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Does Immigration Enforcement Matter (DIEM)?

Irregular Immigrants and Control Policies in the UK

The Policy Framework for Immigration Enforcement in the UK

Project Report 4

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About the author

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About the project

This three-year ESRC-funded project aims to explore and explain why, in the UK, despite increasingly strict immigration policies and enhanced law enforcement (e.g. entry screening, ID and work permits checks, workplace and other raids, and employer sanctions), irregular migration continues at significant levels, and at least until 2008, even increased. This study looks specifically at in-country immigration law enforcement and its effects and limits, an aspect that has so far received very little academic attention. It complements another project based at COMPAS that studies border controls.

The overarching theme of this project is to study the impact of increasingly tight legislation and robust enforcement measures on irregular migration and on irregular immigrants. In particular, it aims to: (1) investigate immigration law enforcement agencies and practices; (2) analyse the political, legal, practical and ethical limits of law enforcement; (3) investigate the interaction between irregular immigrants' strategies, employer practices and enforcement measures; (4) find how irregular migrants navigate and survive internal immigration controls; (5) identify the impact of enforcement on irregular migrants' access to fundamental rights; (6) show how all this is perceived by the affected immigrant communities; and finally, (7) highlight the effects and effectiveness of such enforcement.

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Introduction

Migration has consistently been a prominent feature of the political and policy landscape in the United Kingdom for the past five decades. Public concerns have ranged from disquiet at successive arrivals – first of commonwealth citizens from former colonies and then of asylum seekers – to discontent with unprecedented economic migration from Eastern Europe. Irregular immigration in particular has been one of the British public's top issues for the past two decades, and especially since the onset of the global recession in 2008. An Ipsos MORI poll showed that as many as 65 per cent of British people support reducing irregular immigration, while only 12 per cent do not (Migration Observatory 2011). Immigration is also more often viewed as a salient and pressing political problem in Britain than elsewhere. The latest Transatlantic Trend Immigration Survey (2013) reveals that more people in Britain than in other comparable countries rank immigration as the single most important issue facing the country, and more claim that parties' positions on immigration will influence their vote. The same survey also shows that the UK's public opinion is the second most opposed to irregular migration (80 per cent) when compared with seven other European countries and the USA.

Since it began, immigration policy-making in the UK has been closely linked to legislative developments in the field (see Project Paper 3). As will be discussed in this paper, legislation has usually been followed by policy developments which it has enabled. With growing public concern over immigration, the rate of law-making on the subject over the past two decades surpassed that in every other social policy area (see Appendix).

This paper complements our earlier paper by providing a comprehensive framework for immigration enforcement policy in the UK. It starts with an overview of the key immigration policy orientations from the 1960s until 2014. It then looks in more detail at how UK authorities have dealt with irregular migration on three levels: pre-entry (abroad); on-entry (at the borders); and after-entry (internally). The paper concludes by reflecting on two models of policy formulation that have been adopted by UK governments: 'evidence-based policy-making' and 'policy-based evidence-making'.

Key immigration policy orientations

Before considering the domestic political context for immigration policy, it is instructive briefly to assess relevant wider trends and drivers in human geography and global economics. Deepening globalisation has meant freer international flows not only of ideas, information, goods and money, but also of people, including migrants. The estimated international migrant population has risen significantly in the last 60 years and has become more concentrated in developed economies such as the UK: in 1960, 43 per cent of all migrants lived in developed countries, but by 2005 this figure had risen to 64 per cent (IPPR 2008). Demographic factors are also changing the face of some western societies, with declining fertility rates and ageing populations among indigenous communities compared to the immigrants arriving. While there are many influences on UK public opinion about migration, any increase in hostility towards it may in part arise from the higher overall volume of immigration experienced in the past twenty years.

The UK Government's response to public pressure to bring immigration under control needs also to be read in a context of growing anxiety about the sustainability of the British welfare state, the

erosion of social security protections and the restructuring of the labour market. The working class has been the most affected by these changes in at least two different ways. First, since the late 1970s the diminishing bargaining power of trade unions and their undermined capacity to protect workers had an adverse effect on this group. Second, many low-skilled jobs either disappeared as people were replaced by machines, were 'shipped abroad' or were considerably downgraded by the depreciation of wages – in part as a consequence of the influx of economic migrants, particularly from eastern Europe in the mid-1990s (De Giorgi 2011; Garland 2001; Reiner 2007; Ruggiero 1997). Faced with structural limitations in implementing inclusionary social policies, the New Labour administration sought to appease an important fraction of its electorate by promising a check on immigration and by resorting to novel measures to tackle the 'unauthorized mobility of this ever more globalized proletariat' (De Giorgi 2010).

The UK is only now beginning to recover from a worldwide recession that began in 2008 with the financial meltdown precipitated by the global banking crash. This recession has meant that even more people have suffered job insecurity, stagnating wages and a deteriorating standard of living. It has also meant major scaling-back of government expenditure at every level, not only threatening public sector jobs but cutting back the public services available to the population. The particular political discourse of the UK has meant that disquiet at these developments has often been directed at migrant, for coming and supposedly taking or undercutting 'British workers' jobs'.

In this context, the primary aim of the Coalition government's migration policy since coming to power in 2010 has been to reduce the overall level of immigration in the UK. One of the main ways it has sought to do this is by creating an increasingly hostile environment for would-be immigrants. In some areas, New Labour may have taken this approach as far as the public would tolerate. For instance, while the extent of CCTV coverage in the UK suggests the British people are relatively comfortable with surveillance, they rejected the idea of ID Cards when the last Labour government sought to introduce them. On the other hand, the public do appear willing (even keen) to allow increasing constraints on the ability of immigrants to access welfare services. In July 2014, for instance, Prime Minister David Cameron announced with some fanfare that the British government would halve (to three months) the period of time European Union immigrants without realistic job prospects could claim benefits (BBC 2014b).

It is not only government welfare policy that is being enlisted currently to crack down on irregular immigration. The Immigration Act 2014 and recent Coalition government policy seek to co-opt landlords, banks, employers and others as partners in immigration law enforcement. As will be discussed further in this paper, some partners, however, have other expectations. It appears to remain the case, for instance, that teachers would rather teach children, doctors would rather treat patients and police officers would rather catch criminals than spend their time indentifying irregular migrants or enforcing immigration law.

Looking at the Coalition government's migration policy, we find that it has focused predominantly on three government strategies (Rice and Angus 2012): to limit migration while still attracting the 'brightest and the best'; to reduce the abuse of migration routes; and to promote temporary migration. Policies have been driven by a desire to achieve a set number for net migration, and to cap, at a certain number, migration for work. In contrast, and as will be discussed below, the New Labour government

paid much attention to the economic benefits that migration brings to the country, but found out just how hard immigration can be to plan for and manage when their policy on a more open approach to EU migration proved problematic. Changes in inflows can make migration seem unexpected, which then calls into question the Government's competence to control it.

As discussed in project paper 3, if we look back at the period between 1962 and 1976, we find that three restrictive immigration laws and three anti-discrimination laws were passed. The immigration laws had an official objective of limiting migration, and the three anti-discrimination laws, at least partly inspired by both the American civil rights movement and the domestic Black and Asian movement, were instituted to improve what is commonly called 'race relations'. Thus, policy-making followed a two-track or dual approach (Somerville 2007).

The period between 1976 and 1997 – when the Conservative party was mainly in power – was one of mainly continuity in immigration policy in an era of major economic and social policy change. The most salient policy shifts were, first, a switch of focus from all immigrants to asylum seekers, and second, the focus on race relations legislation and institutions following the 1981 and 1985/86 riots. A major objective was to curtail the number of individuals seeking asylum in the UK. By the end of the conservatives' last spell in office, there was a new trend that favoured economically active migrants who work and who would contribute and benefit the UK and rejects migrants who come to claim i.e. asylum seekers and those who rely on the UK welfare system.

Tony Blair's tenure as Prime Minister brought significant changes to immigration policy. Policy developments in this era can be summarised as a strong commitment to the management of migration for macroeconomic gain and the development of a tough security framework to combat irregular migration and reduce asylum seeking, coupled with concomitant institutional shake up. Measures against racial discrimination, such as the Race Relations (Amendment) Act 2000, were reinforced, and laws such as the Human Rights Act 1998 made equality a fundamental tenet of general policy-making. New Labour's framework can be summed up as one that focused primarily on reaping the potentially huge economic benefits while 'properly managing legal migration' (Roche 2000).

Following the 9/11 and subsequent 7/7 London bombings, a new emphasis on integration marked a change from previous immigration policy, which had emphasised multiculturalism. But to suggest, as some have (see Kundnani 2002; Goodhart 2004), that this position regressed to one promoting assimilation is an oversimplification. The references to adaptation on the part of host communities – typically characterised by phrases such as "two-way process" (Blair 2006) – show that policy moved away from its multicultural pivot.

Border control remained crucial. The Blair government steadily increased resources for securing the borders, particularly in the wake of an estimate published in 2005 of the number of irregular immigrants: about 430,000 or 0.7 percent of the population (Home Office 2006). However, ministers had consistently refused to cap the number of legal immigrants entering the country because of the trade-off between facilitating global flows of people and maintaining control over entry and exit of migrants. The rather open approach to migration continued until the beginning of the economic crisis under the Brown government (see below). There has also been significantly more cooperation at the EU level, such as joint enforcement efforts to reduce irregular migration.

In an attempt to reduce the number of people requesting asylum, the Blair government eroded the asylum system as a protection regime. Although the UK has had to harmonise asylum procedures with those of other EU countries, it also instituted new measures. These included exporting borders (setting up controls and visa regimes in countries of transit or origin), increasing fines on carriers, 'dispersing' asylum seekers (relocating them around the country) and reducing the social benefits they were able to enjoy. However, the major change, devised in the 2001-2003 period, is the concept of managed migration. This commitment to economic migration has largely been accepted across the political divide.

This radical policy break merits further analysis. Labour inherited an economic migration system comprised of a large number of different schemes that had developed in a piecemeal fashion. From 2001, new schemes and measures to facilitate the entry of both low- and high-skilled economic migrants were introduced (Somerville 2006). However, the government's decision to resist anti-immigrant pressure and allow labour migrants from the new, Eastern European EU Member States, which joined in May 2004, obviated the need for a low-skilled migrant program. This has also implied the beginning of a new trend whereby overseas workers could be replaced by EU migrants. Furthermore, Labour reformulated criteria and eased transitions between visas for the purpose of economic migration. For example, foreign students could now apply for a work permit, the Highly Skilled Migrants Program, or specialist schemes, such as the Science and Engineering Graduate Scheme, while studying. Blair had long believed that the UK needs to attract more international students and went out of his way to increase the numbers of such students.

Blair was also concerned with security. He personally drove through increased cooperation between UK government departments and between governments on security and migration measures. His '10-point' response to the London bombings of July 2005 included several migration-related principles. Specifically, any asylum seeker who has committed, prepared, or instigated terrorism, or has encouraged or induced others to do so, will be denied asylum. These principles became law in 2006, when Parliament passed the Immigration, Asylum and Nationality Act.

Finally, Blair associated himself with various integration initiatives. He made the subject an important part of his policy legacy in his last year in office. For example, in 2006, he made a major speech on multiculturalism in which he proposed a new measure that would tie the funding of community organisations to integration (Blair 2006). Tapping into the potential of minority ethnic populations was an important part of these integration initiatives as these communities contributed significantly to the economic growth of those years.

Tony Blair's immigration policies radically restructured and updated the system. He never changed his viewpoint towards immigration and asylum throughout his three governments (Triandafyllidou and Gropas 2007). The main goals guiding immigration policy and reform during the Blair era were always the same:

- Economic migration benefited the UK, which was part of an overall focus on making globalisation work for Britain

- The positive aspects of migration and development within the UK needed to be highlighted for the public.

- The UK needed to combat and prevent irregular immigrants, which was part of a wider approach to the securitisation of migration.
- Asylum migration needed to be highlighted for the public.

Over the course of ten years, the Blair government did reduce the number of asylum seekers attempting to immigrate. The introduction of biometric examinations, the points-based visa system, and the consolidation of the various branches of government pertaining to immigration and asylum in his final term helped to streamline and modernise the system. Tony Blair effectively promoted economic migration throughout his three governments while trying to discourage asylum seekers and irregular migrants from entering the country.

Gordon Brown's main concerns about immigration policy, while he was Prime Minister (2007-2010), were citizenship and the point-based system. Most of the legislation passed under Gordon Brown's leadership attempted to rectify wrongdoings in past policies on citizenship and to update the current system. Furthermore, he spent the majority of his speeches commenting on the points-based visa system. He initially supported having no cap on immigration. However, once the economic recession struck the UK, he was forced to revise his stance. The British public viewed highly skilled migration in a negative light due to the belief that these immigrants were taking jobs from British citizens. After Gordon Brown amended his stance on immigration caps, or what he called 'pre-determined quotas', he was heavily criticised by both the Labour and Conservative parties along with the media and general public for not taking a clear position.

When the Coalition government took over in 2010, they blamed the previous Labour government for a 'frightening' decade of 'lax immigration', putting too much pressure on communities and imposing a 'constant drain' on public services (Swinford 2013). David Cameron talked about the 'link between uncontrolled immigration and mass welfare dependency', arguing that immigrants have taken jobs from British workers and that to get people back to work we need to cap economic migration (Cameron 2013). While the post-crisis context was driving some of the new immigration reforms, some were part of wider welfare and labour market reforms. Immigration has been portrayed as 'out of control', resulting in the country becoming awash with 'bogus asylum seekers' and irregular migrants securing access to jobs and services at the expense of British citizens. The relentlessly negative narrative dominating popular and political debate on migration has provided the Coalition government with a basis on which to pursue a draconian migration policy focused on tightening the border and applying steady downward pressure on routes to long-term immigration (Green 2010 and 2012, May 2010).

The Coalition government has concentrated its efforts to reduce net migration from hundreds of thousands to tens of thousands on limiting the number of non-EAA nationals entering and remaining in the UK. An annual limit on the number of non-EEA migrants admitted to work in the UK came into effect in April 2011 for different visa categories or Tiers (see Appendix).

The Coalition government has also tried to improve the asylum system and speed up the handling of cases. Various pilot schemes have been launched and a new set of performance indicators have been introduced against which to assess effectiveness of the system. Work has continued reviewing and trying to conclude unresolved asylum cases. However, by the fourth quarter of 2012, the UKBA

was still case-working 33,500 backlogged asylum applications (Home Affairs Select Committee 2013).

The Coalition agreement also committed the government to ending immigration detention of children, following concerns about the practice raised by the Children's Commissioner for England and others. In response, a new process for enforcing the removal of families refused permission to remain in the UK was introduced. Families with children are no longer detained in Immigration Removal Centres before removal from the UK. The government's commitment to ending the detention of children for immigration control has also come under scrutiny in relation to the continued detention of children in short-term holding facilities at UK ports of entry (see Gower 2013).

While the Coalition government has little control over one of the largest migration streams into the UK, namely from the EU, the government has shown increasing interest in further restricting the rights of EU nationals to welfare benefits within the UK. The UK already employs a 'right-to-reside' formula when deciding if non-British EU citizens resident in the UK are eligible for various benefits. The legality of this formula is being challenged in court by the European Commission.

Permanent residency and citizenship have also been among the Coalition government priorities. Arguing that it has been too easy for people to move from temporary residence to permanent settlement in the UK, the Coalition government has revised eligibility criteria and introduced additional requirements (Robinson 2013). Initial changes included the requirement that applicants for settlement be free from any unspent convictions at the time of application. Subsequently, a more demanding knowledge of language and life in the UK requirement was introduced for people applying for permanent settlement or citizenship. From 28 October 2013, applicants for settlement or naturalisation as a British citizen will need to meet the knowledge of language and life requirement by passing the revised Life in the UK test and having a speaking and listening qualification in English.

2. Immigration enforcement: focus on irregular migration

In the New Labour area, UK authorities were often perceived to deal with irregular migration in a rather liberal fashion, particularly concerning cases of overstaying and other breaches of conditions such as work restrictions (see Düvell and Jordan 2000, Vollmer 2009, Finch and Cherti 2011). In contrast, and this has roots in the UK traditions of enforcing immigration controls, cases of 'illegal entry' were handled in a much stricter fashion. Overall, a move towards tougher policies has been translated through various initiatives, which include the introduction of national identity cards for foreigners; rigorous internal controls to tackle the issue of 'absconded asylum seekers', overstayers or other offenders of migration law; and new attempts at collaboration on enforcement between the Metropolitan Police Service in London, the UK Border Agency (UKBA) and other related enforcement agencies. These were designed to spot, identify and arrest offenders of migration law.

The Coalition government is committed to tackling irregular migration. Specific goals set out in the programme for government in 2010 regarding irregular migration include:

- the creation of a dedicated Border Police Force, as part of a refocused Serious Organised Crime Agency, to enhance national security, improve immigration controls and target trafficking of people, weapons and drugs;

- supporting e-Borders and the re-introduction of exit checks; and
- introducing new measures to minimise abuse of the immigration system.

Further measures are included in the recently passed Immigration Act 2014, which aim to introduce new enforcement actors, such as landlords and health professionals.

The following three sections of this report will provide an overview and analysis of the main policy measures taken in the past two decades by government to address irregular migration at three levels: at a pre-entry level (abroad), on-entry (at the borders); and after-entry (internally).

2.1. Preventative work overseas: pre-entry measures

In recent times there has been a notable increase in preventative work overseas to reduce irregular immigration to the UK. This has long been a feature of immigration policy, but one that has become much more prominent over the past twenty years. As a Cabinet Office paper in 2007 put it: 'the most effective – and efficient – way of addressing risks to the UK is to identify those movements which present a threat and to stop or control them before they reach the UK' (Cabinet Office 2007). Such pre-entry measures take a number of forms.

The British government has helped produce videos about the reality of UK immigration and its control, produced primarily for broadcast overseas. The TV show Border Force, focused on the work of the UKBA, for example, is designed first and foremost for foreign consumption. The UKBA summer enforcement campaign in 2010 achieved over 150 pieces of coverage in 19 different countries and a 2010/11 winter campaign led to 179 pieces of coverage in 17 countries (Toms and Thorpe 2012). Similarly, the UK Foreign and Commonwealth Office has also helped the Kenyan state broadcaster insert an immigration-related admonitory storyline into a popular East African soap 'Makutano Junction' with 20 million viewers (Home Office 2010a). The governments of the UK and the Democratic Republic of Congo have collaborated on the production of a television programme called 'Tose Mibeko' (meaning 'Play by the Rules'), which has been broadcast on six channels on Congolese TV as well as in popular entertainment venues, such as cinemas and theatres, and in community settings, such as schools. British-based global media has also been harnessed to communicate UK government messages on migration overseas, for instance via BBC World Service radio broadcasts in Afghanistan (Finch and Cherti 2011).

Work to prevent irregular immigration also takes the guise of formal agreements between the UK and other nation states. Labour Migration Agreements seek to manage temporary economic immigration. Mobility Partnerships facilitate circular migration schemes in return for a crackdown on irregular migration in sending countries. EU Regional Protection Programmes supply aid and assistance to countries in Eastern Europe and in Africa to help them strengthen in-country protection for displaced people. Readmission Agreements, often brokered by the EU, enable the return of irregular immigrants, although sometimes only so far as countries through which they have transited (see Cassarino 2007). Finally, Memoranda of Understanding supposedly guarantee that nationals returned to their home country will not be tortured or maltreated (see Braswell 2006).

At an operational level, the UK has over a hundred Risk and Liaison Overseas Network (RALON) officers in 46 countries. These staff collaborate with in-country law enforcement to combat irregular immigration to the UK (Home Office 2010a). The UK also seeks to manage and mitigate visa risk. For instance, it has Risk Assessment Units based in countries with a high volume of emigrants to the UK and that are thought to pose substantial risk.

Interviewing would-be immigrant students in their countries of origin has been piloted (Dec 2011 -Feb 2012). Consular officials interview such visa applicants and can reject their application if the interviewee does not turn up without a credible reason or if they believe after the interview that the proposed study is bogus. It is expected that approximately five per cent of all student visa applicants will be interviewed in this way (Home Affairs Select Committee 2013).

2.2. Enforcement at the borders

Borders in this paper are defined in a broader sense than the immediate boarders between the UK and its neighbouring counties. Borders in this section will be addressed on two levels: secondary borders at the European level, and primary borders at the UK's frontiers.

2.2.1. Secondary borders at the European level

The UK can be seen as a country well placed within the EU to shield itself from irregular flows because of its geographical position as an island on the outer western fringes of the Union (Finch and Cherti 2011). Most irregular flows come – and are likely to come in future – from the South and East and so, direct flights apart, irregular immigrants, like other migrants, have to cross other EU countries in order to reach the UK. Indeed, immigrants in the French ports of Calais and Dunkirk have been for many years a cause of concern, especially during the time when the Sangatte refugee camp was open.

Despite the UK opting out of Schengen so it could keep its own border control arrangements, the UK has chosen to opt in to the Schengen Information System (SIS) so that it can have access to cross-border data sharing (Gregory 2009). The UK has also sought to get access to the Visa Information System (VIS) and is seeking to widen the scope the proposed EU Passenger Name Record (PNR) framework so that it can be applied to migration as well as terrorism and organised crime (ibid).

There are various other examples of cooperation at an EU level. One is the 2008 'Returns Directive' which contains provisions on maximum detention periods, on deportation decisions, on re-entry bans, on the treatment of unaccompanied minors, and on appeals as well as provisions for tolerated irregularity, and promotes either removal or the granting of a legal status. The Returns Directive should have been implemented by the 24 member states bound by the directive (the UK, Ireland and Denmark have not signed up) on 24 December 2010 and national laws, regulations and administrative provisions should have been moved into line with the directive (Human Trafficking Info 2011). However, according to the European Commission (2012) 'the number of member states having transposed the directive is far from satisfactory' and in September 2011 eight member states had yet to comply with the directive.

The UK's position on the directive was set out by former Labour immigration minister Phil Woolas: 'The UK has not participated in and has no plans to implement the EU Returns Directive 2008/115/EC. We agree that a collective approach to removal can have advantages. However, we are not persuaded that this directive delivers the strong returns regime that is required for dealing with irregular migration. Our current practices on the return of illegal third country nationals are broadly in line with the terms of the directive, but we prefer to formulate our own policy, in line with our stated position on retaining control over conditions of entry and stay' (quoted in Costello 2012).

However, European cooperation to police its common borders with the aim of reducing their porosity to irregular immigrants has had some success, with increases in deportations in the mid 2000s, only for them to decline again more recently (Gibney 2008 cited by Black et al. 2011).

A common European approach to migration and asylum should not be limited to border control, intelligence sharing and enforcement. There are strong arguments, not just on ethical grounds but also on efficacy grounds, for the EU to move towards common standards in its treatment of irregular migrants and its respect for their rights (Finch and Cherti 2011).

Other extra-territorial policies include examples such as FRONTEX and juxtaposed controls. As a non-Schengen state, the UK is formally excluded from FRONTEX, but in practice the UK has been one its strongest supporters, has observer status on its management committee and participates actively in its operations. For example, the UK was one of nine member states to participate in a special operation in 2007 called NAUTILUS, with the aim of stopping irregular journeys by boat from Libya – which resulted in more than 3,000 irregular migrants being detected (Frontex 2011).

The UK also has reciprocal, bilateral agreements with France and Belgium to allow the UK authorities to conduct immigration (and other) controls on French and Belgian territory. These 'juxtaposed controls' are carried out by UK Border Agency officers in a defined geographical area known as a 'control zone' and are for specified purposes only. This provides the UK with an opportunity to carry out immigration controls before a person physically enters the country, and is essential to ongoing efforts to secure the border.

Carrier Sanctions

The UK Border Agency has operated a charging scheme since 1987, known as the Carriers' Liability charging regime. Its aim is to encourage carriers to conduct effective checks on passengers before they travel to the UK, and therefore reduce the number of irregular migrants who arrive in the UK. Under Section 40 of the Immigration and Asylum Act 1999, air and sea carriers are liable to a charge of £2,000 for every passenger they carry to the UK who is not properly documented (Vollmer 2009). However, the effectiveness of the carrier sanctions regime has been questioned by the Chief Inspector of the Border Agency, John Vine. In his first annual report he drew attention to the fact that £1.5 million pounds of fines remained unpaid and there was a backlog of 600 companies on a list to have their vehicles impounded. He also pointed out that a previous backlog of unpaid fines had been written off (Vine 2009).

Despite these issues – and complaints from migrant supporting organisations which argue that fear of fines can turn airline staff into quasi immigration officers – the sanctions regime obviously has a role to play in making sure that carriers are allies with the UK authorities in the fight against irregular immigration. Under the e-Borders programme carriers are increasingly being relied on to use Advanced Passenger Information (API) and Other Passenger Information (OPI) to carry out 'watch list' checks on passengers in transit. A trial scheme of API which involved 27 million passengers resulted in 16,000 alerts and 1,300 arrests (Gregory 2009).

2.2.2. Primary borders at the UK's frontiers

As discussed above in the case of juxtaposed controls, border security starts well before ports in the UK itself. But UK borders posts do provide a crucial line of defence. The former Home Secretary, Jacqui Smith, claimed 'ours is one of the toughest borders in the world' (Home Office 2008a) and there are now some 9,000 members of the uniformed Border Force – which works closely with SOCA and the police's Special Branch. This sounds like a large number, but these officials have an immense task in trying to ensure that irregular immigrants cannot get into the UK. Nearly 220 million passengers and 440 million tonnes of freight crossed the UK border in 2007 (Cabinet Office 2007).

The measures taken to detect illegal entrants are now increasingly sophisticated. They include:

- passive millimetre wave imagers, which use natural background radiation to generate an image of the interior of soft-sided freight vehicles;
- CO_2 probes, which operate by detecting in a vehicle the elevated levels of CO_2 exhaled by humans;
- body detection dogs; and
- heartbeat detectors, sensors which when placed on the main chassis of a vehicle can within seconds detect the presence of a hidden person (House of Lords 2008).

Of course there is a trade off between the most stringent border security and a number of other factors such as individual liberties, EU and international law and costs. For example, the Cabinet Office estimated that the cost of a ten minute increase in passport clearance for the 32 million tourists in 2006 would represent an opportunity cost of £400 million a year (Cabinet Office 2007, cited by Gregory 2009). Any government is therefore going to want to adopt, as the UK does, a balanced risk management approach to border security, concentrating on the most harmful irregularity, such as possible terrorist or criminal suspects (Hampshire 2008).

E-borders

The e-Borders programme, which was designed by the Labour government in 2003, was considered one of the key ways that the UK could combat irregular migration before migrants arrive in the UK by collecting and processing Advance Passenger Information (API). The legislation that enables the programme was enacted in 2006, following the API Directive (Council Directive 2004). E-Borders works by taking travel document information from passengers and crew (via air, sea or rail carrier) prior to travel and analysing it against watch lists of people of interest to the police, security and border agencies (Toms and Thorpe 2012).

Since its creation, UKBA has put a high priority on acquiring the most advanced technology and deploying it at the border as quickly as possible. Central to this strategy is the acquisition of biometric information on individuals which allows for face, fingerprint and iris recognition. These e-passports should increase identity security for most travellers and migrants, while the Iris Recognition Immigration Scheme (IRIS) allows registered passengers to pass quickly through automated border points (Daugman 2004).

Gregory (2009) points out that biometrics and other related measures have two key weaknesses – they cannot detect if a person matching a passport, visa or identity card has created a false identity; and 'watch lists' only work if people's names remain on the 'flagged list'. Whether because of these limitations or others, the e-border programme was abruptly terminated in March 2014. The Head of UK Border Force, Sir Charles Montgomery, told MPs while giving evidence to the Home Affairs Committee, that e-Borders scheme had been 'terminated' in its current form (BBC 2014a).

Counting people in and counting people out

Government statisticians, academics and others have to rely on International Passenger Survey (IPS) data to get a picture of inflows and outflows from the UK. IPS has many limitations, not least the sample size – just 0.2 per cent of travellers to and from the UK are interviewed for the survey (ONS 2011). A number of methodological enhancements were put in place in 2009 after a report by the Inter-departmental Migration Task Force Report in 2006 (ONS 2006). These are welcome, though they are only really designed to 'fill the gap' until the E-borders programme brings back (this time in a high tech, electronic way) the 'counting in and counting out' ability.

The UKBA was aiming to have 95 per cent of passenger movements in and out of the UK covered by e-borders by 2011, with 100 per cent coverage by 2014 (House of Lords 2008). The schedule was then extended to 2015 for the rolling out of e-borders and the reintroduction of full exit checks (Home Affairs Committee 2013). However, now that the e-borders programme has been terminated in its previous format, UK Border Force are still aiming to reintroduce the checks before the 2015 general election.

2.3 Internal enforcement

The Labour government focused on the creation of a 'hostile environment' to deter new arrivals and encourage refused asylum seekers, and others without the legal right to reside, to leave. Since 2010, the Coalition government has picked up where Labour left off. The Home Secretary, Theresa May, expressed her determination to 'make the UK a hostile environment for anyone who seeks to evade the law' (The Telegraph 2012).

Research, however, suggests that irregular migrants can hardly be driven out of the UK in sufficient numbers by simply making their life difficult through a strategy of creating a hostile environment (Finch and Cherti 2011). The research findings show that the rate of return is not being greatly accelerated by the hostile environment strategy, as 40 per cent of the irregular migrants surveyed wanted to stay in the UK permanently. The impact of the strategy as a deterrent is limited too, as information about how hard life is for irregulars in the UK is not effectively conveyed back to would-be migrants

in origin countries (ibid). However, it seems likely that the government will continue to press on with this strategy because it is politically important that it is not seen as lenient or complacent regarding immigration controls, and, in particular, 'cracking down' on irregular migrants.

This section will reflect on some of the key internal enforcement policies in the past two decades.

Creating a 'hostile environment'

One of the key elements of the UK government's strategy to reduce irregularity is the creation of a so-called 'hostile environment' (Home Office 2010a).

> In the past we have not been tough enough in enforcing the rules. That is why the time is now right to tackle the exploitation underpinning illegal immigration. We have to tackle not only the illegal trafficked journeys, but also the illegal jobs at the end of them. We need to make living and working here illegally ever more uncomfortable and constrained.
>
> *- John Reid, then Home Secretary, 2007*

Previous studies, notably Jordan and Düvell (2003), have shown that in the early 2000s, despite public assurances from the Home Office, it was relatively easy for irregular immigrants to live, work (and even prosper) in the UK. Migrants perceived immigration enforcement in the UK as lax compared with other European countries. At that time there were few proactive enforcement actions, with IND (a predecessor of UKBA) relying mainly on help from the police, benefits offices and even denunciations by other irregular immigrants. There was also a reluctance to prosecute employers partly because New Labour was keen to be and to be seen as business friendly and promote the economic benefits that migration can bring.

This situation was hardly surprising given that ISED (Immigration Service Enforcement Department) had only 564 staff in 10 offices across the UK. Officers saw their aim as to 'let people know they were about' and to hope that a 'certain amount of mythology about their effectiveness, together with denunciation and betrayal would keep irregular migrants on their toes' (ibid p. 196).

The situation did, however, change in 2008 when over 7,500 UKBA staff – a third of the total – were involved in enforcement action, organised into 70 or 80 Local Immigration Teams deployed across the UK (UKBA 2008). UKBA aimed to have complete UK coverage by the end of 2011. The aim was for these teams to work more closely with other local agencies – including the police – with the creation of Immigration Crime Partnerships, and with employers and other agencies in Joint Workplace Protocols. Local Immigration Teams also tried to work more closely with migrant supporting agencies on intelligence gathering and enforcement.

An Allegations Management System was set up to improve the UKBA's performance in following up intelligence leads from the public or denunciations. The database, which came into effect in October 2012, assigns a unique reference number to cases so that the Home Office can track the outcome of all allegations. Its aim is to improve border officials' success rate in taking enforcement action.

Scrutiny of the database revealed that in the period from its introduction on the 30th September 2012 to the 30th June 2013 that it had received 48,660 allegations, or around 178 allegations per day. Furthermore, since 30 September 2012, when it was introduced, to 31 May 2013, allegations have resulted in 2,695 investigations with visits by Immigration Enforcement officers, 1,840 arrests and 660 removals. This figure includes deportations and administrative removals. Accordingly, this means that around 6.2 per cent of allegations result in an investigation by Immigration Enforcement officers, 4.2 per cent of allegations result in an arrest and around 1.5 per cent of allegations result in a deportation (Home Affairs Select Committee report 2013). A recent report by Her Majesty's Inspectorate of Constabulary (HMIC) shows an even higher number of crimes (900,000) reported and not pursued by the police (HMIC 2014).

Workplace raids and employers sanctions

Employers can play a key role in enhancing the 'hostile environment' if they insist that all employees have the relevant documents and permissions. Without the ability to work, life for an irregular immigrant is very precarious.

Civil penalties were introduced under the Immigration, Asylum and Nationality Act 2006, and were designed to encourage employers to prevent irregular migrant working, without criminalising those that are not completely diligent in their recruitment and employment practices. Prior to this, under the Asylum and Immigration Act 1996, illegal working was punishable by criminal sanctions only, which required a heavy burden of proof and resulted in only 30 convictions in 10 years (Toms and Thorpe 2012).

The newly established Immigration Enforcement Directorate carry out a number of 'enforcement raids' on businesses to check whether they are employing people who do not have the right to work in the UK. David Wood, Director General of the Immigration Enforcement Directorate, old the Home Affairs Select Committee (2013) that the Agency had undertaken 3,840 enforcement visits between January and March 2013.

It is notable however that most enforcement action seems to be aimed at very small employers. The UKBA[1] website used to publish the quarterly 'Lists of civil penalties issued to employers' – shows that in the vast majority of cases the penalties are issued to employers whose names suggest they are ethnic food outlets with a handful of employees. It might also suggest either that these are type of businesses are particularly targeted (more likely) or that the scale of illegal working is much smaller than we estimate because it is only concentrated in these sectors (much less likely). Either way, there is a striking absence of apparent enforcement action against bigger firms. The former Cabinet Minister John Denham has put this point well back in 2006 when the Home Office itself was embarrassed by press revelations that it was employing irregular immigrants:

> Most illegal work services the legitimate economy, from offices to building sites, hospitals to supermarkets. The companies that really benefit insulate themselves through complex webs of contractors and subcontractors; while not illegal, this should not protect their reputations from harm. If we can establish a zero-tolerance approach to workplace exploitation, we

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1   Since the restructuring of the UKBA, it is much harder to monitor on a regular basis the type of arrests that the Immigration Enforcement Directorate is making since it is the least visible directorate (compared to UKVI) and has no website..

should be prepared to name and shame the companies at the top. The Home Office should not be the only organisation exposed for using illegal labour to clean its offices.

Denham 2006

It is also worth pointing out that UKBA over the years relied on larger companies recruiting according to the rule of law, with their HR departments conducting all the necessary immigration checks, enabling UKBA to concentrate on smaller businesses. But it also implies that ethnic businesses are maybe more often denounced by competitors and, as discussed above, it seems that the catering industry/ethic businesses are easy targets.

Since the Coalition government took over, UKBA has conducted several high-profile enforcement operations, such as 'Operation Mayapple' to remove visa overstayers during summer 2012, and 'Operation Nexus' which posts immigration officers in police custody suites in order to identify foreign national offenders liable for removal from the UK.

A Home Office report (2013a) shows that 229 civil penalties for illegal working between October 2013 and December 2013 amounted to over £1.6m. The report also shows that most of the fines were concentrated in the London and South East region.

Bogus colleges and student visas

Previous research has shown that the education migration channel and the further and higher education sectors were utilised by migrants for coming to the UK for purposes other than education who instead worked or subsequently overstayed accidentally or intentionally (Jordan and Düvell 2003). This was also known to the authorities who in the mid-2000s began targeting this sector with the aim to address irregular migration. Some irregular immigrants arrive legitimately as foreign students and enrol in the normal and proper way at universities and colleges. They only become irregular by dint of overstaying on their student visas or working beyond the 20 hour limit while they are studying.

As the immigration rules imposed through the Points Based System (PBS) have tightened, there have been increasing reports that migrants have been trying to get round them by enrolling as students at either colleges that do not tightly monitor and report attendance of students or are bogus altogether (Home Affairs Select Committee 2009). Although it is impossible to say how many people enter the UK in this way, it has been claimed that the number runs into 'tens of thousands'; while the number of bogus colleges (based on the discrepancy between the old Register of Education Providers (REP) and the new register of sponsors under the PBS could be in excess of 2,000 (ibid).

There were problems with the REP, which coupled with UKBA's lack of capacity to do much more than carry out reactive, intelligence-led visits to suspect colleges, means that among the stock of irregular immigrants in the UK there are likely to be many thousands who entered as 'students' but who really came to work illegally. However, UKBA took firmer steps to stop abuse of the student visa system – both by more careful vetting of applications and through greater level of regulation of educational institutions, which now have to register and be approved by UKBA and one of its approved accreditation bodies. Around 150 colleges have been blacklisted as a result, which has caused some anger and threats of legal action (ibid).

In 2011 the Government made changes to PBS Tier 4 aimed at tackling abuse of the immigration system by non-EU students. These changes were driven by concerns that students were coming to the UK for purposes other than for study, notably that some were using the student route as an opportunity to work rather than study and were in breach of their visa conditions (Home Office 2010b). These changes included:

- increasing the level of English language requirements for prospective students;

- refusing entry to the UK to students who cannot communicate with UK Border Agency staff at the UK border without an interpreter;

- placing restrictions on the right to work for students studying in institutions other than universities;

- restricting those who can bring dependants to the UK to only post-graduate university students and government-sponsored students (depending on the length of course studied);

- limiting the length of time that can be spent in the UK on a student visa – three years for those studying at lower levels and five years for those at higher levels;

- closing the Tier 1 Post-Study Work Route, which allowed graduates to remain in the UK for two years after graduation to seek work. Graduates will now only be allowed to stay in the UK to work if they have a job offer from an employer for skilled work under PBS Tier 2; and

- ensuring that maintenance funds must be genuinely available to students (rather than temporarily placed in bank accounts at the time of the visa application)(Toms & Thorpe 2012).

The Government also introduced additional requirements for institutions wishing to sponsor students to ensure that the system is secure. These changes included:

- institutions wishing to sponsor students under PBS Tier 4 must be licensed as a Highly Trusted Sponsor by the UK Border Agency before they can sponsor students; and

- education providers must confirm that students joining new courses are making genuine academic progression (ibid).

According to a recent announcement by David Cameron (BBC 2014b) there might be even new restrictions on colleges taking on international students so that if 10 per cent of students recruited by colleges are refused visas then they will lose their sponsorship license.

With all these new measures, academics started accusing UK Visas and Immigration of undermining trust between universities and students. Recently, more than 160 academics have written to the Guardian newspaper to protest at being used as an extension of the UK border police, after universities have come under more pressure to check the immigration details of students (Guardian 2014). The academics, from universities including Oxford, Warwick, Durham and Sheffield, accuse the Home Office of "undermining the autonomy and academic freedom of UK universities and trust between academics and their students". Unrest has been growing for months as universities have come under more pressure to prove that their students are legitimate, according to the signatories, who say matters took a "pernicious new turn" in summer 2012 when London Metropolitan University briefly lost its trusted sponsor status – a requirement for all institutions wishing to recruit overseas students.

The UK is second only to the United States as a world leader in the foreign student market and it is very important that measures taken to address abuse do not damage the UK's standing as a destination for the global 'brightest and best' – not least because the business model of the higher education sector now relies heavily on the income they get from overseas fees (see Sachrajda and Pennington 2013).

Rogue landlords and the housing market

Another key area of enforcement is the housing market. It is widely established that many irregular immigrants in the UK are in poor quality accommodation and are victims of exploitative landlords (see Refugee Action 2013, Shelter 2013).

UKBA in recent years stepped up its actions against such landlordism. For example, UKBA worked with the London Borough of Haringey to identify rogue landlords accommodating irregular immigrants, and it has trained council benefits officials to identify forged documents. These are enforcement measures of course that target vulnerable people living in difficult conditions, as well as those who exploit them.

The Immigration Act 2014 is, however, introduces new measures which place a duty on private landlords/agents to request evidence from a prospective tenant of their entitlement to be in the UK. If the prospective tenant cannot produce satisfactory evidence, the landlord/agent would be expected not to let to that individual; a landlord/agent found to be in breach would be liable to a civil penalty similar to employers. Under the requirements in Section 22 of the Act, it will become illegal (with limited exceptions) to assign a tenancy to a person who does not have the correct immigration status. Landlords doing so will risk a fine of up to £3,000 per tenant. Therefore there is now a duty on all landlords (or agents on their behalf) to check the immigration status of prospective tenants - all adults expected to live in the property. The new duty applies to both social as well as private landlords. Student housing will be exempt if providing accommodation on behalf of a recognised educational body such as a university.

Landlords will be required to check all those expected to be living in the household at the start of a tenancy, not just those whose names are on the tenancy agreement. The latter point raises some controversial issues by making landlords responsible to carry out checks on those with whom they has no contractual relationship, or indeed any ability to enforce their rights under the tenancy agreement.

Government has emphasised that actions required of landlords will be fairly quick, simple and straightforward and will not cost them additional expense, as the documents used to check tenants will be little different to existing checks: passports, licences and ID cards. Where a landlord accepts documents that are not "readily apparent to an untrained person as being forged or fraudulent", they will have a 'statutory excuse' from paying any penalty (The Letting Bureau 2014) Landlords will need to be careful to ensure that all potential tenants are put through a similar checking process, as only checking or applying different criteria to those tenants that appear "foreign" could lead to charges of discrimination.

Limiting access to public services

Generally, the UK does not allow irregular migrants to access public services. However, there has been concern in the media that access to benefits and public services might encourage some migrants to risk entering or staying in the UK illegally (Swinford 2013). There are also concerns that migrants may perceive these benefits as more generous or easy to access than elsewhere in the EU. There is, however, ample evidence disapproving these concerns about regular migrants abusing public services. LFS data demonstrates that non-UK nationals are less likely to use the benefits system than British nationals: 42 per cent of UK nationals report claiming benefits, compared to 33 per cent of all non-UK nationals. This is particularly true of recent arrivals: migrants who arrived in the UK between 2000 and 2011 were 45 per cent less likely to receive state benefits or tax credits than British people were during this period. There is also no persuasive evidence that the UK's welfare policies act as a 'magnet' for immigration (see Guilietti and Wahba 2012, De Giorgi and Pellizzari 2009).

Health

Generally speaking, everyone in England, Scotland and Wales is entitled to access primary health care regardless of nationality or immigration status. Treatment in National Health Service (NHS) Accident and Emergency departments and in relation to some infectious disease is available free to all. Individuals who are not ordinarily legally resident in the UK or otherwise exempted will be liable for charges for secondary and elective care at an NHS hospital. This includes irregular migrants. Urgent and necessary treatment (including maternity services) should not be denied for reasons of cost, although charges may still be raised after treatment. Among those exempted from charges are long-term students (including all students in Scotland), people working for a UK-based business, people recognised as refugees by the UK Government, and asylum seekers. Failed asylum seekers receiving UK Border Agency support are exempt from charges in England (and all failed asylum seekers are exempt from charges in Scotland and Wales) (Toms and Thorpe 2012).

Access to social security benefits

Mainstream benefits are generally off-limits to those without legal immigration status in the UK. Asylum seekers may be provided with accommodation and basic subsistence if they would be otherwise be destitute. Support generally ceases if the asylum application is rejected, but continues until the individuals are removed from the UK if they have children as part of their household. Failed asylum seekers are only provided with support by the UK in limited circumstances, generally when there is a practical obstacle that temporarily prevents the person from leaving the UK.

Public housing

Irregular migrants are excluded from accessing public housing in all but the most exceptional circumstances. However, local authorities do have an obligation to assist individuals who have special needs (arising from more than just destitution), where withholding support would breach their human rights, or where the welfare of children is a factor, for example. In this case, 'No Recourse to Public Funds ' support is often sought as a first port of call for help (see forthcoming research findings by Price and Spencer).

Sham marriages

One of the Labour government's early – and most symbolic – changes to immigration rules was to abolish the so-called 'primary purpose' rule which had required applicants to prove that they were not marrying primarily to enter the UK. The abolition has led to a big increase in immigration by spouses and has led some critics to suggest that marriage is being used as means of gaining entry to the UK (Migration Watch 2009). In response to registrars' concerns and media coverage of the issue, the Government established a 'Bogus Marriage Task Force' in 2004 which included representatives from the Immigration Service, local government, the registration service and IND policy officials. This proposed a new scheme to govern marriages where one or both parties were subject to immigration control and did not have entry clearance as a spouse or fiancé(e). The scheme was enacted in section 19 of the Asylum and Immigration Act 2004 and came into force on 1 February 2005. In 2005 changes were made to crack down on 'suspicious' marriages, and official figures suggests that this led to reports from registrars dropping from 3,740 in 2004 to fewer than 200 between February 2005 and March 2006 (UKBA 2007).

The Independent Chief Inspector of Borders and Immigration, who has carried out two relevant inquiries into sham marriages (Vine 2013) claimed in his oral evidence to the Home Affairs Select Committee that the problem of sham marriages is "an increasing threat to immigration control." The Home Office has estimated that about 4,000 to 10,000 applications to stay in the UK in 2013 were made on the basis of a sham marriage (Home Office 2014b), although it has said that this broad estimate should be approached with caution (ibid). When asked his view on the 4,000 to 10,000 estimate, John Vine said "the Home Office does not really know" the scale of the problem and "the fact that we are estimating in the first place says it all." Furthermore, Mr Vine got the impression from talking to Home Office staff that the issue was "more widespread" than the figures suggested.

Further measures to address sham marriage have been introduced through the Immigration Act 2014. These include an increase in the notice period for marriage from 15 days to 28 days, and a couple that includes a non-EEA national who wish to marry in the Anglican Church in England or Wales must also follow civil preliminaries first. All notices for a marriage in England and Wales involving a non-EEA national who might benefit with regard to their immigration status will be referred to the Home Office for a decision on whether the proposed marriage is a potential sham. If the Home Office decides to investigate further, it can extend the notice period to 70 days in order to examine the genuineness of the couple's relationship. Failure to comply with the requirements of a Home Office investigation will mean the couple cannot get married. The Act will also require non-EEA nationals to provide evidence of immigration status. The documents that will be accepted as proof of identity or nationality are to be prescribed in regulations (Home Affairs Select Committee 2014).

Other measures: restrictions on driving licenses and bank accounts

The Immigration Act 2014 introduced additional measure to tackle irregular migration, some of which were again cited only recently (July 2014) by David Cameron as a clear message for those who are in the UK or intend to come illegally. Such measures include new powers revoking the driving licences of those not entitled to be in the country - as evidence that the government was building "an immigration system that puts Britain first" (BBC 2014b).

Enforcing return

The preferred choice to deal with immigration wrongdoers is through executive removal because a criminal prosecution and the proceeding that follows are more time-consuming and expensive than an administrative one (Home Office 2011). Further, the removal of irregular migrants is the primary goal of the immigration service (Weber and Bowling 2004).

In no uncertain terms, Theresa May declared, 'We will always remove illegal immigrants we catch.' She then went on to give an example of an operation launched in May 2012 that succeeded in returning thousands who overstayed, and noted that the police are also involved in targeting and removing those that are nearing the end of their visa.

Underpinning this crackdown is the Coalition government's commitment to reducing net migration to the UK to the tens of thousands by 2015. Various policies have been introduced in an effort to achieve the target set, but they are limited in their effectiveness, especially since the UK cannot legally restrict immigration from within the EU.

A controversial campaign to encourage voluntary returns by undocumented immigrants ('Operation Vaken') was piloted in six London boroughs in July 2013, using mobile advertising vans, leaflets, posters and adverts in local media. A Home Office evaluation found that 60 voluntary departures could be directly attributed to the campaign. The Government has decided not to use the advertising vans again (Home Office 2013c).

The UK uses three different methods of enforced return, depending on the manner in which the migrant is in breach of the law: the removal of irregular entrants at the border, administrative removal or deportation.

In the case of irregular entrants and administrative removals, migrants are served with an order for removal, as well as a notification of any appeal rights. They are provided with directions and details for their removal, which will be at the government's expense. At this point in the process, migrants can choose to depart voluntarily on their own (although under compulsion), or through an AVR scheme.

In instances where migrants do not follow instructions to depart or arrange to do so voluntarily, the UKBA will enforce return, usually culminating in a deportation. In recent years, the UK has tried its best to speed up the process of removing irregular migrants, particularly because it is believed to undermine the credibility of the immigration system if those who have no right to remain in the UK continue to live and work here. Under this agenda, the UK has limited rights of appeal for refused asylum seekers and is working towards reducing the scope for judicial review of decisions to remove.

Another way in which the UK attempts to accelerate return is through the use of the Detained Fast Track system, which is for asylum seekers and other immigrants who are considered to have 'manifestly unfounded cases.' These migrants are immediately directed from port of entry into the detention estate, processed within one to three weeks and with minimal legal support (Finch and Cherti 2011).

The message this sends is one of the UK unafraid to be tough on irregular migration. Such a message is further reinforced through the use of raids. Arguably there may be times when it is appropriate to carry out raids with teams of enforcement officials trained and equipped to deal with violent situations, but research has shown that some of these raids are needlessly and disproportionately heavy-handed (ibid). Likewise, the UK has been criticised for its use of force while detaining migrants, although detention itself is regarded by the UKBA as a necessary tool for managing irregular migration as it allows governments to resolve immigration claims, facilitate removals or establish the identities of migrants (Silverman and Hajela 2012).

While AVR is offered, the UK government publicly fixates on enforcing removal to avoid political backlash over what can be construed by some as 'bribing' irregular migrants to return home. AVR programmes are far less costly and more beneficial to migrants than deportation, but they can be a difficult sell because of public perception and are consequently not a focal point of the government's return policy.

Detention

The detention estate remains a key component of the UK government's strategy to bear down on irregular immigration. There are some 2,500 detention spaces currently available, and plans to expand capacity by more than 50 per cent (Home Office 2008b). The official line on detention is that is necessary to maintain an effective immigration system and to help with effecting removal.

Detention centres are called 'Immigration Detention Removal Centres', this is partly misleading, as it suggests that they are places in which migrants with no right to stay in the UK are held for a few days prior to removal. In reality, however, detainees are often held for many months or in some cases even years, while bureaucratic processes grind on. Bail is then only granted in few cases and after legal procedures that some consider highly problematic.

As discussed above, the use of immigration detention for families with children received a high level of public attention in 2010. Following the 2010 General Election, the UK Border Agency explored alternatives to detention for families and began several pilot projects to investigate new ways of enforcing the removal of families without the use of detention. In December 2010 the UK Border Agency announced that no more children would be detained at Yarl's Wood Immigration Removal Centre.

A new four-stage 'family returns' process was piloted in 2010, focusing on engagement with families during the decision-making process and giving parents an opportunity to engage in the timing and manner of their return. The family returns process has now been rolled out nationally. As part of the new arrangements, the UK Border Agency has opened Cedars, a pre-departure accommodation near Gatwick Airport for families with children who have refused to comply with attempts to persuade them to leave voluntarily. Stays at Cedars are limited to 72 hours immediately prior to the family's planned removal, though this may be extended to a week in exceptional circumstances, subject to Ministerial approval. This new accommodation opened in August 2011 and is jointly managed with the third-sector provider Barnardo's, which provides the on-site welfare services.

3. Immigration policy-making: two models

Government-commissioned research into immigration has significantly increased since the late 1990s. Specific migration research teams were created, such as the Migration Advisory Committee (MAC). The MAC was set up as a non-statutory, non-departmental public body which has played an important role in providing good quality, detailed and independent evidence to feed into the policy process.

The debate over the use of evidence in immigration policymaking has been heightened since the A8 predictions debacle (Consterdine 2013). This goes back especially to when Christian Dustmann, an economist from UCL, was (with others) commissioned by the Home Office to predict the likely immigration flows from Central and Eastern Europe after EU accession in 2004. Dustmann et al (2005) predicted that net immigration from the new accession states would be 'relatively small, at between 5,000 and 13,000 immigrant per year up to 2010'. Despite the fact that the authors stated that 'these figures need to be interpreted with great caution due to the methodological problems' (ibid), and the fact that the predictions were based on the assumption that the whole EU would open access to labour markets at the same time, ministers in part justified the decision to allow A8 citizens access to the UK labour markets with reference to this figure. The actual level of immigration turned out to be over twenty times the upper end of this estimate – something that has been endlessly referenced in political and media debates about migration policy. This debacle has had a long- running impact on how ministers use evidence in policymaking, creating an ambivalence and distrust in using evidence to justify policy decisions. Likewise, this incident has impacted on the willingness of researchers to engage with policymakers.

In the past two decades, the government has opted for either 'evidence-based policy' or a 'policy-based evidence'. While the first one is strongly associated with the New Labour administration, the latter is now linked to the current Coalition government. Indeed, under the New Labour administration, the migration research agenda was very broad. However, the majority of this research cannot be said to have impacted on policy in any direct way. Instead, the research agenda was developed almost in isolation to the policy agenda, creating an "evidence-based policy fatigue" (ibid: 14). Part of the problem was translating the evidence-based findings into policy. Research on the social impacts of immigration in particular was difficult for policymakers, as good quality evidence on the social impacts of immigration is hard to find and difficult to interpret, something that at times, and as discussed above, led to an over-emphasis on economic drivers and impacts of migration in the policymaking process.

On the other hand, the findings of research under the Coalition Government have had a clear and direct impact on policy. For example, a recent pilot study within the Home Office into discretionary powers for entry clearance officers (ECO) issuing student visas directly led to ECOs having some discretionary powers reinstated. Research units have actively reformed the way in which they work so that they move with the policy agenda. But this focus on short-term policy issues has come at the expense of long-term projects (eg integration, impact of migration on communities), particularly in the context of budget cuts and limits on staff numbers.

Comparing these two 'models' of policy making, it is clear that the New Labour administration pursued a broad research agenda almost in isolation of the political context of the immigration debate, while the research commissioned under the Coalition is overtly political, and in some cases is closer to

'policy-based evidence making' (Consterdine 2013, see also Robinson 2013). For example, in their research paper 'Overseas Students in the Immigration System' (Home Office 2010b), the Home Office used highly biased samples to argue that non-compliance rates in the student visa system were high in the private education sector. The institutions included reflected the best of the public sector and the worst of the private sector. Despite its limitations, this report was effective at amplifying non-compliance in the student visa system as a concern, and legitimised a further crackdown on student immigration.

While evidence is important in the policy making process, immigration policy should not and cannot be made wholly based on evidence – political concerns and public opinion are a legitimate part of the process in a democratic system (see IPPR 2014). Data limitations also mean that research evidence on migration should not be taken at its face value. However, evidence needs to play a more effective role in immigration policymaking. Research and evidence have the potential to achieve a more transparent and accountable immigration policy. For example, if political concerns are being traded-off against economic considerations, then research evidence can provide the public and interest groups with transparent information about how and why the government has designed policy.

Finally, we ought to note that politicians do not make migration policy in a vacuum. As well as the advice that they receive from their civil servants, they also make their policy decisions cognisant of the views expressed by relevant non-governmental organisations, lobbyists and the media:

- The constellation of voluntary sector organisations interested in migration matters is markedly polarised, with a cluster of migrants' rights charities on one side and the likes of Migration Watch on the other. These organisations all campaign actively, targeting decision-makers, particularly politicians.

- Independent think tanks across the political spectrum, from the Institute for Public Policy Research, through the likes of Res Publica to Policy Exchange, also do their own migration research and use it to proffer advice to ministers.

- Academics, of course, make their own contribution to the migration debate.

- Businesses with a vested interest seek to get their voices heard in policy-making circles.

- The media covers migration matters extensively. While a range of attitudes towards immigration can be found in British newspapers, the likes of the Guardian, which is broadly pro-immigration, have far fewer readers than the likes of the Sun and the Daily Mail, with their broadly anti-immigration stance. Politicians are senstivie to media coverage of their decisions, meaning that journalists and editors can exert considerable influence on the policy-making process.

So, whether governments prefer evidence-based policy making or policy-based evidence making, their decisions are invariably made amid a chorus of competing voices outside.

Summary

This paper has sketched a preliminary analysis of immigration policy and how it has evolved by articulating some key immigration policy orientations over the past two decades. The paper then focused on how policy has dealt with irregular migration on three levels: at a pre-entry level (abroad), on-entry (at the borders); and after-entry (internally). With an increasing awareness that pathways into irregularity have significantly changed, moving from mostly clandestine entry to visa overstaying, policy responses have been updated accordingly with an increasing emphasis on internal enforcement.

Following the 2008 economic downturn, the UK immigration system came under greater public scrutiny. The immigration institutions are seen to play an instrumental role in instilling public confidence in the system. This explains the major changes that immigration institutions have undergone in the past decade. Demonstrating the evolution of these institutions in the UK is the focus of next project paper (5).

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Appendix 1: Timeline of migration policy and legislative milestones in the UK, 1998 to 2014

Year	Policy/Legislation	Type	Overview
1998	Fairer, Faster and Firmer: A Modern Approach to Immigration and Asylum	White Paper	Instituted new controls but also a "covenant" with asylum seekers; emphasized "joined up" government and the need for administrative overhaul.
1998	Human Rights Act	Parliamentary Act	Incorporated the European Convention on Human Rights into UK law, giving human rights the status of "higher law."
1999	Immigration and Asylum Act	Parliamentary Act	Created a "covenant" with asylum seekers but generally restrictive; made provisions for a new welfare support system (the National Asylum Support Service).
2000	Race Relations (Amendment) Act	Parliamentary Act	Broadened antidiscrimination legislation to police and immigration service and created "positive duty" for race equality on public authorities.
2001	Antiterrorism, Crime and Security Act	Parliamentary Act	Part 4 of the act legislated that suspected terrorists who were immigrants could be interned (potentially on a permanent basis). The Special Immigration Appeals Commission (SIAC) reviews decisions, but the act does not permit judicial review of the SIAC.
2002	Secure Borders, Safe Havens: Integration with Diversity in Modern Britain	White Paper	Set out comprehensive reform, including the goal of "managed migration."
2002	The Nationality, Immigration and Asylum Act	Parliamentary Act	Increased restrictions on asylum (breaking the previous "covenant") and new enforcement powers, but noted support of economic migration.
2002	Highly Skilled Migrant Program (HSMP)	Change to regulations	Created an immigration scheme based on points that aims to attract high-skilled migrants.
2004	Asylum and Immigration (Treatment of Claimants, etc.) Act	Parliamentary Act	Further reduced asylum appeal rights and other restrictive measures.
2005	Controlling our Borders: Making Migration Work for Britain	Five-Year Departmental Plan	Published three months before the 2005 election, the plan set out a strong set of measures on gaining control of borders and managing migration through a new points system.
2005	Improving Opportunity, Strengthening Society: The Government's Strategy to Increase Race Equality and Community Cohesion	Policy Strategy	A race-equality strategy designed to cut across government, complemented by a cross-cutting, race-equality target, and overseen by a board of senior public figures.
2005	Integration Matters: The National Integration Strategy for Refugees	Policy Strategy	Strategy meant to integrate refugees, including new "integration loans" and the piloting of a one-to-one caseworker model. Built on strategy formulated in 2000.
2006	A Points-Based System: Making Migration Work for Britain	Policy Strategy	Proposed a five-tier economic migration system. Tiers equate to categories: (1) high skilled, (2) skilled with job offer, (3) low skilled, (4) students, and (5) miscellaneous.

Year	Policy/Legislation	Type	Overview
2006	Immigration, Asylum, and Nationality (IAN) Act	Parliamentary Act	Mainly focused on immigration (rather than asylum), it included restrictions on appeal rights, sanctions on employers of unauthorized labour, and a tightening of citizenship rules.
2006	Fair, Effective, Transparent and Trusted: Rebuilding Confidence in Our Immigration System	Reform Strategy	Created the arm's-length Border and Immigration Agency, which replaced the Immigration and Nationality Directorate on April 2, 2007.
2007	Enforcing the Rules: A Strategy to Ensure and Enforce Compliance with Our Immigration Laws	Policy Strategy	Called for secure border control built on biometric visas and greater checks.
2007	UK Borders Act	Parliamentary Act	Proposes police powers for immigration officers and a requirement that foreign nationals must have a Biometric Immigration Document (BID).
2008	The Path to citizenship	Green Paper	Called for a for a three stage route to citizenship including a new probationary period between temporary and permanent residence or citizenship, and the delay of full access to benefits.
2009	Borders, Citizenship and Immigration Act	Parliamentary Bill	Amended the rules so that people from outside the European Economic Area had to have residential status for eight years before being eligible for naturalisation. Those seeking naturalisation through wedlock had to be married for five years first. Also allowed immigration and customs officers to perform some of each other's roles and imposed a duty on Home Secretaries to safeguard children. Required foreign students to be sponsored by a licensed college or university. Introduced 'probationary citizenship' for foreign nationals from outside the European Economic Area.
2010	Quota for Tier 2	Policy	Introduction of quota for Tier 2 - valid from April 2011, Tier 2 (skilled workers with a job offer, religious workers, athletes and intra company transferees) will be limited to 20 700 permits and it will require graduate level education.
2010	Quota for Tier 1	Policy	Introduction of quota for Tier 1 - valid from April 2011, Tier 1 (high-skilled workers without job offer) is basically closed except for a numerical limit of 1 000 under the new "exceptional talent" route.
2010	Students visa restrictions	Policy	The government is setting out a proposal for a major reform of the student visa system, in order to reduce the number of students from outside the EEA who come to the United Kingdom, in particular those who have below university degree level.

Year	Policy/Legislation	Type	Overview
2011	English language requirements	Policy	An English language requirement for migrants seeking to enter or remain in the United Kingdom as the spouse of a UK citizen or permanent resident was introduced in 2010.
2011	Restrictions to Tier 4	Policy	In July 2011, restrictions were imposed on rights to bring dependants for students (Tier 4).
2012	Further restrictions to Tier 2	Policy	March 2012 decision to limit Tier 2 (skilled workers with job offer) to six years stay, and raise salary criteria for settlement.
2012	Restrictions to Tier 5	Policy	In April 2012, restrictions were placed on the duration of stay for certain temporary workers (Tier 5) and overseas domestic workers.
2012	Further restrictions to Tier 1	Policy	New Graduate Entrepreneurs route in Tier 1 – has been created with a quota of 1 000 visas annually for graduating students with innovative ideas but who do not qualify for the Tier 1 Entrepreneurship route.
2012	Extension of the minimum period for regularization on discretionary basis	Policy	New rules on long residence, which make it more difficult for the de-facto individual regularization on discretionary basis (extending the required residence from 14 to 20 years).
2013	Immigration Bill	Parliamentary Bill	Introduced various measures to identify and remove irregular migrants. Most notably, introducing new enforcement actors (eg landlords and health professionals).