weak evidence and evaluation.** Key policies – such as the creation of a 'hostile environment' for illegal immigrants – are built more on politics than evidence. Policy makers need to make better use of cross-government information and should be routinely evaluating their policies in order to learn and improve.

- **A lack of effective scrutiny.** There are many mechanisms for scrutinising the Home Office, but they rarely help prevent crises. Legislative scrutiny is weak because the Government has relied on changes to immigration rules that only require the minimum level of parliamentary scrutiny; the volume of secondary legislation and the length of the immigration rulebook have ballooned in recent years. At the same time, the Home Office has used its powers to limit the effectiveness of scrutiny bodies, holding back reports and publishing them at times least likely to get attention.

Is the Home Office the right department to run the immigration system?

There is rarely a good time to make 'machinery-of-government' changes – that is, abolishing or changing the structure of departments. Such decisions are often politically motivated, poorly thought through, expensive and fail to deliver desired benefits. In the current context, given that the immigration system is facing a dramatic change in a short time due to Brexit, there might seem to be good reason to avoid any big changes to departmental responsibilities.

The Home Office has already geared up for Brexit and was one of the quickest departments off the blocks in putting in place new systems and processes. But the analysis in this report reveals some uncomfortable truths.

First, **the strategic importance of immigration policy will change significantly after Brexit**. The link between immigration and the economy will become even more vital. In short, the question will change from 'who should we keep out?' to 'who does the UK need to come in?'. At the moment the Home Office is a 'control' not a 'facilitate' department.

Second, **a big expansion of the immigration system will be necessary**. The Home Office must either scale up or do things very differently.

Third, migration policy needs to be collectively developed and owned across government. The Home Secretary is often characterised as stubbornly refusing requests from colleagues around the Cabinet table to liberalise migration policy. A new approach to migration should take account of labour market priorities, and balance them against the need to maintain public support for the system. **Rather than be seen as the sole department of control, the Home Office should be able to play the honest broker between competing concerns.**

Finally, the Home Office has seen a number of high-profile failures. A legitimate question is whether **the department commands confidence domestically and internationally** – even if important parts of the operation are considered world-leading.

As things stand, **the Home Office is not ready or able to meet the Brexit challenge on immigration**. The Government must now look at alternatives, including whether Whitehall needs a separate immigration department or whether a public body should be created to manage specific elements of the system – keeping the front line at arm's length from ministers.

Our recommendations

As part of his planned wider review of the machinery of government after Brexit, **the Cabinet Secretary should assess whether the Home Office is still the right place to locate immigration policy**. The Cabinet Secretary should provide the Prime Minister with an assessment that includes an analysis of the costs and benefits of alternatives, including an arm's-length body (or a number of them) responsible for operational delivery and a separate immigration department.

But wherever immigration sits in government, the problems highlighted in this report must be fixed. There are a number of things that the Home Secretary and the Government should do.

The Government should collectively agree and communicate clear objectives for the immigration system. These should be translated into an annual migration plan presented to Parliament to show how the Government intends to achieve those objectives, and how it proposes to measure its success in achieving them. The Home Secretary should set out how far those objectives are being achieved and any changes needed. The plan should avoid arbitrary targets, such as the net migration target, and instead be informed by forecasts of likely movement through different visa routes.

Publishing an annual plan would provide an opportunity for ministers to articulate their strategy to Parliament and to hold those running the system day-to-day to account for their delivery of its objectives.

The Home Secretary should commit to introducing a simplification bill, which should take account of the current Law Commission review of immigration rules. This should simplify the thousands of pages of immigration rules that have become

unwieldy and in some places unworkable. The new bill should address the weak scrutiny that most immigration legislation receives, ensuring that any significant changes to the immigration system can only be implemented using primary legislation.

Senior officials should **address the structural and process flaws in the immigration system**. At a minimum they should review the policy-making process and structural divides between policy and operations, which have led to ministers and senior officials fundamentally misunderstanding what is happening on the front line. The Home Secretary should also set out the details of a more independent Migration Advisory Committee and Independent Chief Inspector of Borders and Immigration.

The Home Secretary must publish a comprehensive data strategy, to ensure that its immigration policy is based on a detailed understanding of the role that migrants play in the UK. This should set out both how the Home Office will use data that is currently available across government to inform immigration policy, and how front-line staff will be supported by information and technology – for example to improve individual decisions on applications and to reduce the high number of Home Office decisions that are overturned.

Our full six-point plan for managing migration after Brexit can be found in Chapter 5.

1. Introduction

"Two years ago the British public voted to leave the European Union and take back control of our borders... For the first time in decades, it will be this country that controls and chooses who we want to come here."

Prime Minister, Theresa May, October 2018[1]

Managing migration after Brexit

Under European treaties, European citizens have the right to live and work in any EU country. The same access is granted to members of the European Economic Area (EEA) – Iceland, Lichtenstein and Norway – and Switzerland. This principle, known as the 'freedom of movement of persons' or 'free movement', has been a key component of the UK's migration policy since it joined the-then European Economic Community in 1973. But the UK Government has always had full control of non-EU migration, and non-EU migration has, according to government statistics, always been greater than EU migration.[2] It wasn't until around 15 years ago that large numbers of EU citizens began to make the most of their freedom to move to the UK.

This freedom came under intense scrutiny during the Brexit referendum. Many false claims were made about immigration in the run-up to the vote and the idea of free movement proved divisive. Some felt that giving other EU citizens such a level of freedom was no longer acceptable, while others saw it as a benefit to the UK economy and to British citizens that should not be given up.

Bringing an end to this free movement is a central plank of the Government's Brexit strategy. It is a 'red line' for the Prime Minister Theresa May and both main political parties pledged in their respective 2017 election manifestos to bring it to an end, although Labour's position is becoming increasingly ambiguous.

The task now is to replace free movement with something else. The UK can use what will be its new-found control over EU immigration to build and change its immigration system in the way it chooses, without constraints set out in EU law. But the challenge goes beyond just designing and implementing a new policy. It also goes beyond just regulating EU immigration. It requires the whole UK Government to take a new approach to immigration.

High-profile failures and a lack of trust in the Government's ability to manage migration mean that the structures and processes that make up the UK immigration system need to be reviewed. In taking back control of EU immigration, the Government cannot avoid responsibility for the problems within the current set-up. This report sets out how the Government should respond to the challenge.

About this report

This report looks at the whole immigration system, covering both EU and non-EU migration, as well as the different routes or reasons that people give for migrating to the UK – work, family, study or asylum. While the separation between some of these routes can be largely academic, given how interconnected they are, the management of each has its own specific challenges. But this report primarily focuses on where there are problems and processes that are common to the broader immigration system. As such, there will no doubt be certain issues we are not able to address here.

This report is not about what the right policy should be. Different parts of the system are divisive for different groups and for different reasons. And we do not assess different policies. Rather, we look at how the Government designs and implements its immigration policy.

The findings in this report are based on extensive interviews and research focusing on the UK immigration system and international comparisons. We spoke to government officials – past and present – from the Home Office and other relevant departments. We also spoke to former ministers, special advisers as well as academics and non-governmental organisations. Finally, we spoke to officials from other countries to understand lessons from elsewhere in the world. The report uses data from the International Passenger Survey to show migration levels in recent years. As others have pointed out, this data is known to be inaccurate[3] but is the basis for the Office for National Statistics' calculation of long-term international migration.

Chapter 2 investigates the scale of the task facing the Government and the key challenges that must be overcome.

Chapter 3 examines how the current system is set up, the role of the Home Office and the competing interests of different government departments.

Chapter 4 looks at the key problems in the current set-up and the fundamental issues that need to be addressed after Brexit – from the lack of a strategy to the need for improved data.

Chapter 5 sets out a six-point plan for addressing the issues raised in this report.

Finally, Chapter 6 looks at the question of whether the Home Office is the right department to run the immigration system.

2. The task ahead

"... the biggest change to our immigration system in a generation."

Home Secretary, Sajid Javid, December 2018[1]

The UK is 'taking back control' of its immigration policy

The Government's vision for life outside the EU has changed and evolved over the past two years. The Prime Minister Theresa May has made concessions, softened her position and – some in the Conservative Party have argued – broken promises on supposed 'red lines'. But one thing has remained consistent: the Government's pledge to bring an end to the 'free movement of persons' from the EU.[*]

Until recently, it has been unclear what this commitment means in practice. The Government avoided talking about what would replace current policy, delaying publication of its much-trailed immigration white paper for over 18 months.

But in December 2018, the Government set out its vision for immigration after Brexit.[2] EU citizens will no longer benefit from automatic preference; instead, they will have the same access as those looking to move to the UK from some of its closest allies, such as Australia and Canada. There will be very restricted access for lower-paid migrants, and it will be comparatively easier for higher-skilled non-EU migrants to enter the UK. For the first time in decades, EU immigration will be treated in broadly the same way as non-EU immigration – an area in which the UK has always had control.

But there are three big challenges

The hard part has barely begun. The blueprint for immigration after Brexit was just that, a blueprint. It is out for 'engagement'. It is now down to the Home Office to put the system in place, making sure that it balances many competing interests.

While there are strong opinions about whether the end of free movement for EU citizens is a good thing, it is undisputable that the Home Office faces a huge task in replacing it. This task involves three big challenges.

The policy

For over a decade, the UK economy has relied on free movement and EU migrants. Migration has injected greater capacity and more capabilities into the UK labour market, to the point where whole industries have become reliant on it. Almost one in three workers in food production, 15% of construction workers and 15% of workers

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[*] In most cases, references throughout this report to citizens of the EU also relate to citizens of the EEA and Switzerland.

in science research are EU migrants.[3] For every 100 seasonal agricultural workers in the UK, 99 are EU citizens.[4]

Soon after 2010, when the Government started tightening the rules around and reducing non-EU migration, arrivals from the EU increased to pick up some of the unmet demand from businesses (see Figure 1).

Figure 1 **Net migration to the UK, by citizenship, 2000–18**
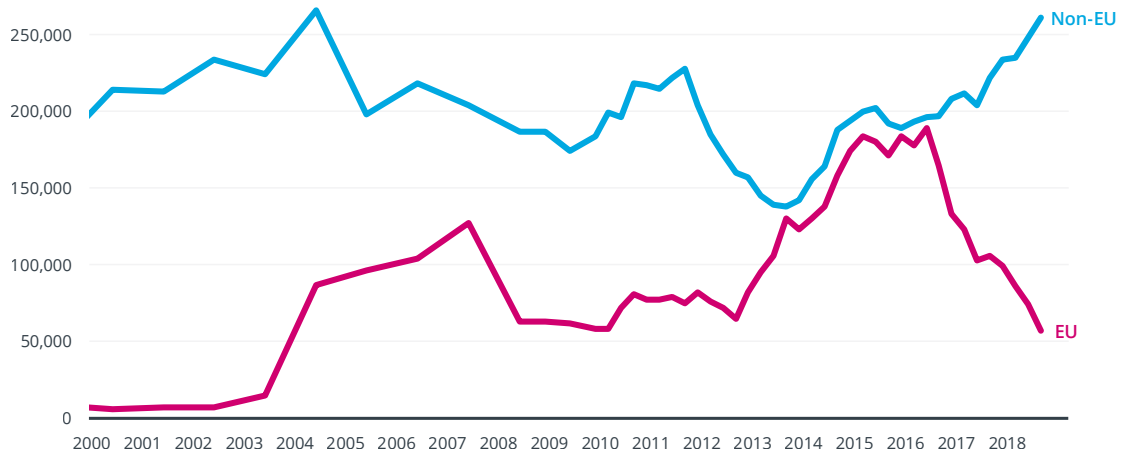
Source: Institute for Government analysis of Office for National Statistics, Migration Statistics Quarterly Reports, November 2015/February 2019. Net migration is defined as the sum of net British, EU and non-EU migration flows over rolling 12 month periods. Results for 2018 are provisional.

By ending free movement, the UK Government will lose this 'safety valve' for the labour market. After Brexit, the Government's migration policy will determine the skills available in the UK labour market. More simply, much more immigration will now fall under the remit of the Home Office. For some people, greater control over migration is a major benefit of the UK leaving the EU. Others see it as a major risk to the UK's economy. Either way, the strategic importance of the Government's immigration decisions will increase significantly – as will the risk of getting things wrong.

Delivery

Bringing EU immigration into the same regime as non-EU immigration will mean there is much more for the Home Office to do. There will need to be more front-line staff issuing more visas, and more enforcement officers making sure that migrants adhere to the terms of those visas. The system needs to expand quickly.

The Government has pledged to have the new immigration system ready by January 2021.[5] It has less than two years to finalise the design, make the necessary changes inside the Home Office and then give businesses and citizens enough time to adapt. The last time a major change to the immigration system took place, there were nearly four years between design and implementation – and that change looked comparatively straightforward when compared with the Brexit task.[6]

At the same time, the Home Office is rolling out the EU Settlement Scheme, which EU citizens currently in the UK have to apply to if they want to continue living in the UK

after 30 June 2021. The UK Government will have to register around 3.5 million EU citizens by this date.[7] No similar system internationally has ever succeeded in reaching 100% of those eligible and there is no chance that the UK Government will either. The Home Office must therefore recognise that there will be a large number of EU citizens who are covered by the Withdrawal Agreement, or the Government's 'no deal' commitments, but who will not have gone through the Settlement Scheme and will not be able to prove their entitlement. This group may not have a legal right to be in the UK, but most people in the UK would recognise that they have a moral right.

In some respects, the EU Settlement Scheme has the potential to create a situation with similar hallmarks to the Windrush scandal – but on a much bigger scale. If just 5% of eligible EU citizens fail to apply to the scheme, there will be around 175,000 people who do not have the right paperwork.[8] In reality, the number of people who miss the deadline could be much larger than this.[9] There will be a number of reasons for this, ranging from children who were not aware that they needed to apply, to adults perhaps taking a principled stand against it. The Home Office will therefore have to think about its approach to enforcement, ensuring that it deals with this problem in a way that commands public support. Every wrong-seeming decision that the Home Office makes will open it up to scrutiny and criticism. If the department does not get this right, the fallout could be significantly bigger than the fallout over the Windrush scandal.

Public confidence

The UK public do not trust the UK Government to manage migration.[10] There has been a continuing failure to hit high-level targets and polls have shown that the steady stream of high-profile failures – from Windrush, to DNA testing, to foreign national offenders, to Border Force checks – have damaged public perceptions of the Home Office.[11] The immigration system too often appears to be lurching from crisis to crisis. But perhaps the biggest failure has been the mismatch between political rhetoric and the reality.

A number of firms in the business world abroad see the UK's system for business visas as world-leading – reliable, easy to use and fast. But that reputation is not recognised domestically. As was seen in the EU referendum result, the predominant narrative in the UK is of a government that does not have 'control'. To successfully meet the Brexit challenge, that will need to change.

3. How migration is managed now

The role of the Home Office

The Home Office runs the immigration system in the UK

More than 600,000 people are estimated to have migrated[*] to the UK between the start of July 2017 and the end of June 2018. Roughly a third came from the EU, moving to the UK under the principle of the freedom of movement, and more than 300,000 came from outside the EU.[**, 1] Figure 2 gives the main reason for migration for non-EU and EU immigrants in 2017.

Figure 2 **Main reason for migration, by citizenship, 2017**
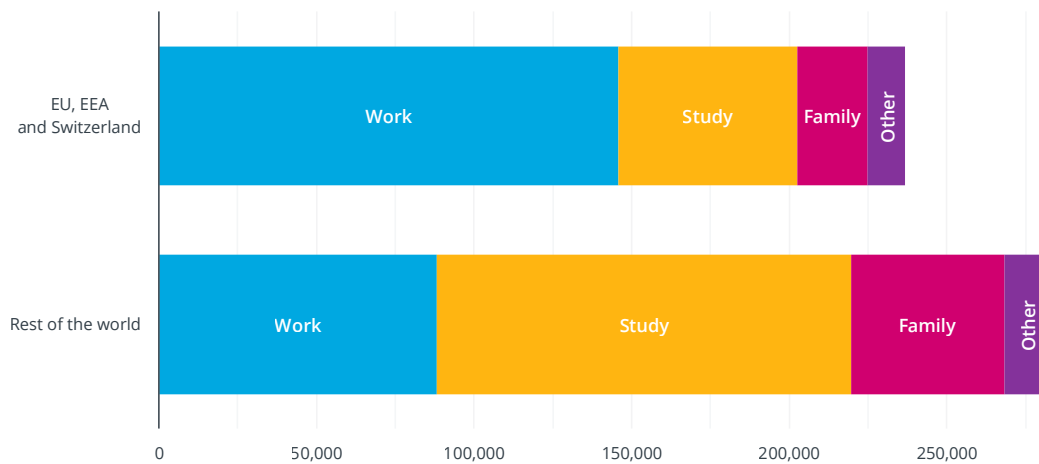
Source: Institute for Government analysis of Office for National Statistics, International Passenger Survey, Table 4.02, 2017.

Non-EU nationals coming to the UK to live and work are subject to UK immigration controls. These controls are run by the Home Office. The department has three key functions, each managed by different directorates:

- making decisions about who can visit, work, study and settle/become citizens in the UK – done by **UK Visas and Immigration**

- securing the border and ensuring that only those with the right approvals can enter the UK – done by **Border Force**

- preventing abuse of the system and reducing the number of people who are in the UK illegally – done by **Immigration Enforcement**.

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*   Moved to the UK for more than a year.
**   The remaining number are UK nationals who had returned from abroad.

The Home Office has had responsibility for these functions for most of the past two decades. During that time, the structures used to deliver migration policy have changed quite frequently. At times they have been run as now, by divisions within the core Home Office, while at others they have been run by executive agencies such as the UK Border Agency and the UK Passport Service. Ultimately, the three key functions are the responsibility of the Home Secretary.

Different people need different visas

All non-EEA nationals need a visa if they want to come to the UK to live, work or study. But there are different visas available depending on what they want to do in the UK, how skilled they are and how much money they have. There are five tiers for visas:

- Tier 1 is for the very rich and those deemed to be exceptionally talented.

- Tier 2 is for highly skilled individuals coming to the UK to work.

- Tier 3 is for lower-skilled workers (though the Government has never granted visas under this tier, instead relying on EEA immigration for lower-skilled workers).

- Tier 4 is for students.

- Tier 5 is for short-term work or cultural exchange.

It is far more straightforward for citizens from within the EEA to come to the UK. Those from EU member states, EEA countries and Switzerland are eligible to enter the UK without a visa and can use their passport to secure the right to rent a property, study on a course (from nursery school to university) or start working. Migrants who have lived in the UK permanently for five years can apply for permanent residence or 'indefinite leave to remain' – acquiring new rights and the ability to claim British citizenship.

The different visas and statuses available to migrants all come at a cost. Applicants are charged a lot of money, in comparison with other countries, because the Government wants the immigration and borders system to be a self-funding system by the end of 2019/20.[2]

UK Visas and Immigration is responsible for approving entry to the UK

The Home Office has 7,500 staff working in UK Visas and Immigration (UKVI), in centres across the world.[3] These staff decide whether to grant or refuse applications, which range from those who are looking to come to the UK for the first time, those who want to move between different visa routes (from study to work, for example) and those looking to settle more permanently or secure British citizenship.

Most non-EEA nationals coming to the UK through the work route need a job offer, so UKVI also administers the 'sponsorship licence system'. This system allows employers to request visas and UKVI to monitor employers, ensuring that neither migrants nor employers are abusing the system.

UKVI manages around three million visa applications a year and every application requires a 'yes' or 'no' decision from a UKVI caseworker.[4] But not all applicants agree with the decision made and in some cases they are right. Applicants can request an 'administrative review' of the decision, and exercise their right to appeal before a 'final decision' is issued.

UKVI separately manages the UK's asylum service for those eligible under the 1951 Geneva Refugee Convention.[5] Asylum seekers are screened and interviewed by caseworkers, providing evidence to support their claim, before a decision is made.[6] In 2017, over 26,000 applications were made. Most claims are refused, but claimants can appeal against decisions and significant numbers of refusals are overturned.[7] Asylum seekers are entitled to accommodation and cash support.[8]

Border Force makes sure that only those eligible can enter the UK

Only those with permission – such as a UK passport, an EEA passport or a valid visa – can pass through border control and enter the UK at one of the country's 138 ports and airports.

But for almost all border crossings in places such as Heathrow, immigration checks are relatively light-touch – some questioning by a border guard, a check that the person matches up against a valid document and a run on a few databases. The focus is much more on national security than immigration enforcement.

Border Force is also responsible for goods passing through the border and so has a much broader remit than just people entering the UK.

Border Force's immigration work is intelligence led and relies on information systems from across the EU and the security services. The real enforcement of immigration is done behind the border.

Immigration enforcement inside the border aims to create a 'hostile environment' for illegal immigrants

Only a limited amount of immigration controls is possible at airports and ferry terminals. For example, border checks cannot deal with people who overstay their visa or do not leave when an extension is refused. While UKVI and Border Force do more to manage who enters the UK, it is Immigration Enforcement that is responsible for removing those who are in the UK illegally.

The decision-making process for caseworkers in Immigration Enforcement is much more complex than for their colleagues in UKVI. Before deciding whether to pursue deportation or removal, officials must factor in potential for harm, human rights considerations, the willingness of another country to accept a migrant back and the reliability of information on their whereabouts. In practice, only a small percentage of those in the UK illegally are pursued for deportation although the UK removes more people than most other EU countries. Efforts at deportation are expensive, time consuming and can result in people being held in detention for very long periods.

In recognition of the complexities of deportation decisions, the Home Office has put more and more effort into encouraging illegal immigrants to leave voluntarily – under the so-called 'hostile environment' policy. The principle underpinning the policy is relatively simple: those who are in the UK illegally are not entitled to access services and benefits that ultimately UK taxpayers fund. The policy aims to make life difficult for illegal immigrants, restricting their access to other parts of the public sector and housing, in the hope that it will prompt them to leave the UK. The policy was first formulated by the Labour Government in 2007, at which point it referred to an "uncomfortable" and "difficult" environment,[9] although it was not implemented. But it was implemented and enhanced by the Coalition Government, with associated language evolving to refer to a "hostile" and "compliant" environment.[10]

A huge amount of immigration enforcement is now done by those outside the Home Office: employers, landlords and doctors. But the directorate responsible for overseeing immigration enforcement in the Home Office has a mix of functions. There are caseworkers assessing appeals, uniformed officers carrying out raids and inspections, people staffing detention centres where illegal immigrants may be locked up indefinitely, as well as teams working with the rest of government to gain intelligence about possible illegal immigrants.

The rest of government

Migration is a priority across government

The Home Office is not left to manage migration in isolation. Its decisions interact with and affect different departments and different layers of government.

For some departments, migration is critical to their task of being stewards of the economy. For example, both the Treasury and the Department for Business, Energy and Industrial Strategy (BEIS) focus on the potential for migration to help grow the economy through attracting business, investment and critical skills. Similarly, higher education is a valuable UK export and so the Department for Education (DfE) sees migration as a way to boost the number of students in universities and supply the staff to teach them. The Department for Environment, Food and Rural Affairs (Defra) needs to respond to demand from the food and farming sectors which have come to depend on migrant labour, while the Department of Health and Social Care (DHSC) relies on migrant labour for a significant proportion of the health and social care workforce. The Department for Work and Pensions (DWP) administers national insurance numbers and benefits for migrants. The Ministry of Housing, Communities and Local Government (MHCLG) meanwhile has to worry about ensuring that there is enough housing to match population growth, but it is also responsible for community integration* – with local government responsible for delivering its initiatives.

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* By 'integration' we are using the same definition as that used by the MHCLG in its *Integrated Communities Strategy*: 'where people – whatever their background – live, work, learn and socialise together, based on shared rights, responsibilities and opportunities.'

These are just some examples of the interests in migration that exist around the Cabinet table. Such interests go beyond Whitehall and Westminster, though. The devolved administrations and local authorities also want to put their views across and can have very different priorities. For example, the Scottish Government is very concerned about the prospect of reductions in net migration and its possible consequences for the Scottish economy, and has called for the right to run a Scotland-specific migration policy from Holyrood.[11] Both the Scottish and Welsh Governments have expressed priorities, like demography, that just aren't reflected in England. Figure 3 presents cross-government interest in migration.

Structures for managing migration

Migration structures have chopped and changed over recent years

The internal structures at the Home Office have changed over the past 10 years. The biggest changes were the introduction and then dismantling of the UK Border Agency – a public body overseeing the UK border, visas and immigration enforcement. But there have also been changes to the constellation of public bodies that sit around the Home Office.

The Migration Advisory Committee (MAC) was set up in 2007 to offer independent analysis and recommendations on policy. It is a body made up of six independent experts, who are appointed through the formal public appointment process, and supported by a secretariat of officials who are formally employed by the Home Office.[12] The Home Secretary commissions work from the committee, which includes assessing the impact of immigration, the limits on immigration under the points-based system and where there are skills shortages within occupations. The committee has become increasingly influential in recent years, with the Home Secretary asking it to do bigger and broader reports, with recommendations that the Government almost invariably accepts. In recognition of this role, the recent white paper on immigration has promised an expanded role for the committee after Brexit.[13]

The Independent Chief Inspector of Borders and Immigration (ICIBI) is responsible for the independent scrutiny of Home Office operations.[14] This role was created in 2007 and brought together a number of smaller, more disparate bodies with different scrutiny functions. The ICIBI provides reports into the effectiveness and efficiency of Home Office operations, some of which have proven influential in terms of some of the structural changes at the Home Office.

Figure 3 **Examples of cross-government interest in immigration**

Note: BEIS: Department for Business, Energy and Industrial Strategy; DCMS: Department for Digital, Culture, Media and Sport; Defra: Department for Environment, Food and Rural Affairs; DfE: Department for Education; DHSC: Department of Health and Social Care; DIT: Department for International Trade; HMCTS: Her Majesty's Courts and Tribunals Service; HMRC: Her Majesty's Revenue and Customs; HMT: Her Majesty's Treasury; MHCLG: Ministry of Housing, Communities and Local Government; MoJ: Ministry of Justice.

Source: Institute for Government analysis. It is intended to give an indication of cross-government interests and is not an exhaustive list.

Figure 4 shows the Home Office directorates and public bodies involved in immigration.

Figure 4 **Home Office directorates and public bodies involved in immigration**
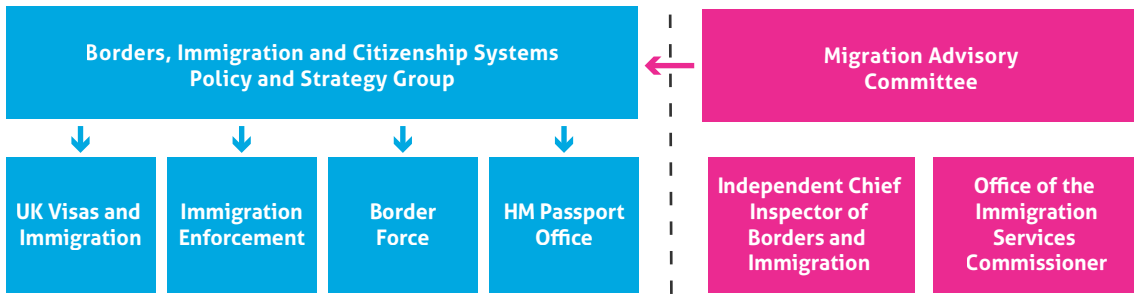
Source: Institute for Government analysis of GOV.UK.

4. The problems in the immigration system

Unrealistic targets and the lack of a clear strategy

The UK Government does not have a clear strategy for immigration

The UK's approach to immigration since 2010 has been relatively simple: to try to reduce it. The Government has made significant changes across the whole immigration system in the hope of achieving that ambition. It introduced new restrictions and requirements in terms of visas, new approaches to enforcement and a change to the way the UK border operates. Theresa May, as Home Secretary in the Coalition Government, was tasked with introducing the two most recognisable features of the immigration system: the net migration target and the so-called 'hostile environment' policy. But the high-level political rhetoric was not underpinned by a strategy articulating the UK's objectives and priorities for its immigration system.

For over a decade, the UK has lacked such a detailed immigration strategy. An immigration command paper was published in 2006, laying the foundations for the points-based system for non-EU/non-EEA nationals.[1] In 2010, the Home Office published a short consultation document about restrictions to non-EU immigration, but the only discernible result of the process was a three-page summary of responses.[2] At no point has the Government set out what it thinks the immigration system is for – what it wants to achieve through migration and how it plans to achieve it.

The UK's new white paper on immigration[3] – much heralded and finally published in December 2018 – was an opportunity to change that. But, while it sets out the proposed future immigration system and in many ways is a more detailed policy document than any other Brexit white paper produced to date, it skips the critical step of setting out what the new system is supposed to achieve.

A desire to reduce immigration, expressed through an aspirational target and a new approach to enforcement, does not count as a strategy. The high-level political ambition has been clear, but there has been no coherent translation of that into a concrete plan for an organisation with around 20,000 staff, gross spending of £2.1 billion in 2017/18 and making decisions that affect millions of people every year.[4]

The net migration target is a political promise that not even the Home Office is seriously trying to deliver

The Conservative Party's key pledge on immigration for the past eight years has been the net migration target. This has been a manifesto promise since 2010, when the Conservative Party first committed to reducing the level of net migration to "tens of thousands a year" by 2015.[5] The 2010 manifesto promise failed to make it into official Coalition Government policy but has since been reaffirmed, time and time again, in speeches and interviews by Conservative politicians and in the 2015 and 2017 Conservative Party manifesto.

The closest the Government has ever come to meeting the target was in the 12 months to September 2012, when net migration was estimated to be 154,000 people. But by 2015, net migration was estimated at 336,000 people – the highest ever recorded.[6]

The net migration target has always been little more than a political tactic. The Government has never had the power to deliver it. A net migration target is based on the difference between immigration, including EU migration which the Government cannot restrict due to free movement, and emigration, where the Government cannot stop UK citizens returning from aboard or how many legal residents decide to leave.

Not only does the Government not have the power to deliver the net migration target, it is also no longer even trying to do so. Immigration from outside the EU – over which the UK Government has full control – has always been higher than EU immigration (see Figure 5). The early efforts to reduce non-EU migration between 2010 and 2013 were quickly abandoned. Immigration from outside the EU is now higher than it was when the Conservative Party formalised its target in its 2010 manifesto.

Figure 5 **Net migration to the UK compared with the Conservative Party's 2010 manifesto pledge, 2000–18**
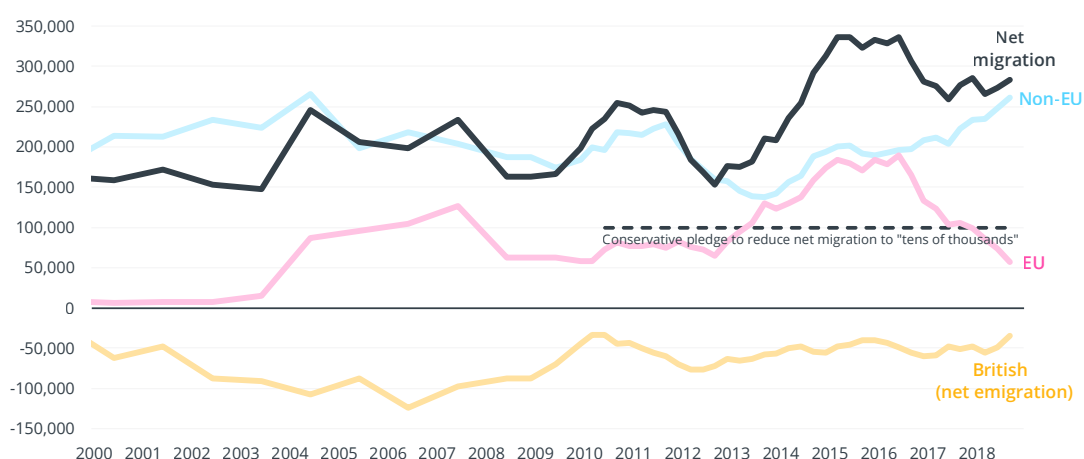
Source: Institute for Government analysis of Office for National Statistics, Migration Statistics Quarterly Reports, November 2015/February 2019. Net migration is defined as the sum of net British, EU and non-EU migration flows over rolling 12 month periods. Results for 2018 are provisional.

In fact, in 2018 the Government took steps to increase migration to the UK from non-EU countries rather than reduce it. The Home Secretary announced that NHS workers were being removed from the cap (which limits the number of visas which can be issued) on non-EU work visas,[7] meaning more work visas were available for non-EU citizens coming to the UK.

The cap itself is another example of a policy that was purely for show. It sends a strong political message, but every time the cap gets hit or looks like it will be hit, the Home Office scrambles to make changes and to free up space – it is not a measure designed to limit numbers.

The Government refuses to drop the net migration target, though. In the recent white paper on immigration, although there was no explicit mention of the target, the Government reaffirmed its commitment to reduce net migration to "sustainable levels, as set out in the Conservative Party manifesto" – a manifesto that commits to net migration in the tens of thousands.[8]

Failing to set out an achievable plan damages public confidence

If the net migration target is about signalling priorities to the electorate, there is evidence that it is backfiring. Members of the public feel that the UK Government's failure to achieve the net migration target has damaged their trust in the Government's ability to manage immigration. In British Future's 'national conversation' on immigration – the biggest-ever consultation on immigration and integration – around seven in ten people felt that the Government should abandon the target.[9]

Politicians have also made unrealistic political promises about immigration enforcement. The national conversation found that citizens' panels did not believe that the Government was competent to follow through on promises around control.[10]

The same research showed that the public wanted the Government to be more open about immigration and to move away from blunt political instruments that do not reflect realistic outcomes.[11] Three in five respondents would prefer a system of differentiated targets and approaches for different types of migrants; and citizens' panels suggested that transparency around policy and statistics is a priority.[12] The public have a more sophisticated view of immigration than government appears to think they do.

A more nuanced approach from the Government should be matched by more honest objectives. If the public want to see policy commitments delivered, the Government must have policy commitments that are deliverable, instead of political positions that are not – or cannot be – followed through.

The lack of a strategy makes the day-to-day running of the immigration system difficult – it is very hard to run an organisation on aspirations alone

It is not just the public who are left unclear about what exactly the Government wants to achieve from the immigration system and how it plans to achieve it. The same is true for those tasked with running the system in the Home Office.

Ministers' failure to agree and clearly articulate a plan for the immigration system has meant the Government has dodged the need to make trade-offs and set out objectives and priorities. That makes it impossible for officials to run the complicated operational teams in the Home Office effectively.

While the teams in UKVI, Immigration Enforcement and Border Force have their own strategies, the problem is that they may not align with what the top of the organisation – the ministers and senior officials – expect. This mismatch is often laid bare when a crisis occurs.

The scale and nature of the border and immigration system mean that some form of crisis is never too far away. In some respects it is an unavoidable feature of the job – crisis response is a key function. But what is avoidable is the slow reaction and the changes in direction that too often characterise the Home Office's handling of such crises.

For example, in late 2011, in the run-up to the 2012 Summer Olympics in London, there was a lot of scrutiny of the UK border. The UK Border Agency was accused of relaxing checks at busy times – without ministerial clearance – in order to prevent queues from building up.[13] The-then Home Secretary, Theresa May, came under pressure from the press and, as a result, the department swung in the opposite direction. By early 2012, officials were prioritising security and conducting full checks at the border, resulting in queues of over an hour and a half as arrivals went through security. With months to go until the Olympics, fears of four-hour queues at airports resurfaced.[14] The response from the Home Office was slow and the Prime Minister had to intervene. Only after months of scrutiny and negative headlines did the Home Office manage to reach an acceptable balance between speed and security.

The Government needs to be clear about the inevitable trade-offs in immigration policy and start making choices

The reason the Government failed to put out a detailed immigration strategy for so long after 2006 is the same reason the latest immigration white paper came 18 months late: the Government has found it too difficult to make trade-offs.

There is a trade-off between the generalised economic benefits of immigration and many voters' discomfort at immigration, in particular more local concerns about pressure on local services and housing. There is also a trade-off between passengers passing speedily through airports after landing and conducting security checks. And

there is a trade-off between some immigration policies and integration policy – too often integration is an afterthought in the design of migration policy.

The Government's inability to make trade-offs can be seen in the current approach to student immigration. The Government has no limit on the number of international students coming to the UK. The Department for Education has even set a target to significantly increase education exports to £30 billion by 2020, with revenue from international students making up 67% of education exports in 2016.[15] But students are counted in the net migration target and are therefore in the scope of the Home Office's mission to reduce numbers.

The question of students is just one example of the Government's incoherent position on migration. An overall net migration figure makes it impossible to separate out students in a meaningful way and, as a result, the policy remains simultaneously to reduce student migration while also wanting to boost it.[16] But such internal contradictions have been a constant through governments for years.

Rather than resolve such major contradictions, there have been battles over smaller, more incremental policy changes. The Home Office argues for more control over numbers and a focus on security, while the Treasury and BEIS, often supported by other ministries, argue for greater facilitation of movement. How to resolve the disagreement, which plays out in Cabinet committees or 'write rounds' between departments, is ultimately for the Prime Minister to judge. Going back and forth like this has been the case for at least 10 years, but it has never settled the overarching position of the Government. Recent discussions about immigration after Brexit are the first time in a very long time that these issues have had to be confronted – which is why the Government's new immigration policy has been so hard fought.

Far too little has also been set out about the problems in enforcing the system. It is extremely difficult to remove people, including foreign national offenders, who are in the UK illegally. If individuals do not want to leave the UK, it is very difficult to make them.[17] Many are critical of the Home Office for allowing people to enter the UK illegally and commit a crime and then at the end of their sentence allowing them to re-enter communities in the UK, supported by the taxpayer, if they do not want to be removed. Equally, the Home Office is regularly criticised for its detention and deportation practices.

Enforcing the rules requires difficult trade-offs. It is a crucial part of the system that forces uncomfortable policy choices that will, inevitably, have huge significance for people's lives. Inevitably, the Home Office gets criticisms from almost every side of the debate for the position it takes. But ministers have routinely failed to be transparent about their position to explain the trade-offs involved and defend choices made.

The Government should put forward its priorities and its plans to meet them

The UK Government should collectively agree the objectives and outcomes it wants its immigration system to deliver. It should set this out in an annual plan to Parliament with an assessment against the objectives – including the economic impact and

a possible forward-look on numbers. Any numbers should be broken down by different visa routes, include a range of acceptable outcomes and, most importantly, be based on analysis and forecasts – rather than arbitrarily picked targets. This is something that other countries have done successfully, in particular Canada.

But the importance of the plan should be in the objectives, not the numbers. Numbers can and will fluctuate for reasons outside of the Government's control. The Government has already, for example, committed to having no cap on numbers in the new system[18] and routes such as family reunification are often more influenced by what happens overseas than policy in the Home Office. So the annual plan is an opportunity for the UK Government to show what it wants from the immigration system and how it plans to deliver that – not to try to make an informed guess on numbers that will almost inevitably be proved wrong.

The Canadian department of Immigration, Resettlement and Citizenship sets out an annual plan to the Canadian Parliament, which includes objectives and performance indicators. The department shows how it has performed against the plan in recent years and explains what the Government is doing under the objectives set out in the Immigration and Refugee Protection Act 2001.[19] It also provides a forecast for coming years, the latest one setting out a three-year plan. In some respects, Canada is different from the UK: it wants to grow its population, which is reflected in an immigration system that aims to increase the number of 'permanent residents' moving to Canada. But its approach has broader benefits.

The UK could build public confidence and improve the delivery of migration policy by doing something similar. This would force the Government to move away from fixed numerical targets for net migration, which in reality the Home Office does not intend to deliver. It would satisfy the public that a more honest debate was taking place and help them to hold the Home Office to account. Just as importantly, it would force the Government to address trade-offs and articulate what it wants from migration.

In its recent white paper on immigration, the Home Office committed the Migration Advisory Committee (MAC) to publishing an annual report on key aspects of the immigration system. This will include identifying key occupation shortages in the labour market and assessing the Government's policies.[20]

But this is not a substitute for a clear articulation of the Government's objectives and ambitions. Government should not leave it solely to an independent body to assess the performance of the immigration system. Any report from the MAC should reflect ministerial priorities and desired results. But it should be up to the relevant minister to set the direction for the system. By doing so, they can hold the officials and system beneath them to account for delivery. The role of the MAC will be important, but it should not replace what are key basic functions of the Home Office.

As such, the annual report from the MAC should be followed by a response from ministers. The Government must set out its objectives for the coming year, its response to the MAC's assessment of past performance and the measures it plans to introduce to achieve its stated ambitions.

The way the Home Office is set up makes it less effective

The structure of the Home Office has always been determined by the last crisis

The lack of a government immigration strategy does not mean that the Home Office has not undergone significant change. Over the past 10 years, one of the biggest aspects of change has been in its structure.

In 2006, John Reid, the incoming Home Secretary, declared that the Home Office was not fit for purpose.[21] He had seen his predecessor, Charles Clarke, lose his job over an operational scandal and an Immigration Minister – Beverley Hughes – face the same fate not long before.

Reid's reaction was to create the UK Border Agency. This brought together the Border and Immigration Agency and UK Visas into a single executive agency. By putting the immigration system at arm's length, Reid hoped that he and future home secretaries would be protected from the messy operations of the Home Office and, hopefully, any future scandal.

Just five years later, the new Conservative Home Secretary, Theresa May, abolished the agency. In late 2011, she felt that the separation of the system from politicians had gone too far – officials were accused of relaxing identity checks at the UK border.[22] Several months and a number of investigations and inquiries later, Border Force was established as a law enforcement command. Further scandals and investigations followed, after which the whole agency was disbanded and folded back into the Home Office, establishing the current structure.

The current structure separates policy and operations

Theresa May's approach was to establish a more command-and-control structure. She broke up operations, putting in place three director generals responsible respectively for Border Force, Immigration Enforcement and UKVI, rather than a single director general overseeing them all.

May also brought immigration policy and strategy closer to her political team. To bring consistency, she told the operational teams to relinquish their policy teams in an attempt to centralise all policy under a single, separate, director general. The operational commands tried to rebuild their policy capacity in order to influence the central team, but the Home Secretary and Permanent Secretary put a stop to that quite quickly.

The result has been, unsurprisingly, an increasing division between policy and operations. The Home Office has tried to address this with a structural fix – creating a Second Permanent Secretary to sit on top of the four director generals. But it has not done enough to bridge the gap.

Ministers have a huge amount of influence on operational decisions

The command-and-control nature of the Home Office goes beyond just management: the Home Secretary is involved in operational decisions to an unusual degree. The Home Secretary and the Immigration Minister often double up as caseworkers, making the call on certain applications and removals. The political risk in the system means that, for cases that are likely to result in intense media scrutiny or where the lives of those involved are too complicated to fit into guidance on rules, the ultimate decision makers are often the ministers.

Tax policy is extremely political, but the Chancellor is prevented from knowing about the tax affairs of individual citizens or even businesses. Benefits can be a divisive topic, but the Secretary of State for Work and Pensions is far removed from decisions about specific claimants. The immigration system is different.

The involvement of ministers in specific individual casework decisions has two important effects. First, it blurs the line between operations and politics, making the mandate for front-line staff unclear. Officials, erring on the side of caution, will want political cover for issues they consider to be contentious. As a result, ministers start deciding on an increasing volume of cases and a significant amount of political discretion is introduced into an apparently rule-based system.

The second effect is on the speed of decision making on certain cases. Ministers are extremely busy and unlikely to find the time to respond to individual casework issues at a reliable pace. But perhaps more importantly, they will want to manage the timing of any potential political fallout from decision making; ultimately, difficult cases are left in filing cabinets until the politicians think the time is right to make a decision.

The Migration Advisory Committee needs to be made more independent of the Home Office

Ministers receive evidence on policy from the MAC. The MAC has become hugely influential, not least in terms of the post-Brexit immigration policy. It was given a year to produce a report on EEA migration[23] and the Home Office accepted all of its recommendations, with the exception of one, which it 'partially' accepted.[24] In short, the committee's report set the framework for Home Office policy makers. The same is true of an earlier report on student migration[25] – the Government accepted all of the MAC's recommendations.[26]

The Home Office should be credited for giving a committee of experts a whole year to look in detail at EEA migration and provide expert recommendations. There are very few departments that have taken such an open and evidence-driven approach to post-Brexit policy decisions. But the independence of the MAC has been called into question by some,[27] especially by those who felt that the committee's findings on EEA migration did not match with their expectations or aligned too closely with what they expected the Home Office to propose anyway.

While many criticisms reflect dissatisfaction with the committee's findings, rather than the committee's conduct, there are legitimate reasons to question the MAC's level of independence. It is an advisory non-departmental public body, with no statutory basis – so a home secretary can abolish it at will. The Home Office formally employs its secretariat of officials. A Home Office official is present at every meeting. The MAC is based in 2 Marsham Street in London along with the department. And it is constrained in what it can look at, only able to respond to formal questions and commissions set by the Home Secretary.

This puts it closer to government than other bodies with similar functions, such as: the Low Pay Commission, which advises on the national minimum wage; the Committee on Climate Change, which both oversees the Government's progress in meeting its climate change targets and advises on the 'carbon budgets' necessary to meet those targets; and the Office for Budget Responsibility (OBR), which produces economic and fiscal forecasts for the Government.

The MAC takes a methodical and transparent approach to its reports, which helps to demonstrate its independence. But as managing economic immigration becomes a key pillar of immigration policy, and thus the MAC's advice rises in importance, it will be important to give it more formal independence. The recent white paper on immigration recognises this and commits to giving the MAC an 'enhanced role', which includes commissioning an annual report, which could cover a wider range of issues.[28]

The Home Office should recognise the important role that the MAC plays, and put it on a statutory footing – guarding against the dismantling of the committee by the Home Secretary of the day without Parliament's backing. If the MAC were put on a statutory basis, the legislation would need to set out how ministers should respond to its recommendations. The MAC should be given freedom to determine its own research programme, regularly taking into account interests across Whitehall (and the devolved governments), not just those of the Home Secretary and the Home Office. The Home Office could look to offer the safeguards that the Treasury put around the OBR: giving the OBR its own budget line and making the appointment and dismissal of the three members of the Budget Responsibility Council subject to the agreement of the Treasury Select Committee.[29] If the MAC, like the OBR, is a crown non-departmental public body, it can still be staffed by seconded experts from the Home Office.

There are further decisions that government collectively should make about the role of the MAC in the future immigration system:

- Is the MAC there solely to look at the labour market implications of immigration policy? Or should it also take into account wider issues such as pressure on public services and communities? If the latter, appointments should be widened beyond labour market economists.

- Is there a case for making the MAC take account of the views of the public on its recommendations, as the National Institute for Health and Care Excellence (NICE) does with its recommendations?

- Should the MAC be sponsored just by the Home Office or should it be jointly owned by a number of departments?

- How would its composition need to reflect the future interests and concerns of the devolved administrations?

- Should it take on a formal role in evaluating past immigration policy decisions, as the white paper suggests it might, as well as advise on the future? Is it appropriately resourced to be able to do so?

The 2019 Spending Review will need to address how to pay for a bigger system

The whole Home Office will need to revise its budget at the 2019 Spending Review. A central question will be the demand that Brexit places on it. The department has been the largest recipient in Whitehall of additional Brexit cash. The Home Office has been allocated £480 million to fund Brexit activity in 2019/20, with around £400 million the year before.[30] But on 21 January 2019, the Prime Minister announced the decision to waive the fee for settled status, which will leave the Home Office with around a £180 million gap in the costs of administering the new EU Settlement Scheme.[31]

So the task of establishing and then running a new immigration system and the EU Settlement Scheme will require the department to get more cash. But it is not clear how much more, or for how long, the department will need from the Treasury. Why? Because the department is trying to make its immigration directorates self-funded by 2019/20.[32] The applicants cover the costs of the system and it looks likely that they will do so for the new system too.

The Home Office relies on very high charges for applicants

The cost of some visas has gone up by almost 500% over the past 10 years.[*] The Home Office has increasingly used application charges as a way to cover its costs and absorb budget cuts. In effect, the Treasury and the Home Office have been content to shift more and more cost onto the applicant, with the view that ultimately the system should pay for itself.

In some cases, the Home Office makes the equivalent of 800% profit on some applications, with the money made going to fund other parts of the immigration system.[33] These costs are particularly high for naturalisation and settlement.

In addition to application charges, there is a health surcharge at £400 a year and companies pay a skills charge of £1,000 a year. A family of five coming to the UK for five years will pay over £21,000.[34] That is more than double what it would cost in

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* The cost of a settlement visa for a dependent relative rose from £515 in 2008–09 to £3,250 in 2017–18 according to the Home Office.

Australia, around seven times as much as it would cost in France and around 30 times as much as it would cost in Canada (see Figure 6).

Figure 6 **Visa fee comparison for single applicants entering for three years and families of five entering for five years**
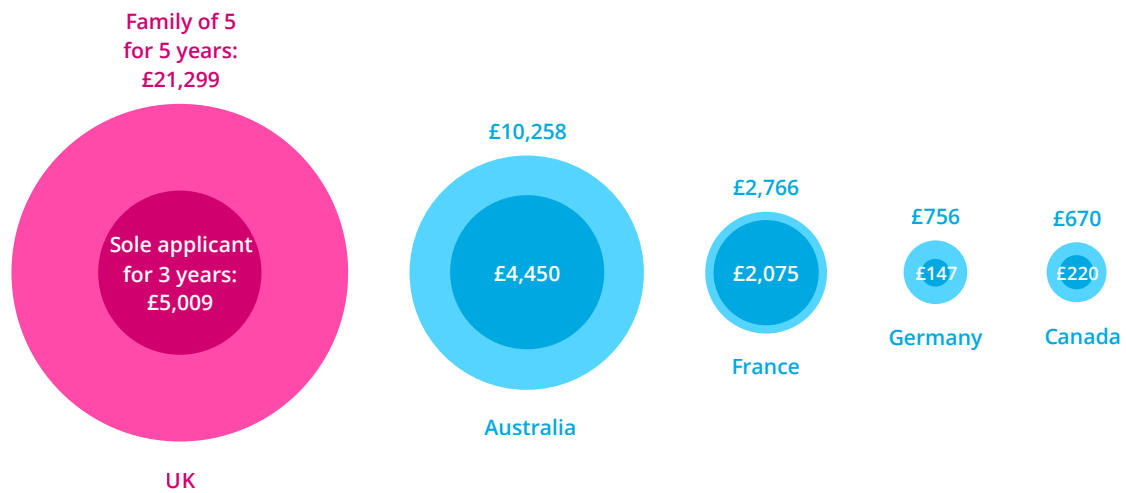
Source: These figures have been compiled using data supplied by Fragomen. UK figures are current fees, Australian figures are from November 2018 and figures for the other countries are from April 2017. A family is defined as one worker, on an intra-company transfer visa, with a partner and three dependent children applying from outside the jurisdiction. Where applicable, costs of certificates of sponsorship, health and skills surcharges, and renewals have been included. All figures have been converted into GBP at January 2019 prices. UK figures are based on the Tier 2 visa costs, Australian figures on Temporary Skills Shortage 482 visas, Canadian figures on work permits, German figures on entry visas and work permits and French figures on local hire status and residence permits.

It could be that the purpose of such high costs is to put applicants off, as a deliberate Home Office policy to minimise the number who seek to become UK citizens and make it easiest for wealthy people. But if it is part of a public administration decision, that the system should pay for itself, then there has been too little discussion about the consequences of following that path.

Settlement and naturalisation are an important tool for integration. By placing barriers to citizenship for many who cannot afford it, the Government is simply converting a funding question for the Home Office into a policy issue for the integration teams in the MHCLG.

Most of these changes have been made through regulation, without much debate or scrutiny. But there is a clear policy choice about who pays and how the immigration system is funded, which ought to be properly debated.

The Home Office just shifts resourcing problems elsewhere in government – the 2019 Spending Review must take a more holistic approach

The immigration system has clear consequences for other departments' activity in related policy areas. The caseworking decisions made in the Home Office, for example, and the work of the immigration tribunals in the Ministry of Justice are very hard to separate.

The volume of appeals against decisions made by immigration caseworkers has gone down in recent years, as changes made by Theresa May as Home Secretary reduced the routes to appeal. But there has been a worrying increase in the proportion of appeals granted (see Figure 7).

Figure 7 **Appeals against Home Office decisions determined by First-tier Immigration and Asylum Chambers, by outcome, 2007/08 to 2017/18**
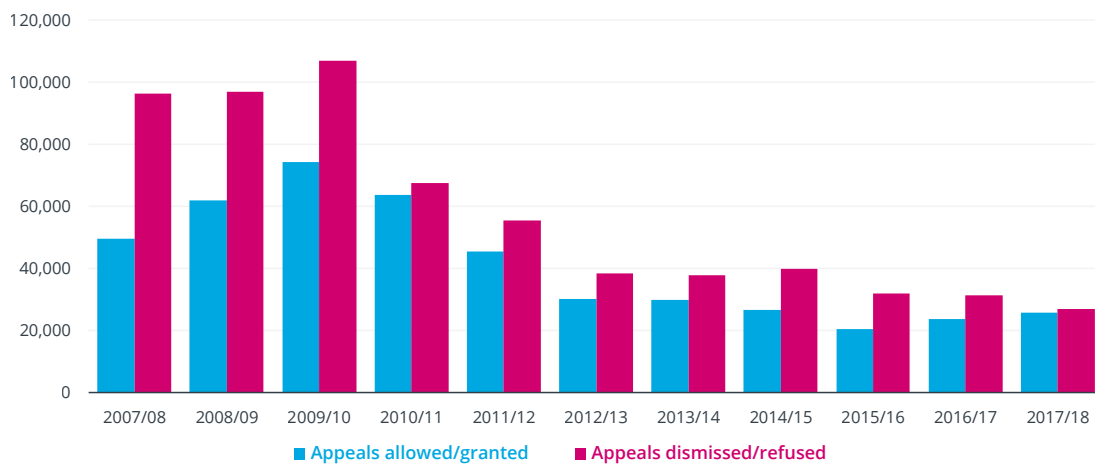
Source: Institute for Government analysis of Ministry of Justice, Tribunals and Gender Recognition Certificate Statistics Quarterly: July to September, Table FIA.3, 2018.

By 2018, Ministry of Justice immigration tribunals were overturning Home Office decisions in over half of the immigration cases they received despite the reduction in the overall number of appeals (see Figure 8). This means that approximately 50% of a tribunal's time is being spent correcting the decisions of caseworkers from another department. Or put another way, of the £110 million annual budget for tribunals, a huge proportion is spent reversing poor decisions made elsewhere in government.[35]

Figure 8 **Appeals against Home Office decisions determined by First-tier Immigration and Asylum Chambers, by percentage, 2007/08 to 2017/18**
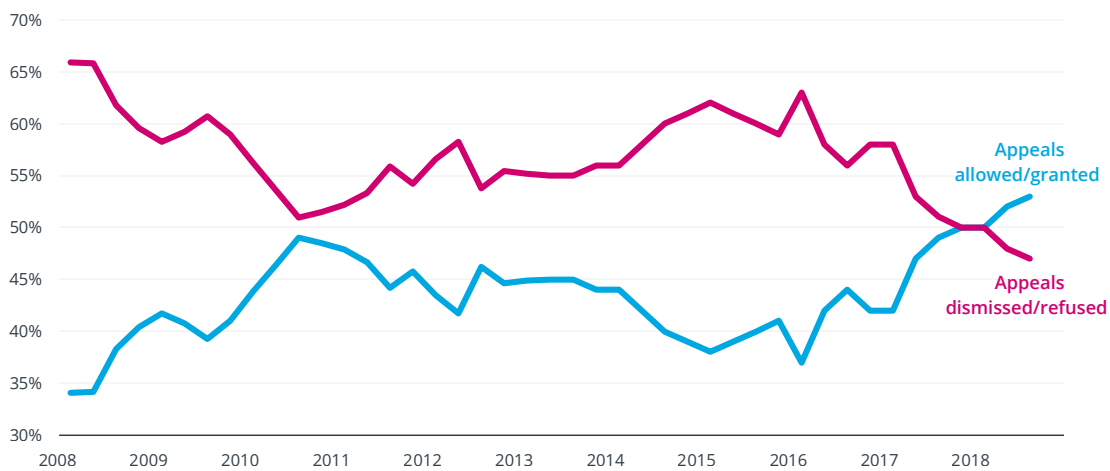
Source: Institute for Government analysis of Ministry of Justice, Tribunals and Gender Recognition Certificate Statistics Quarterly: July to September, Table FIA.3, 2018.

The 2019 Spending Review must recognise that failure to invest in immigration caseworking simply increases costs elsewhere. Running a tribunals service is more costly than proper investment in people within Home Office casework teams. But immigration decisions and the Ministry of Justice's tribunals system are not the only area where a more holistic view is required. Another example is the 'move-on' period for asylum seekers.

Under the Immigration and Asylum Act 1999, asylum seekers are entitled to basic financial support and somewhere to live while they are waiting for a decision from the Home Office. Those who are successful in their application then have 28 days before the Home Office withdraws support, at which point they are expected to get their support from the DWP. They therefore 'move on' from Home Office asylum support to mainstream benefits.

But many refugees do not make the transition onto DWP benefits or get accommodation before the end of this 28-day period. They end up destitute and homeless. There are good reasons why it is a challenge for refugees, from language barriers to IT skills. The Red Cross has reported that between January and September 2016, more than 1,200 refugees had become destitute.[36] The Government has a policy of helping refugees, but they are slipping between two government functions – the handover between the Home Office and the DWP. Again, the 2019 Spending Review must look at this process from end to end and ask why the Government is collectively failing to implement its policy towards refugees.

Another area that the Government must carefully assess at the 2019 Spending Review is labour market enforcement. As it stands, work permit compliance is monitored by UKVI, which is in addition to four other parts of government working on labour market

enforcement.[*] The division into different groups working in different government departments is an issue that the Government tried to address by creating the new role of director of labour market enforcement. The director is responsible for writing a strategy but must try and force coherence between different units in different departments in a way most other countries with a single labour market enforcement unit do not.

There is often a lack of trust and investment in caseworkers

UKVI and Immigration Enforcement have separate casework teams. In some respects, their roles are very different. For UKVI, the focus is often on speed to get through a high volume of decisions, often with binary outcomes. For Immigration Enforcement, the decisions are more complicated and caseworkers must factor in a range of issues, including human rights.

The separation of the teams can, however, lead to a lack of understanding of what happens when a case moves between the two teams. Poor communication and feedback between teams was an important contributor to the Windrush scandal.

Immigration teams also lack support. Caseworkers are often poorly trained for the kinds of decisions they make. Outside of government, it would be up to qualified lawyers to make the judgements that, inside the Home Office, are left to junior, relatively poorly paid officials with little formal training.

Home Office caseworkers often report quite low morale. There is little opportunity for career progression and they are often so far removed from applicants that they get little sense of the importance of some of their decisions. More than a quarter of the Home Office's asylum casework decision makers left over a six-month period in 2017, with reports of a relentless focus on targets.[37]

The creation of a Chief Casework Unit in UKVI has been an important positive step.[38] The department has got around 50 senior caseworkers to offer support on difficult decisions and provide leadership to the large number of caseworkers across the directorate. The expansion of the unit could both provide more support to those making decisions and offer a progression path to those working on the front line.

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* These are the Labour Market Enforcement team, the Employment Agency Standards Inspectorate, HM Revenue and Custom's (HMRC) National Minimum Wage enforcement team and the Gangmasters and Labour Abuse Authority.

Disconnection between policy and operations

What ministers and policy makers think happens in the immigration system is not what is delivered on the ground

In April 2018, the-then Home Secretary Amber Rudd and her senior official responsible for immigration policy and strategy told the Home Affairs Select Committee that the Home Office did not have targets for removing illegal immigrants. They were wrong. As the evidence session immediately before had shown and as was confirmed afterwards, operational teams had been using regional targets for removals until a few weeks before. A few days after this evidence session, and as a result of pressure from this and the continuing fallout from the wider Windrush scandal, Amber Rudd resigned. She "took full responsibility" for the fact that she was unaware of the removal targets.[39]

But she was not the first, nor the last, Home Secretary to be in the dark about how her department translates policy into practice. Rudd's successor, Sajid Javid, was apologising to Parliament after just six months in post – he had told Parliament that DNA testing on immigration applicants was voluntary, only to find after an internal review that his team on the front line were telling applicants that it was compulsory.[40] So while ministers have an extraordinary amount of involvement in very specific caseworking decisions, they are too often unaware of what happens across operations more broadly.

This gap between what ministers and senior officials in policy and strategy think happens and what is really happening on the ground has plagued the Home Office for years. It triggered the initial break-up of the UK Border Agency, and has been a major focus of reports by the Independent Chief Inspector of Borders and Immigration (ICIBI). It was one reason why Mark Sedwill, then Permanent Secretary at the Home Office, created the Second Permanent Secretary role in the Home Office to oversee the immigration system as a whole. But the gap persists.

There is a wide separation between policy and operations at the Home Office

These cracks between immigration policy and the realities of the system are reflected in the division between policy teams and their operational counterparts in the Home Office.

The separation exists structurally, with policy and strategy sitting in their own directorate away from the operational teams. It exists geographically, with policy officials no longer in the same office as their operational colleagues. And it exists in the background and experience of officials, with those responsible for policy having little experience of delivering it and vice versa. It is an issue that is clear to current officials, past officials and those, like Stephen Shaw, who have reviewed parts of the Home Office. The policy often says one thing but the experience of those in the system says another.[41]

The policy team are responsible for changes to the system and new immigration rules. But once a change to policy is agreed, it is often just thrown over the fence to the operations team. Policy makers will draft a new piece of guidance and send it to their colleagues in Immigration Enforcement or UKVI, expecting that a piece of paper will simply translate into a change on the ground. If the change is deemed important enough, policy makers might run a training session. But once there is political agreement on a new policy and guidance has been drafted, the policy and strategy team step away.

The gap between policy and operations was central to the Windrush scandal

If those drafting policy are detached from the caseworkers making decisions, the consequences can be significant. The Windrush scandal is one high-profile example. The scandal was not only preventable, it was also predicted by Home Office policy makers.

A formal Home Office policy document accurately described the problem faced by the Windrush generation as a result of the 'hostile environment' policy: "[S]ome non-UK born older people may have additional difficulties in providing original documentation. Some may have had their immigration records destroyed. Some will have originally come into the country under old legislation but may have difficulty in evidencing this."[42] This description came from a policy equality statement published in 2015, two-and-a-half years before Amber Rudd resigned over the issue in April 2018.

So the Home Office knew of the problem and knew long before the crisis in 2018 and the newspaper headlines and select committee hearings. But there is little evidence that the Home Secretary, Immigration Minister or senior officials did anything to protect these individuals against a known design flaw in immigration enforcement. This concern, raised in 2015, was not passed down to the operations teams explicitly, no safeguards or feedback loops were built into the system and no evaluation was done to assess whether or not the risk – rightly identified – was materialising.[43]

Not only were there no adjustments to existing safeguards or assurance processes, but also when reports of the Windrush generation being mistreated began to emerge, they were greeted with inaction. For example, the National Audit Office found ICIBI reports from 2014 and 2016 pointing out errors in records that led to people being misidentified as overstayers in the UK or in the UK without leave.[44] There was an apparent failure to connect the reports in the press with a problem that policy makers themselves had identified a couple of years earlier. This is a political problem, not just an internal management one – there is little incentive for the Home Office to think about the users of the immigration system. While the white paper on immigration has promised to "put the customer at the heart of [the] design" of the future immigration system, this needs to be put into practice.[45]

The Home Office must exercise more systematic oversight of policy delivery

The Windrush example forms part of several broader trends:

- There is little co-operation and support between policy and operations as a change is implemented.

- Once a policy is in place, there is almost no assessment of its front-line delivery.

- Policy and political teams seem uninterested in how their policy is working.

The stark separation between policy and operations is not unique to the Home Office, but unless it is addressed, the Government stands little chance of running an immigration policy that commands public confidence.

One of the key pieces of an effective system that is missing is formal feedback between policy and operations. There must be a mechanism through which front-line staff are notified of risks identified in policy rather than these risks simply disappearing onto a government website, never to be seen again. This will require the policy and operations teams to work more closely together at every stage, from policy design, to implementation, to regular interactions once the policy is in place.

The Home Office has done a lot of work to bring operational and digital skills into the policy design process for Brexit. Both the EU Settlement Scheme and future immigration policy have had operational officials involved in workshops and design sessions. In an area where typically the whole of government struggles, this is a positive step that sets an important trend and direction for the department. But it is vital that this co-operation does not stop with the agreement of policy.

If these issues are not fixed, the Government faces another scandal, this time over the EU Settlement Scheme

Without effective feedback between policy and operations, the Home Office faces an even bigger crisis than Windrush in the coming years. The EU Settlement Scheme is the route through which EU citizens living in the UK can secure their rights after Brexit. But there is simply no chance that all 3.5 million citizens who are eligible for settled status will apply. Some may not realise they need to, some may not have access to the right information or technology to do it and others may simply refuse as a matter of principle. In short, there will likely be tens if not hundreds of thousands of EU citizens living in the UK without documentation but who may have lived and worked in the UK for decades and who would be covered by a ratified Withdrawal Agreement or by the Government's commitments in a no deal scenario.

The Government's immigration enforcement policy and operations teams focus their efforts on those without documentation. But it was this mismatch – groups with rights but without the document to prove it – that led to the Windrush crisis. After Brexit, the number of people in that situation will be greater. Even if those who fail to apply for settled status by the allotted date are legally without entitlement, most people in the

UK would recognise that they have a moral entitlement. The Government must put in place the necessary safeguards and feedback to ensure that individuals do not face the same fate as that of the Windrush generation who were wrongly deported as operational teams chased targets.

Operational targets must be set with policy aims in mind

Just as operational expertise and evaluation should feature to a greater extent in policy making, the policy teams in the Home Office should have more visibility of how front-line staff turn policy into practice. One area in particular where policy and strategy teams need to work more closely together is targets.

Targets are an important tool in any major operational organisation. They are a mechanism through which performance can be measured and improved. If used effectively, they are a tool that can make government more effective. But if used badly, they can drive behaviour and priorities in an unwanted direction.

Immigration Enforcement, for example, had removal targets before the Windrush scandal. Units were expected to ensure that a certain number of illegal immigrants were removed every month.[46] As a result, the focus shifted away from the individuals deemed to be causing most harm to the UK. Teams were forced to look elsewhere to ensure that they hit their target numbers: at what were seen as 'low-hanging fruit' – the individuals who were easiest to find and remove. These people were unlikely to include those considered to be most harmful; rather, they were those who perhaps had overstayed by mistake or even, as in the case of Windrush, were actually entitled to be in the UK in the first place.

It is not just enforcement policy that has been distorted by poorly thought-through targets. In 2014, UKVI introduced targets for processing times. This was part of its customer service commitment and was aimed at ensuring that applicants were responded to in a timely manner. Given that some cases are tricky and can involve complex legal issues – not least human rights – targets were only applied to those cases considered 'straightforward'. But, under pressure to hit the targets, caseworkers began to categorise more and more cases as 'non-straightforward'. In 2017, the ICIBI found that one in three of these cases was incorrectly marked to avoid the targets.[47] It also meant that, with the increasing number of non-straightforward cases, processing times for this group began to grow. At the end of quarter 3 of 2018, around a half of asylum cases had been waiting more than a year for a decision.[48]

There are also examples of the Home Office refusing to implement targets that could directly support policy implementation. Asylum seekers, who are not generally allowed to work in the UK, can apply for support in the form of cash or accommodation if they can prove that without it they will become destitute within just 14 days. But despite successful applicants proving they are just a fortnight away from destitution, research in 2017 showed that they waited two months on average to receive support. The Home Office refuses to accept that the 14 days should be a target response time, there are no public performance targets and the department does not even appear to track how long decisions take – it was this external research that proved the huge gap

in timeframes.[49] There appears to be little political appetite to use these kinds of operational targets that would help to drive policy delivery.

The gap between policy and operations needs to be bridged

This kind of counterproductive approach to targets distorts and hinders policy. And it is this kind of approach to targets that could be avoided through a closer relationship between policy officials and front-line staff.

Immigration, Refugee and Citizenship Canada – the Canadian immigration department – has a team that was set up to bridge the gap between policy and operations. It was designed to give front-line staff a stronger voice in policy, acting as a feedback loop, but it can also facilitate communication in the other direction.

As well as receiving feedback from front-line staff, there is also a necessity to have more input from the users of the immigration system, such as asylum seekers navigating the system, students organising to come to the UK or economic migrants and the businesses that sponsor them. This is one of the areas where the design of the new EU Settlement Scheme has been a big step forward for the Home Office. The use of user groups, the involvement of groups like 'the3million' (an organisation of EU citizens in the UK) and relative transparency in terms of design are positive steps. Furthermore, the department has committed to launching new 'advisory groups' to inform the design of the future immigration system[50] – this should become a regular feature of the system to act as a proper feedback loop.

Part of the answer for bridging these gaps – between policy and operations and between the immigration system and its users – could be a similar team to the one in the Canadian immigration department. A multidisciplinary team with formal responsibility for linking policy and operations, either for each of the main operational directorates or a single one that cuts across them, would go some way to formalising a feedback loop.

Patchy data and old systems

The immigration system is run on old systems

The Home Office talks about the 'borders, immigration and citizenship system', but internally there is a series of very separate systems and it is not always easy for them to share information with one another. This fractured landscape is linked to the complicated web of old technology. In some places the processes have yet to be touched by computers, with papers being passed between desks and teams unable to access the same document at the same time.

Caseworkers, for example, use the Casework Information Database (CID). CID was built in 1995, the year Microsoft released the very first version of the web browser Internet Explorer. The system is still plagued by technical problems that have been known for a long time: it freezes, there are outages that result in significant loss of work and it

cannot share information with other teams in the Home Office.[51] The department tried to replace CID a few years ago, with the new Immigration Case Work (ICW) system. ICW was due to deliver in 2014, replacing CID and 20 other IT and paper-based systems, but it ended in failure. By 2013, the programme was mothballed as it had "achieved much less than planned, at a cost of £347 million".[52] ICW was not the first casework system to fail: a 2001 attempt was also cancelled after a £71 million contract with Siemens failed to deliver the 'paperless office' that the Home Office envisaged.[53]

The Home Office is once again looking to overhaul its old systems. But there are problems. The department's most ambitious programme of change was initiated before the vote to leave the EU. Over two years on, there has had to be a 'brutal prioritisation'.[54] Some projects have been postponed or abandoned to refocus on the more immediate task of Brexit.

The key programme still under way is Immigration Platform Technologies (IPT), which will replace some of the old systems and improve connections between teams and directorates. Delivery has slipped by a couple of years and the Infrastructure and Projects Authority has identified significant issues that need to be addressed for its successful delivery.[55]

The Home Office has already had to deliver one new system as a result of Brexit – for the EU Settlement Scheme – with more to come to prepare for immigration after Brexit. The department is one of the first across Whitehall to turn post-Brexit policy into a functioning new system and process – even if the biggest tests for the system are yet to come. The department's quick reaction and work (and its willingness to engage users and test the system) deserve much more recognition than they get.

There are significant challenges to accurately understanding the picture of migration in the UK

The Home Office needs data for different purposes. On the one hand, information on who is coming to the UK and how they behave while they are here is a valuable policy-making tool. Other information is needed to drive operations, for example, identifying who has overstayed their visa for enforcement purposes. As we have already said, politicians have focused too much on crude high-level data, such as the net migration figures, when making policy decisions. While it is valuable for policy makers to understand the overall picture of migration in the UK, currently the only way to calculate these figures is to rely on one of the least robust datasets the Home Office has.

The International Passenger Survey (IPS) is one of the key tools the Office for National Statistics (ONS) uses to measure net migration. It was originally introduced to understand tourism patterns in the 1960s, so its use in understanding migration has been heavily criticised.[56] It is an inappropriate data source for any kind of detailed estimate about different groups of people such as workers and students and it only captures a small sample size of long-term migrants. ONS publications usually come with some quite serious 'health warnings' about the accuracy of data drawn from the IPS.[57]

For example, in 2016 the ONS identified disparities in the calculations of the number of students entering the UK. According to the IPS there was a significant decrease in the number of non-EU citizens coming to the UK, driven by fewer people coming to study, but Home Office visa data showed a 2% increase in the number of study visas issued to non-EU citizens. In response, the ONS conducted an 'assurance review' of the IPS; this found that student numbers in particular were susceptible to variation. It has since used other data sources – from the Home Office and Higher Education Statistics Agency – to establish a more accurate picture of student immigration.[58] This is a clear illustration of how the focus on net migration, and therefore the IPS, can have a distorting impact on understanding migration. The focus on this dataset diverts attention from the more useful information available to the Home Office.

The Home Office has improved the quality of data it publishes in response to user needs, although gaps remain

Despite criticisms of the net migration figure, the Home Office does publish quarterly immigration statistics which are more useful to policy makers.[59] This uses different administrative datasets (for example, labour market data), alongside the IPS, to give a more detailed breakdown of immigration in the UK; this includes how many people are coming and why, who is extending their stay, who is applying for asylum and who is being detained or removed. The Home Office has responded to external challenges to the quality of its data and has taken steps to improve it, publishing progressively more detailed information.[60] More recently, in 2016, the Home Office began to publish 'experimental' statistics reports on exit checks[61] as a way of understanding the process migrants go through when deciding to stay in the UK. While the Home Office is still working to address discrepancies across different data sources,[62] this information could prove very useful to policy makers. Understanding trends and patterns in those overstaying in the UK could enable the Home Office to tweak rules or requirements for different groups in order to maximise compliance.

The Home Office has also taken the step to turn analysis on the 'migrant journey',[63] which started life as a research project, into an annual national statistics publication. This paints a clearer picture about how individuals move through the UK's immigration system (from visa applications outside the UK to the granting of leave to remain or UK citizenship) and has also become more detailed in response to user requests. There are still gaps – information about migrants' contribution to the public purse and access to services is not available. For example, the Home Office does not know what economic activity those who come to the UK under Youth Mobility Scheme visas engage in, or where students work while they study.

Another positive step has been the major programme the ONS is running with the Government Statistical Service to improve the evidence base for migration policy. The programme plans to join up Home Office data on visas with datasets in departments like the DWP, HMRC, DHSC, DfE and the devolved administrations. Using their powers in the Digital Economy Act, ONS is working across departmental boundaries to use available 'administrative data' to create a better understanding of how migrants behave in the UK.[64] While the ONS has not finished this process –

its current plan is to rethink its approach to understanding migration by 2020 – it will allow the UK Government to make policy on data that goes beyond crude numbers.

There are areas where better information would lead to better decisions – both on policy and in individual cases

Once it has the data, the Government needs to use it to inform policy. The Longitudinal Immigration Database in Canada combines the administrative files on visas and permits from the immigration department with information from Canada's tax agency.[65] The Canadian Government can therefore look at how characteristics such as language skills and professional experience influence the economic outcome for migrants who enter under different visa routes. This database allows the Canadian Government to understand in which sectors different categories of migrants work, the way their salary and tax contribution change and also their regional mobility. With information covering a time span of more than 30 years, the Canadian Government can adjust and amend visa routes to better achieve its objectives. The UK Government should aim to develop a similar capability, to provide a robust basis for future objective setting.

There is also a strong case for looking at the information that the Home Office has on its decisions: for example, the Migration Observatory has raised specific concerns over the scrutiny of immigration decision making, noting limited information on the reasons for refusal of applications.[66] A greater understanding of the characteristics of those granted or refused a claim would help policy makers understand the impact of new policies as they are being implemented, to make sure they are achieving their intended objectives.

Better data and information systems would also help the operational side. We have already outlined the challenges for reliable decision making on individual cases. Having such a high proportion of decisions overturned causes unnecessary distress to applicants, costs both sides time and money and suggests that there may be other wrong decisions which applicants do not challenge.

Better data and improved systems can help caseworkers make better decisions. For example, a digital decision tool trialled in children's social care helped social workers to identify risky cases.[67] With many children, whose cases were initially closed immediately, reappearing as at risk within a few years, a tool was developed to help caseworkers to identify those most likely to return. The tool highlighted risky decisions to caseworkers, allowing them to spend more time on them and to escalate the cases to managers or more senior caseworkers if necessary.

A similar approach could be taken with immigration decisions. Highlighting cases most likely to go to appeal would prompt caseworkers to spend more time on applications, preventing them from going through an even longer and more expensive process of appeal. It could flag cases for a second look, using the layer of senior caseworkers to review and confirm. Any trends could be fed through into training, alerting new caseworkers to common issues and providing them with greater support.

The lack of a national identity card system inevitably means the UK will have less good data than countries with such systems

One way to collect data, which could then drive front-line operations, would be to introduce a national identity (ID) system or register but, as in the past, this would prompt questions about the infringement of civil liberties and privacy. While such systems are common across Europe and make in-country immigration enforcement more straightforward, any attempt at a scheme like this in the UK would come with difficult baggage and would likely be met with strong public and political disquiet.

The Labour Government proposed a system of ID cards in 2003,[68] with the Identity Cards Act gaining Royal Assent in 2006. The scheme would, the-then Government argued, be a "powerful weapon in combating illegal immigration" – removing the "pull factor" of access to work, benefits and services, which draws people into illegal migration and people trafficking.[69] But initial support for the scheme dissipated as costs rose, delays crept in and campaigners for civil liberties shifted public opinion. The Conservative Party made it a manifesto pledge to scrap ID cards if elected in 2010[70] and the Coalition Government that formed in that year did exactly that.[71]

The National Identity Register, built to hold the personal details of ID card holders, held over 50 categories of data, from fingerprints, facial and iris scans, and places of residence, to links to government databases. Hundreds of government bodies and tens of thousands of private organisations would have been able to access the database under certain restrictions.[72] The Coalition Government destroyed the register in early 2011.[73]

The UK is the only EU member state not to have a national ID system. ID cards can, as in Estonia, double up as driving licences, document the right to work, validate voter registration and allow for the paying of taxes. But ultimately one of the operational benefits for the Home Office is regulating who is in the country, including what rights they have to access work, housing or services, and understanding regional pressures. But any new debate on a system of national identity would have to answer the question of civil liberties – the huge data privacy questions it poses and the use of the information by public and private organisations.

The Government must be clear what data it is using for what purposes to allay public concern

Many politicians and members of the public have understandable sensitivities about how data is used in the immigration system. There is a difference between using data from across government to improve migration policy – understanding how migrants interact with HM Revenue and Customs (HMRC), the DWP or the National Health Service (NHS) to adjust rules – and using interactions with the state to track and detain people without the correct documentation. Using NHS data to help determine the right level for the 'health surcharge' paid by migrants is not the same as general practitioners (GPs) working with Immigration Enforcement to identify families without the correct paperwork. The information used might be the same, but the handling

should be very different – and Government needs to be able to reassure both the public and service providers how they are using information provided.

The Home Office has paused the use of cross-government data for enforcement activity as a result of the Windrush scandal, amid concerns about how information sanctions are applied.[74] But the data is still a rich resource for policy makers. The Home Office should publicly set out how it plans to use administrative data from across government in the future, making it obvious what it considers in scope for informing policy and what is used for operations. Any policy data and useful evidence should be shared with the Migration Advisory Committee (MAC), which has previously struggled to get hold of valuable information from across government. Where possible, the Home Office should make data publicly available in a suitable format, both anonymising personal data where necessary but also ensuring the file format makes it is accessible for external users (in spreadsheets rather than PDFs, for example). It is good at publishing datasets online and is responsive to many requests from research organisations. This should continue but it should be more proactive about this rather than reactive.

One result of Windrush has been the much higher degree of awareness of the types of information the Home Office could use; this experience has encouraged the more active sharing of detailed information on the EU settled status pilot, where a quick cross-check to HMRC records can be used to confirm residence without the need for any further proof from the applicant. This ability to call on information already available to the Government for the benefit of applicants should become routine.

Limited use of evidence and evaluation

The Home Office should be more rigorous in establishing the evidence base for its policies

Too much migration policy is developed without proper attention to the available evidence. This was clear in the 'hostile environment' policy. As the Migration Observatory has pointed out, there was little understanding of who the Home Office was targeting with the policy, whether the policy would have any real effect in reducing or preventing illegal immigration or what the unintended consequences would be for legal residents. In the end, the policy meant that British citizens were wrongfully deported.[75]

The Independent Chief Inspector of Borders and Immigration (ICIBI), David Bolt, has been damning about the lack of evidence behind the policy decision to restrict access to bank accounts and driving licences. In 2016, he said that the justification for extending the 'hostile environment' measures was "based on the conviction they are 'right' in principle and enjoy broad public support, rather than any evidence the measures already introduced are working".[76]

The Home Office's original impact assessments do little to counter this view. They stated that the department "expected to increase the number of voluntary departures",

but that the volume could "not be quantified". Further, it was "thought that the benefits will exceed the costs".[77]

The Migration Observatory points out that it would have been possible to obtain some evidence, pointing to the research done in Australia in 2012 on irregular migration, as well as potential lessons that could have been drawn from Spain's decision to deny universal health care to most undocumented migrants.[78]

The lack of a rigorous approach to evidence is also seen in a weak culture of testing and evaluation

It is not always possible to establish an evidence base for policy decisions in advance. But it is possible to take a systematic approach to asking whether policies are having their intended effects and whether there are unanticipated consequences.

There have been a few limited examples of testing a policy in advance before national roll-out: a pilot was conducted allowing Master's students to stay in the UK for six months after their degree ended. Following an evaluation of this pilot,[79] the Home Office incorporated this policy into the immigration white paper.[80] But most changes to the immigration system are developed in policy teams in conjunction with ministers and their advisers, turned into new regulations or guidance and then sent to operational units without putting in place the mechanisms for feedback and evaluation that would enable the policy teams to know whether the policy was working.

The EU Settlement Scheme is another example of where the Home Office has made an effort to build a process of testing and iteration into the policy-making process. User groups, trial stages, and a willingness to adjust and learn, are very positive improvements to usual practice. The Government must now make this part of its basic approach.

The Government should also commit to more rigorous external evaluation. It should look to the revamped MAC as a source for that analysis. By expanding the MAC's role to evaluate policy, the Government can tap into independent, trusted experts with a track record in influencing policy. It would suit the committee's expertise and skill set. This would mean taking the MAC's advice in the policy development and implementation stages on how best to build in evaluation. The Government should consider whether the MAC is appropriately resourced to take on this role.

A lack of effective scrutiny

There is no shortage of ways to scrutinise the Home Office, but they focus on its reaction to crises rather than on preventing them

Immigration is polarising and the decisions taken inside the Home Office can have a major effect on people's lives. The topic is rarely out of the press, on both sides of the political divide. The high volume of media scrutiny is, to some extent, matched in formal mechanisms for the scrutiny of the Government.

In Parliament, the Home Affairs Select Committee is responsible for scrutinising the development and delivery of immigration policy. Its reports are influential and the evidence sessions are forensic: Amber Rudd's appearance before the committee has been seen as a catalyst for her resignation a few days later. And the committee's recommendations carry weight. It was, for example, the committee that argued for the creation of an independent immigration inspectorate in 2006.[81]

In 2007, the committee said that there was "very little independent oversight of the immigration system", and that that which did exist was "fragmented, under-funded and with very limited powers".[82] The Independent Chief Inspector of the UK Border Agency (now called the ICIBI) was created to oversee immigration control, bringing together existing functions, including the Independent Chief Inspector of the UK Border Agency and the Independent Monitor for Entry Clearance Refusals. It upholds standards of "high-quality decisions, active management, clear lines of responsibility and of reporting, easy communication within and across authorities, meaningful statistics, effective and non-distorting targets and excellent customer service".[83]

It has had some big successes, with high-impact reports laying bare some of the problems in the Home Office. The reports between 2010 and 2012 are seen as a big reason why the UK Border Agency was disbanded. But despite the successes of the ICIBI and the Home Affairs Select Committee, there are still significant gaps in scrutiny. The ICIBI is constrained in its power and the Home Affairs Select Committee is more effective at dissecting a crisis than it is at preventing it.

The laws used to change the immigration system bypass proper scrutiny

Most changes to the immigration system are done through changes to the 'immigration rules'. These rules are made and amended through secondary legislation, using powers established under the Immigration Act 1971. These are scrutinised by Parliament in the same way as other secondary legislation subject to 'negative' procedure, where there are no timetabled debates or votes as there are with primary legislation. If Parliament wants to debate a change, it must put forward a motion to annul, known as a 'prayer'.

But even if a motion is tabled, the Government is under no obligation to make time for debate. Of the 17 prayers tabled in the year following the 2017 Queen's Speech (of which two were related to immigration),[84] just over half resulted in a debate. Of all secondary legislation subject to negative procedure laid in the year following the 2017 Queen's Speech, just 1.5% were debated on the floor of the House of Commons.

The last time the House of Commons prevented a piece of secondary legislation from becoming law was in October 1979.[85]

The Home Secretary and the Government have a relatively free pass to change immigration rules. In many respects, this is an extremely valuable tool. The Home Office can respond quickly when it identifies abuse in the system or to address unforeseen issues. It can be nimble to adapt to immediate pressures without having to wait for parliamentary approval. But the scope of what can be done using just immigration rules is significant. The changes made by the-then Home Secretary, Theresa May, in the period between 2010 and 2013, allowed the Government to reduce non-EU immigration, introduce salary thresholds and introduce restrictive caps and changes to the professions and skills that the UK would classify as highly skilled. All these changes were made through immigration rules alone. Likewise, the Government could choose to implement the new immigration system after Brexit through immigration rules, although it has committed to implement elements of it through primary legislation.[86]

Immigration rules are changing more often and becoming unwieldy and complicated

With such broad powers, it is unsurprising that the Government uses immigration rules as its primary vehicle for change. According to the Home Office, since the Conservative–Liberal Democrat coalition entered government in 2010 there have been more than 130 changes to immigration policy[87] – almost three times more than successive governments achieved in the 30 years before.

It is clearly important for the Government to amend rules to respond to operational realities. But the frequent changes in immigration rules in recent years mean that operations cannot keep up.

With a higher volume of policy changes being made, an increasing use of secondary legislation and legal challenges forcing the Home Office to put more into the rules, the result has been a ballooning of the rulebook. It has almost quadrupled in size since 2008 and is now more than 1,000 pages long.[88] Rather than reviewing or adapting existing legislation, the Home Office has been bolting on new clauses, hacking away at certain sections and inserting a web of cross-references. As a result, the rules – which are the basis of hundreds of thousands of decisions each year – contain duplication, cross-references to sections that have subsequently been removed and inconsistent drafting, and in certain parts they have become largely incomprehensible.[89]

There have been a number of attempts to simplify the rules, each aborted for different reasons. The latest ran until 2009, with the Government claiming that the complexity of the rules "reduces the efficiency of decision-making processes, resulting in an increased risk of delay or mistakes… [a]nd it contributes to a lack of public confidence in the overall effectiveness of the immigration system".[90]

A decade on – and a decade that saw unprecedented change and the volume of immigration rules spiralling – the need for simplification is even more acute. The

Law Commission is already consulting on simplification,[91] but any new primary legislation and the process of simplification must look more broadly at how rules are made and scrutinised. This fits with the Home Office's pledge to simplify aspects of the immigration system in the recent white paper.[92]

There should be greater scrutiny of rules in Whitehall and in Westminster

Any simplification should include changes to how immigration rules are made and scrutinised to prevent problems with the rule book occurring further down the track.

The first part of this is ensuring that any rules receive robust scrutiny before they are laid before Parliament. Any change to the rules should be reviewed thoroughly within the Home Office. One way of doing this would be to introduce a function similar to the Social Security Advisory Committee (SSAC). The SSAC reviews regulation that is introduced into the benefits system, with the remit not of proposing changes to policy but rather assessing whether the proposed regulation is coherent and clear and how it will be operationalised.[93] Something similar at the Home Office, where immigration rules are scrutinised by a multidisciplinary group – including lawyers and those who have worked on the front line – would help to ensure that immigration rules do not become unworkable again.

The second area where greater challenge is required is in Parliament. Here a select committee could be required to sift through proposed immigration rule changes to decide whether they should follow a negative or affirmative procedure. This would replicate the role played by the European Statutory Instruments Committee in secondary legislation brought forward under the European Union (Withdrawal) Act 2018. This could be done by a designated House of Lords committee, with legal expertise on the committee, which could recommend where votes in Parliament were necessary.

But more fundamentally, there must be a review of what can and cannot be done through secondary legislation. Home secretaries have used immigration rules to cut immigration by 100,000 people (even if it was then subsequently reversed), increased charges faced by migrants by almost 500% and introduced a rule on family income thresholds, which means that 40% of British wage earners are excluded from bringing in a spouse from overseas.[94] All of this can be done with not a single vote in Parliament. It is right that the immigration system has the ability to respond quickly to changes, but the powers available to the Home Secretary are too broad.

The Independent Chief Inspector of Borders and Immigration is hamstrung by the Home Office

Outside Parliament, the main mechanism for scrutiny is the ICIBI. The Chief Inspector is a public appointee and can initiate inquiries and lay reports before Parliament.

The inspectorate has access to front-line staff and Home Office facilities and, as already mentioned, its reports carry significant weight, with some past publications resulting in the restructuring of parts of the immigration system. But while the inspectorate has control of what is in the reports – subject to approval on national security grounds – it does not control when they are published. It is the Home Office that decides when a report gets laid before Parliament and therefore becomes publicly available. And the Home Office does its best to use that power to try to blunt the impact of some of the more critical reports.

In 2018, the Home Office published five of the inspectorate's reports on one day[95] – the last day before Parliament rose for Easter. Reports were held up and kept for publication in a batch, immediately before a public holiday break, to limit their impact. Burying these reports between the slew of announcements and publications on the last day before recess does not help the scrutiny of the immigration system.

There is a further question about the remit of the ICIBI. As the 'hostile environment' policy has moved immigration enforcement responsibility onto landlords and businesses, there has been even less scrutiny of how the real front line of immigration enforcement operates. With concerns about discrimination as a result of Home Office policy, it is an important area where further scrutiny is required. The current Chief Inspector, David Bolt, has recently completed an inspection of the 'Right to Rent' scheme,[96] a central part of the hostile environment, but as part of it he had little contact with landlords, who have a critical responsibility. If the inspectorate is to be responsible for scrutinising immigration operations, it should be given the resources and powers necessary to conduct more detailed investigations in areas such as the hostile environment where responsibilities lie outside government.

If the UK–EU Withdrawal Agreement comes into force, there will be a new mechanism for scrutiny – the Independent Monitoring Authority

If the UK–EU Withdrawal Agreement comes into force, as part of the terms of the agreement the UK will establish a new public body called the Independent Monitoring Authority to oversee the UK's adherence to the citizens' rights elements of the Brexit deal once the transition period ends.[97]

The Independent Monitoring Authority's remit will go beyond the Home Office's administration and enforcement of the EU Settlement Scheme, looking as well at social security entitlements. But it will play a vital role in assuring Home Office decisions about who is and who is not entitled to claim settled status after Brexit. The body will have powers to take the UK Government to court if it finds any infringement of the rights guaranteed in the Withdrawal Agreement.

There used to be a public body, the Independent Monitor for Entry Clearance Refusals,[98] with a similar remit – looking at Home Office decisions – albeit with significantly less powers. This function was subsumed into the ICIBI, as noted above, but with the inspectorate's responsibilities growing, the dedicated focus on decision making was somewhat lost.

With the new Independent Monitoring Authority, Parliament could find a powerful route for assessing Home Office decision making and ensuring that individuals are treated fairly by the immigration system.

5. Our six-point plan for managing migration after Brexit

1: A collectively agreed migration policy with clear objectives translated into an annual migration plan

The Government should scrap the net migration target. Future migration policy should be decided collectively by ministers from all relevant departments, informed by a clear evidence assessment from the Migration Advisory Committee. That means taking account of not only labour force needs, but also the ability of areas to cope with localised service pressures and the need to command public confidence that the system offers the right degree of control. The Government should be explicit about the basis for the choices it has made.

Those objectives should be translated into an annual migration plan, which should avoid abitrary targets and provide a more nuanced picture of migration levels for different visa routes and different skills levels, based on estimated forecasts. Above all, the plan should clearly articulate the aims and objectives of and desired outcomes for the immigration system. The plan should be presented to, and debated in, Parliament.

The Government has already suggested that the Migration Advisory Committee (MAC) should report once a year on the trends in migration,[1] but this is not a substitute for a minister providing their own plan. The Government should formally respond to any annual MAC report, setting out its plan for UK immigration.

The plan should be updated annually, and include:

- the Government's objectives for the year ahead, broken down with specific outcomes for different visa routes and measurable metrics where possible

- a performance assessment of the past year against previous objectives

- plans to change policy and a forward-look of changes to immigration rules, including an economic assessment where possible.

2: A change in the governance of the immigration system

The Home Office Permanent Secretary should implement changes to the structures in the immigration system. In part, this should reflect any output from the independent review commissioned by the Home Secretary[2] – but there are some vital changes that should be made:

- A multidisciplinary team – including policy and operations – should be set up to review the design of policy and operate as a feedback loop between the two teams. This team should report to one of the Home Office's governance boards.

- The Chief Casework Unit should be expanded, providing more support to front-line staff.

The Cabinet Office should, as part of the 2019 Spending Review, look at the critical cross-government connections and address some of the problems that exist as a result of the current division of responsibility. These should include:

- the split between Ministry of Justice tribunals and Home Office decision making

- the 'move-on' process and the role of the DWP and the Home Office

- the approach to labour market enforcement and the links to the employer licensing system in the Home Office.

3: An improvement in immigration rules

Immigration rules – the key legislation governing the UK's immigration system – are overcomplicated. They have almost quadrupled in length over the past eight years, they have become unwieldy, the changes have lacked any serious scrutiny and the Home Secretary has a significant amount of executive power over them.

A simplification bill is required. This is something that has been promised before but has never been delivered. As part of the simplification process, there are some other vital issues that must be addressed:

- A committee similar to the Social Security Advisory Committee (SSAC) should be established to review and scrutinise any new immigration rules, not in terms of policy intent but in terms of how they will be operationalised and their consequences. The committee should include lawyers, policy experts, academics and front-line staff.

- The Law Commission's consultation on simplification, already under way, should assess whether there are sufficient constraints on the use of secondary legislation.

4: A new approach to data

The Home Office has old systems, particularly compared with immigration departments in other similar countries.

The Government needs to set out a comprehensive data strategy to underpin any new system. This should be led by the Home Office's Second Permanent Secretary, who is responsible for the immigration system, but they should consult other departments, the Migration Advisory Committee (MAC) and external experts.

The overall aim of the strategy should be to make sure that the Home Office is making the best use of the current available data but also to identify what data it needs to make available to run the immigration system in the future. As part of this, the strategy should:

- look at the most critical gaps in the department's datasets

- clearly articulate exactly what data will be used to inform policy making and what data will be available to operational teams

- assess the role that cross-government data (particularly longitudinal data, for example on benefits and tax) should play in immigration policy making, clearly setting out how such data will be used, the protection that will be placed around it and that it should be open for consultation

- investigate how Home Office data can be shared with integration teams to improve local efforts

- put forward plans for new technology to support operational teams, particularly caseworkers.

5: An enhanced role for the Migration Advisory Committee and the Independent Chief Inspector of Borders and Immigration

The Migration Advisory Committee (MAC) has become a critical part of immigration policy making in government. It is no longer asked straightforward questions such as 'which occupations are experiencing labour shortages?'. It is making important policy recommendations and has laid the framework for the UK's future migration policy.

As a result, the Government must do more to guarantee the MAC's independence and use its skills more widely. To that end, the Home Secretary should build on the important commitments made in the recent immigration white paper[3] by making a number of steps, including the following:

- Put the MAC onto a statutory footing as a crown non-departmental public body.

- Explicitly include evaluation of the effectiveness and impact of current policies within the committee's remit.

- Review the make-up of the MAC. If the Government uses the committee to answer questions that go beyond labour market economics, the membership should be updated to reflect that. This could involve a number of committee members that are called on only when certain expertise is required, rather than being standing members.

- Agree to create an annual workplan for the MAC. This should be agreed by the Cabinet or relevant Cabinet committee and allow the MAC itself to propose work as well as other government departments and devolved administrations. The MAC should retain sufficient resources to enable it to meet any reasonable request from any other department or devolved administration and to commission its own external research.

The role of the Independent Chief Inspector of Borders and Immigration (ICIBI) should also be reviewed. In particular:

- The ICIBI should be given the power to publish reports independently of the Home Office, avoiding the situation where the department deliberately restricts their impact.

- The ICIBI should be given the resources and powers to undertake a detailed review of immigration enforcement done by those outside of government, such as companies and landlords, given the critical role they play in the 'hostile environment'.

In addition to both of these changes, the Government should consider extending the powers of the Independent Monitoring Authority, which will be set up to oversee the UK's compliance with the citizens' rights part of the Withdrawal Agreement if it comes into force. The body could look at the whole immigration system, giving individuals who feel mistreated a route to appeal, and the Government could use it to spot patterns in its decision making and appeals.

6: An independent review of the Home Office

The Home Secretary, Sajid Javid, has already announced that he will be asking for an independent review of the immigration directorates in his department, to ensure that the Home Office is "fit for the modern world".[4]

But simply announcing a review is not a solution to the problems at the Home Office. If this review is to provide the basis for further changes to the immigration system, it must start by the Home Secretary publishing the terms of reference for the review, in which he should set out what he characterises as a 'Home Office fit for the modern world'. He should also make clear the key performance metrics he expects the department to achieve.

In particular, the review should have three elements to it.

First, the review should undertake a detailed assessment of Home Office policy-making processes and make recommendations on:

- how to improve the use of evidence

- how to ensure that policy impacts are properly evaluated – and those evaluations are used to inform policy making

- how to improve the link between policy and operations

- how to ensure that there is a rapid feedback loop between policy and operations that is acted on.

Second, the review should assess the role that the Home Secretary and Immigration Minister play in operational decisions and the effect that has on the effectiveness of the Home Office. It should make recommendations on the appropriate role for ministers in individual caseworking decisions.

Third, the review should look at the end-to-end costs of administering the immigration system and make recommendations on how to ensure a more effective and efficient system in the light of future demands. This should cover the role of charging.

6. Is the Home Office the right department to run the immigration system?

The issues set out in this report are urgent and must be addressed. But there is also the question of whether the Home Office is the right department to be tasked with addressing them. The change sparked by Brexit means that this question must be answered.

The centre of the immigration picture has always been the Home Office. The department first gained its statutory responsibility for the control and settlement of so-called 'aliens' in 1793 – six years before the introduction of modern income tax.[1] Over 220 years later, the Home Office is still the lead in government in terms of who can enter the UK and stay.

Unsurprisingly, quite a lot has changed in government's approach to migration over that time. In recent years, there have been two important changes that have altered the Whitehall landscape with regard to immigration.

The first was linking migration and the labour market. The policy connection was first made in 1919 when the Government, concerned about widespread unemployment after the First World War, introduced a form of work permit for migrants. That function was run by the Ministry of Labour and it wasn't until David Blunkett became Home Secretary in 2001 that the two policy areas became integrated and shared a home in Whitehall. Blunkett brought Work Permits (UK) over with him from the Department for Education and Employment.[2] In the almost two decades since, immigration has become ever-more important to the UK labour market and the labour market has become an increasingly important driver of immigration policy.

Another big change has been the growing focus on integration. In large part, this has been driven by a dramatic increase in refugee numbers. In 1979, the UK received around 1,500 applications for asylum but by the end of the century that number was over 70,000. Applications peaked at over 100,000 in 2002, before hitting steadier figures at around 30,000 in 2005.[3] In recognition of the growth in the number of asylum seekers, a formal policy for refugee integration was set out in 2000.[4] By 2005, there was recognition that the value of integration went beyond just refugees and the Government had a broader immigrant integration strategy.[5] Integration policy began life in the Home Office, but in 2006 it was moved to the-then Department for Communities and Local Government.[6] The policy area has received more attention since then, in both the media and government, and the immigration system has changed in response, with for example English language requirements and Life in the UK Tests.

The current structure prioritises the link between immigration and security

With overall responsibility for immigration located in the Home Office, the priority is the link between immigration and security. It is often the Home Secretary arguing at the Cabinet table for greater control, more information on migrants and enhanced checks.

For those in government who put greater emphasis on the link between immigration and the economy, not least the Treasury and BEIS, there is a battle to influence the Home Office. For example, as Deputy Prime Minister in the Coalition Government, Nick Clegg tried to "rein in" the "illiberal" Home Secretary by putting "bolshie and difficult" Liberal Democrat ministers in the Home Office.[7] It was a battle that lasted throughout the years of the Coalition Government, with the Business Secretary, Vince Cable, becoming what he called "a blocking minister" on immigration.[8]

The tug of war on migration between the economy and restricting numbers is one that often extends well beyond the Cabinet room and into Whitehall. At an official level, there is a tension between those working on the Home Office brief and those trying to influence immigration policy from the rest of Whitehall. We heard that, in some cases, cross-government working was restricted to meetings approved by the Home Secretary's private office.

The link between immigration and the Government's approach to integration is much less well established and, as a result, the two policy areas often act entirely independently. There is very little evidence that consequences for integration are considered in immigration policy. Furthermore, there are examples of Home Office policy being in direct conflict with integration objectives or people's concerns around integration. For example, the proposed route for lower-skilled migration after Brexit does nothing to support communities grappling with transitory labour, given its constraints on time, extensions and the ability to bring family to the UK. Likewise, there is poor data for local government on where migrants go – local government relies on the Census every 10 years, which makes short-term measures to ease the impact of immigration on communities very difficult.

There is very rarely a good case for changes to government structures

Brexit has already changed the shape of government departments and it is likely that, as the future UK–EU relationship becomes clearer, more changes will be considered. The question of whether the Home Office is the right department to run the immigration system is very likely to feature.

To move roles and responsibilities between Whitehall departments, whether on immigration or not, would require changes to government structures. These kinds of changes are rarely about long-term policy and public administration; rather they are about short-term politics. This lets the Prime Minister reorder the Cabinet, offer a reward to loyal ministers and send a message to voters.[9]

These changes to the machinery of government are expensive. Our estimate in 2010 suggested that a new team of ministers alone can cost at least £15 million a year, but with the productivity losses from disruption and the cost of establishing harmonised pay scales, the cost goes well beyond that.[10] The price of creating the DWP in 2001 was around £175 million.[11] But above all, these changes rarely deliver what they set out to. They are usually poorly thought through, rushed and given no proper investment or support.

The argument against a machinery-of-government change for immigration is further supported given the scale of the task facing the Home Office. The size of the overhaul, the short timelines, the likely loss of productivity and the distraction involved seem unlikely to be worth the risk.

The impressive work of the Home Office in building new post-Brexit systems is also a factor. It has designed the new EU Settlement Scheme in a short timeframe, with extensive external engagement – with user groups set up to engage with interested parties. There are very few, if any, other government departments that have done this level of engagement or are as far along as the Home Office is in the implementation of new systems.

But the argument for moving immigration from the Home Office after Brexit is even stronger

These arguments do not mean that machinery-of-government changes should not happen, though, or that Whitehall does not need the occasional shake-up. The establishment of the DWP is one example where the change made sense, and was well planned and well implemented, even if it was expensive to start with.

The reality is that the Government faces some uncomfortable truths about immigration after Brexit and the role of the Home Office. First, the stakes will be much higher. The strategic importance of the Government's migration policy changes quite drastically without the free movement of people acting as a 'safety valve' for labour market demand. The job is no longer about relatively small adjustments to the non-EU system, safe in the knowledge that the labour market can rely on EU immigration. Immigration policy becomes a key pillar of the UK's workforce strategy, as the only way the UK can access non-domestic workers. The Home Office needs to be seen as a department that can listen to demands from across government, business and the UK to come up with a coherent position – acting more as a broker than an autocrat.

Second, the scale of the job facing the Home Office will be different. The department needs to expand in order to process many more applications and enforce the rules of the increasing number of visas it gives out. The department is already overseeing a significant challenge to deliver the new EU Settlement Scheme, requiring new teams, new rules and new systems – and critically, a new culture. Immigration is increasingly dominating the department's agenda, with greater demands on senior officials and requiring much more focus from ministers.

Finally, there is the question of whether the Home Office has the confidence of those who use or rely on the immigration system – from migrants themselves to the businesses who sponsor visas. There are parts of the immigration system that are considered world-leading, but high-profile failures have led many to see the department as a 'damaged brand'. Immigration will be an important part of a 'Global Britain' strategy. It will need to attract the 'brightest and the best'. Perhaps most of all, the Government must ensure that the public have the confidence that the immigration system is under control. It is not clear that the department in its current state can fulfil those expectations. At the very least there are many who are cynical.

A big part of this is what is perceived to be the culture of the Home Office – a department that says 'no' first and asks questions later, and where there is an assumption that most applicants are misleading or trying to game the system. Saying 'no' is an important part of any system and the public expect the department to deter fraudulent applications, but stories of applicants being wrongfully deported and being sent letters asking them to leave the UK after failing on technicalities are just two examples of what is perceived to be a much broader problem.

There are different ways to organise immigration policy in government

Governments around the world take different approaches to running their immigration systems. As with any policy area, the structures tend to reflect the strategic and political priorities of the country in question. However, there tends to be three broad approaches.

Structure 1: Interior ministry
The UK is not alone in housing its immigration policy and operations in the department for the interior. It is a common approach across the EU, such as in France and Germany. This European approach perhaps reflects the fact that, given the access to European labour under free movement, there is less focus on international migration. In the United States, immigration policy also sits within an interior ministry – the Department of Homeland Security.

Structure 2: Department for immigration
Another approach is for there to be a separate department responsible for immigration. It is a set-up used by countries for whom immigration is of significant political and strategic importance. It is used by countries where there is usually a strong interest in attracting people – countries that want to build their population through permanent immigration – or those Commonwealth countries that are often characterised in the Brexit debate as 'free traders'. It is the approach taken by Canada and was used by Australia until recently, when the Department of Immigration and Border Protection was folded into the Department of Home Affairs. These countries tend to combine immigration with integration in the single department, rather than splitting it in the way the UK does. In some instances, such as Canada, immigration at the border is run separately and is more closely aligned with other border issues such as customs.

Structure 3: Cross-government approach
Some countries do not put the whole immigration system in a single department. Sweden and the Netherlands, for example, manage visas within their foreign affairs

department and enforcement and asylum are managed by their justice ministry. The use of the foreign affairs department reflects the global footprint that many visa operations have, with work permits in the business department, and the use of the justice ministry allows immigration law to be managed by those who look after the inevitable appeals and tribunals system. In part, this approach recognises that immigration will always be a cross-government affair, regardless of where the policy sits.

The role of a public body or agency

Wherever immigration policy does sit, it is not uncommon for the operations part of immigration to be split out into an agency. There are U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, Immigration New Zealand (part of the business department), the Norwegian Directorate of Immigration, the Federal Office for Migration and Refugees in Germany and many more.

This reflects something more along the lines of the UK Border Agency approach in the UK a decade or so ago. It is in keeping with the way many countries, including the UK, hive off large operational sections into executive agencies to focus on the management of casework. But the Home Office is not alone in reabsorbing its executive agencies into the core department – the DWP has done it too.

The Government must assess the options, but as it stands the Home Office is not up to the challenge

These different models all come with their pros and cons, not least the disruption that would be caused by moving the immigration system to another department in the first place. But Brexit is a catalyst for change and serious long-term thinking about the size and shape of Whitehall is necessary to capitalise on that.

The Cabinet Secretary, Mark Sedwill, has confirmed that work on the various machinery-of-government changes necessary after Brexit is ongoing.[12] The question of immigration must feature in this, with a detailed analysis of the costs, risks and benefits of moving the policy away from the Home Office. Six important questions must be answered:

1. **Does the Home Office have the right capacity and skills to run immigration policy?**

   The Home Office will need a major overhaul in size and capabilities to run immigration policy after Brexit. It will need to become a department that can use data and evidence better.

2. **Does the department have the right culture to run immigration policy?**

   The department must start to see immigration as a potential economic benefit to be realised as much as a flow to be controlled. In short, the department will need to be seen as an honest broker in Whitehall to manage different departments' interests – in the same way that the Cabinet Office operates or the Department for International Trade will need to run trade policy.

3. What are the costs and benefits of a separate immigration department?

A separate immigration department would be costly to set up and likely result in some disruption, but it could provide an opportunity to build ministerial capacity, reset the structures and build a system that can endure in the long term.

4. Should there be changes to bring together different parts of the wider government system?

The separation of immigration and integration does not help the Government in meeting its objectives around either policy area. Other countries see the two as much more interdependent. Keeping the two close together ensures that decisions taken in immigration policy are more likely to recognise the consequences for integration, and vice versa. Likewise, the relationship between Home Office appeals and Ministry of Justice tribunals should be examined. British Future has recommended that their budgets should be merged to improve resourcing decisions.[13]

5. Do immigration operations need to sit at arm's length from ministers?

Immigration is intensely political and ministers are likely to want to exercise control over it, but the current set-up gives ministers too much sway over individual operational issues and also too much responsibility for them. By putting operations at arm's length, politicians can set operational mandates, strengthening accountability but giving the delivery teams more clarity over what is and what is not within their remit. There does not need to be a single agency responsible for all of the immigration system. Any review could look at the relationship between Border Force and customs operations (looking at the balance between security and facilitation) and whether different elements of the operations should be split out.

6. Over what timescales should change take place?

The Government is under a lot of pressure to deliver change and quickly. This suggests that immediate change is unlikely and could inhibit its ability to deliver. But there is no reason why the Government cannot establish a clear timeline for change that recognises these constraints and looks to phase in new machinery-of-government changes over multiple years. Given the need for these changes to last, it would make sense to involve the Opposition and parliamentarians in their design.

Ultimately, any change must be backed up by a clear plan and analysis, supported by the centre of government. Any new department or public body would need to see itself as part of the wider immigration landscape, rather than a single arbiter. After Brexit, immigration becomes cross-government in a way that cannot be fixed by any single department.

Machinery-of-government changes should not stop the Government urgently tackling the challenges outlined in this report

Changes to Whitehall structures could have longlasting benefits. But on their own they will not solve the internal issues that have plagued the immigration system.

The changes we set out in this report must be urgently addressed, wherever the immigration system sits in government. Without that, any new department, agency or cross-government structure will still fail to meet the Brexit challenge.

Taking back control of immigration is an opportunity for the UK Government to build a system that is, in the words of the Home Secretary, Sajid Javid, "fit for the modern world".[14]

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Acknowledgements

The authors would like to thank those who spoke to us – often multiple times – for finding the time in their busy schedules to speak to us, offering thoughts and comments. We can't personally thank all who contributed, but without them this paper would not have been possible. A special thank you goes to Will Somerville, Madeleine Sumption, Ian Robinson, Stephen Hale, (British Future's) Jill Rutter, Kirsty Moore. and Jonathan Portes.

As always, thanks go to colleagues at the Institute for Government – Bronwen Maddox, Hannah White, Emma Norris, Nicole Valentinuzzi and Gavin Freeguard – for their comments. We are grateful to Melissa Ittoo and Matthew Batchelor for support on publication, production of graphics and patience.

Finally, a special thanks to the Institute for Government's Jill Rutter, who contributed significantly to this paper throughout. Inevitably some will not recognise the account we offer, but we hope this report provides a helpful insight in to the challenges of managing migration. Any errors or omissions in the paper are our responsibility alone.

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