THE ROLE OF MEMBERS OF PARLIAMENT IN IMMIGRATION CASES

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Cosme Morgado is a Chilean refugee and a graduate of Philosophy from the North London Polytechnic.

Michael Keith is the editor of the Policy Papers in Ethnic Relations Series. The aim of this series is to publish papers based on research carried out at the Centre for Research in Ethnic Relations at the University of Warwick. It will also publish papers from external authors, and the editor welcomes manuscripts from other writers and researchers working in the field of race and ethnic relations. The main emphasis of the series will be on papers with policy implications that will be of interest and relevance for students of race and ethnic relations and for those implementing equal opportunity and anti-racist policies.

1 INTRODUCTION

The aim of this report is to elucidate the scope and nature of the role of Members of Parliament in immigration cases. The different immigration problems that Members encounter and the way in which they handle them are identified. This report is also concerned with how the role of Members has changed since the introduction of the Commonwealth Act 1962, broadly assessing how effective they are and can be in helping people with immigration problems.

Since 1962, ten Ministers have been appointed with the sole responsibility for immigration. With each Minister there has been a different approach to the way in which the cases are handled and, inevitably, the outcomes that are reached.

Essentially the process of intervention by Members is based on the need for Members of Parliament to appeal direct to the Minister about immigration problems because he is the only person who can overturn a decision of an immigration officer.

Statistics relating to pre-1962 immigration cases that Members took up are difficult to obtain. Whilst those which are available are limited in scope, they are discussed in this report. However, the primary information sources used are interviews with Members and relevant organisations and the personal experiences of the author as a research assistant to an MP commonly involved with immigration cases.

2 METHODOLOGY

This report has been conducted by reviewing Hansard from 1963 to July 1988 for all the debates and Parliamentary questions about immigration. It reviews in particular Members involvement in immigration problems from 1984, when these debates appeared in the National newspapers.

Many organisations involved in immigration matters were contacted to comment on Members work and how it has developed since the early sixties. The organisations contacted, listed in Appendix 1, included the British Refugee Council, United Kingdom Immigrant Advisory Service. Joint Council for the Welfare of Immigrants, and several locally based Law Centres.

Fifteen Members of Parliament were interviewed (Appendix 2), two of whom are no longer Members, and two who were ex-Ministers. In two cases the MP's assistants were interviewed.

Members were asked a number of questions relating to the way they handled immigration cases. These included the type of cases undertaken, the format and content of the representations, how were they contacted, the Members opinion of the system of representations and their involvement, and lastly their work after the people they represented were accepted in this country.

Members were chosen for interviews from those who spoke in the debate about Members representations in the House of Commons on the 26th of March 1986. Other Members were selected because they had expressed strong views on the subject.

All the statistics used were produced by the Home Office. This report also relied on Members estimates where no formal figures were available.

The report outlines the reasons why the Members can intervene in immigration problems and the boundaries within which they operate. It explains the types of immigration problems encountered and the way Members attempt to solve them. The role of voluntary and community organisations in immigration problems is also considered.

3 IMMIGRATION LAWS AND THE BRITISH CONSTITUTION

The work of the Member of Parliament is not only political in the sense of making policies to be introduced and the implementation of them on a national scale, but also at a local level in the sense of helping each individual.

By convention, Members of Parliament are duty bound to represent a whole constituency, not only those who voted for them. This work includes immigration cases because most people who seek the help of the Member of Parliament with an immigration problem live within the constituency or at the very least a friend or a relative does.

S.A. De Smith[1] has commented on the role of Parliament:

> It has been said that Parliament has three main constitutional functions: making laws; controlling national expenditure and taxation; and a third class of function, comprising of criticism of national policy, scrutiny of central administration, and procuring the redress of individual grievances.

The individual grievances in the case of people with immigration problems normally hinge on the refusal of an immigration officer to grant leave to enter. In this context Members of Parliament have a personal responsibility to look after the interest of their constituents. The Members hear time and time again highly personal grievances that people bring to them about the different Laws and Rules governing immigration. Consequently, attempts to solve such problems are frequently motivated by more than obligation with efforts to redress those grievances supported by their constitutional right to so.

J. Harvey and L. Bather[2] suggest, in their book about the British constitution and administration,

> as regards the constituency the MP has a personal responsibility. The British constitution recognizes that at times the individual may need the protection from the bureaucrat, and the principal safeguard it has provided is the right of the citizen to approach his MP asking them to look into the matter on his behalf. The Member is the representative in Parliament of all their constituents and not merely their party supporters, and they must therefore be available to help each one in his personal difficulties.

It is important to place the work of the Members of Parliament in the context of constitutional obligations because there is a tendency in some circles to think that a Member has no right to get involved in immigration cases. In recent years this right has frequently been subject to scrutiny and questioning.

What a Member can do in an immigration case has to be seen also in the context of the different immigration Laws and Rules which restrict what a Member can do in a particular case. There is a popular tendency to think that Members are all powerful, overlooking the Law and Rules on immigration.

The role of the Members of Parliament in immigration cases varies greatly from case to case and has been changing as the Laws and Rules on immigration have changed. It frequently involves representing cases of people from outside the country to people already in the country.

The cases dealt with generally can be described by the following typology :

- Refugees
- Students
- Visitors
- Dependency

- Settlement
- Exclusion orders
- Cases with new information
- Cases not considered by the Immigration Rules

Cases vary greatly in their complexity and the length of time required to arrive at a satisfactory conclusion.

The immigration cases the Member of Parliament takes up have to be set against the context of the different Laws and Rules on immigration and that of the appeal system. Obviously, this context must be understood in broad outline.

Immigration has been common to Britain since well before 1066, as Vaughan Bevan[3] has commented, and has been a regular feature of British life ever since.

The first significant attempt to control this migration of people to this country was The 1905 Aliens Act, which made it illegal for 'aliens' to disembark in Britain except at authorized ports. Before this date one can safely assume that Members of Parliament were never involved in immigration cases. Powers were given to immigration officers to refuse entry to people regarded as 'undesirable'; those who could not support themselves, or those who might become a charge on the public rates thought illness or infirmity.

An 'alien' is defined as a person who is not a British protected person or a citizen of Eire[4] 'Aliens' were controlled by the 1905 Act which was followed by The 1914 Aliens Restriction Act which came into being at the outbreak of the First World War, restricting the right of entry and giving powers to deport. This was supposed to be a temporary measure introduced until the end of the war, but was not revoked and was renewed for one year until The 1919 Aliens Restriction (Amendment) Act. The 1914 and the 1919 Acts were subsequently renewed until 1971

The 1919 Act stated the provisions of the 1914 Act could apply at any time, not just in war time. These measures provide the framework, supported by rules drafted by the Home Secretary, which has structured the practice of immigration laws to this day.

In 1962 The Commonwealth Immigration Act came into being. This Act restricted the entry into Britain of Commonwealth citizens. A system of

employment vouchers was introduced, severely restricting the entry, but in principle not preventing the right to unite families. This was supposed to be a temporary measure to be extended every year. Exempted from this control were those who held a British passport or were born in the UK.

The 1968 Commonwealth Immigration Act was introduced as a political expedient to stop the entry of Asians from East Africa who were not covered by the 1962 Act because they were citizens of the UK and the colonies and therefore held British passports.

Members never got involved in immigration cases of people from the Commonwealth before these dates. Inevitably, they started to do so when people came to them saying that their parents and immediate family had been refused entry. Put simply, the right to unify families was not being implemented to the satisfaction of those affected by the legislation.

The 1971 Immigration Act replaced all the Acts which went before. It came into effect on the 1st January 1973. This Act divided people into 'patrials' and 'non-patrials'. The patrials were those free from immigration control who were citizen of the UK and the colonies who had been born in the UK or had a UK born parent or grandparent. Those who were citizens of the UK and the colonies and had been residents for five years since the time of the Act came into force became patrials. All others became non patrials subject to immigration control.

There were Rules which were made under the Act which set out the procedures to be followed in administering the Act. These have changed frequently in the past and are changing today. Similarly, the nationality laws have changed also, which has mean that the Immigration Act has changed accordingly.

It cannot be stressed enough that as these laws have changed the involvement of Members has increased. All these laws have to be considered by the Members when they take up a case. Member involvement is a direct product of the construction of arcane, unfathomable Immigration Laws.

There is another area of the law that the Members have to be aware of when they take up a cases and that is the appeal system. The first Immigration Appeal Act was introduced in 1969. Before this date there was no right of appeal for a citizen of the Commonwealth or alien who was refused entry and was required to leave.

Members began to be called upon because there was no right of appeal before 1969. There are no statistics available to say how often Members became involved before the appeals system was introduced.

The Act was based on a report by the Committee on Immigration Appeals chaired by Sir Roy Wilson QC, which recommended the establishment of a two tier system comprising of an Immigration Appeal tribunal at the upper level, and a number of single Adjudicators at the lower level.

For appeals against the refusal to enter at the ports, the then Home Secretary, James Callaghan, accepted the idea that a would be immigrant should be given the right of appeal there and then.[5] The provision conferring this general right of appeal against exclusion was never bought into force, and was never included in the 1971 Immigration Act, which replaced all the previous legislation on Immigration, but the basic appeal system was retained.

Today the situation is that a person refused entry at a port is not allowed to appeal within the UK unless they have an entry clearance. All others have to appeal from outside the country. This includes those refused entry clearance at their country of origin.

Members are being used and were used in the past because they are the only ones who can stop the 'removal' of a person refused entry, who otherwise has to appeal from outside the country. The Member can insure that the person remains in the country until the Minister of State for Immigration has reviewed the case by requesting what is called a 'stop', which means that the removal directions are deferred until the Minister makes a decision.

In 1981 the government published a discussion document on immigration appeals and the results of the consultations were a new set of Immigration Appeals (Procedure) Rules 1984, which replaced the ones which we had before. It was mainly concerned with administrative details rather than substantial changes.

4. METHODS USED BY MP'S IN IMMIGRATION CASES

The method that Members of Parliament use to handle immigration cases has not changed dramatically since the procedure of 'stops' appeared in the mid sixties, when it developed because there was no right of appeal for those refused entry until 1969.

A person who was refused entry by an immigration officer at a port of entry could not appeal against the decision, and after 1969 they could only do so within this country if they had an entry clearance. The 'stop' procedure developed from this situation which means that the 'removal directions' are delayed pending the representations by the Member of Parliament, **who are the only ones who can request the 'stop'.**

The representation is sent to the Minister of State for the Home Office responsible for immigration so that a decision can be made with the most complete information available, not just the information given by the immigration officer. Since its inception in the mid sixties, the procedure of 'stops' and Members representations has barely changed.

The 1971 Immigration Act confers powers to the Home Secretary to allow entry to a person outside the immigration rules.[6] Members write to the Minister of State to look into the cases to see if they qualify within the immigration rules. Often, it is felt that the immigration officer has not given the correct interpretation of the rules. If they do not qualify under the rules, the Members ask the Minister to use his/her power of discretion and allow the person entry outside the immigration rules. The number of representations by M.P.'s since 1979 are shown in Table 1.

Table 1: Representations by MPs in Immigration Cases

Year	No.
1979	10,395
1980	10,029
1981	8,945
1982	9,931
1983	11,456
1984	13,164
1985	16,024
1986	17,511
1987	11,842

Source: The Home Office (Parliamentary answer given to Jeremy Corbyn MP on the 12 April 1988)

Notes: (i) These figures include a number of letters dealing with general issues rather than individual cases; (ii) Representations made on behalf of a single family may be counted as more than one case where immigration circumstances of more than one member of the family are under consideration; (iii) Further representations made after a reply has been sent are included separately in these figures;(iv) Representations received about the same case from more than one Rt Hon Member and Hon Members are counted separately.

The reason for the increasing numbers of representations from 1979 to 1986 was due to the present government policy to immigration. This was also reflected in the increasing number of people who were refused entry at ports and sent back to their country of origin.

The reason for the sharp decrease in Members representations from 1986 to 1987 of 5,669 cases was due to the fact that visa restriction were introduced for people from the Indian subcontinent, and also the introduction of The Carriers Liability Act.

There are a great number of problems with these figures because they are not broken down into categories such as visitors, refugees, etc.

Table 2: People Refused Entry & Removed at Ports of Entry

Year	No.
1979	18,904
1980	17,014
1981	13,209
1982	12,234
1983	13,981
1984	17,355
1985	17,925
1986	23,110

Source: The Home Office Control of Immigration Statistics UK 1987

The figures of 'removals' at ports increased from 1982 due to changes in the nationality and immigration rules. This were also reflected in the increased involvement of Members of Parliament from 1982 onwards.

At the same time, the Home Office regulations covering when Members of Parliament can intervene were tightened. This made it almost impossible for Members to intervene in cases where the person refused entry did not have the proper documentation, unless the Minister decided that it merited the involvement of a Member. In most cases such decisions are made by a member of the Minister's staff.

As laws restricting the entry of people to this country have multiplied, the workload of Members has also increased. This increase can be traced back to

the introduction of The Commonwealth Act of 1962. Previously, people from the Commonwealth could gain entry without restrictions, but since this Act came into force people from the Commonwealth began to go to their Members of Parliament and ask them to intervene in immigration cases when a relative or friend was refused entry at a port. Members of Parliament began to hear of their constituents problems in gaining entry. Members were infrequently used for immigration cases before the Commonwealth Acts of 1962 and 1968, and were mainly concerned with refugee cases, which in terms of numbers were relatively low. This involvement of Members in refugee cases can be traced back as far as 1900 with the arrival of Jewish refugees. However no precise statistics can be found for Members interventions during this period.

Members of Parliament are usually used as a last resort when everything else has failed. Full information is needed to render a Member's intervention successful. When a person is refused entry, the Member needs to know the name, nationality, flight of arrival, date of birth, name and address of a 'sponsor', and, most importantly, the port reference number. This facilitates communication with the Home Office with as much factual information as possible about the case. Without the port reference number and the complementary written refusal the Member of Parliament can do very little.

However, the information and necessary strategy varies greatly between cases. For example, in the case of refugees, many have no sponsor. Alternatively, many of the Members interviewed had cases in which a sponsor contacted them when no refusal was initially given. Problematically, in such cases where the Member did intervene, refusal was finally given, and the person would not be granted temporary admission because this intervention aroused the suspicion of the immigration officers.

Yet in many instances, without the Member's intervention the people refused would be sent back by the next available means of transport. Most of the Members interviewed said they had cases in which their interventions were too late to stop a removal. In the case of those refused at Dover port this would mean they would be sent back on the next ship, in some cases only in matter of hours.

Members need at least two hours prior to the removal time for the 'stop' to be placed. For example, check-in time for passengers on intercontinental flights is at least one hour before departure. There are no statistics for those cases and Members of Parliament did not know the numbers involved.

Once the information is gathered the Member telephones the Minister's private office during working hours. Theoretically, the Member's interest in the case is noted and the removal delayed, pending the Member's representations. Outside working hours the Member phones the Home Office duty officer who notes the Member's interest in the case.

The duty officer and the Minister's private office then phone back to confirm that the 'stop' has been accepted and therefore the removal deferred. Since 1986 the representation has to be at the Ministers office within twelve working days. Once 'the stop' has been accepted Members of Parliament ask the Home Office duty officer or the Ministers office for temporary admission, which is usually given.

After the 'stop' has been placed the Member makes the representation, sends it to the Minister's office and waits for a reply. The representations consist of detail explanations of the cases, which are discussed in more detail in the next section (see below).

When the Conservative government came to office in 1979 Ministers raised the issue of large amounts of representations placed in their offices,[9] but no change to the system was introduced. On the 27th of July 1979 the then Minister of State for the Home Office, Mr Raison, in an adjournment debate on immigration initiated by Mr Bob Cryer MP, returned to this theme and made explicit reference to:

> the Home Secretary's power to make the final decision. This power, of course, leads to large numbers of representations from Hon Members in particular case. Those representations pose a considerable problem because their size and quantity are vast and almost unending. They place a great burden on officials, they create difficulties for me - which I have to accept - and they make for long delays, Hon Members should remember that sometimes their representations lead to people being kept in detention, where, they have to be in detention, for longer than would otherwise be the case.

The first change to the way Members handled immigration cases came on the 14th July 1983 when the then Minister of State for the Home Office Mr David Waddington (Appendix 3) wrote to all Members asking them that representations should be made primarily by the Member for the constituency involved. Before this a Member could get involved in an immigration case for any part of the country. Mr Waddington's letter was a polite request which if not complied

with, the Minister could simply refuse to take the representation leading to the person's removal. Therefore Members complied with the request.

In May 1985 at the time of the Tamil refugee crisis, a visa requirement for people from Sri Lanka was introduced, The Home Secretary asked Members if they wished to make representations in immigration cases they should do so within 24 hours or as soon as possible thereafter. This requirement lasted for two weeks, when there was a return to the old system, with representations to be at the Ministers office.

Over the Easter weekend of 1985 Parliament went into recess. On the Saturday at the beginning of the recess some Members tried to place 'stops', and were told by the Home office duty officer that representations would have to be made within 24 hours. It was argued that this was impossible because it was the weekend. Eventually, the Home Office relented and allowed for a full working day. This deadline for representations applied to all immigration cases,the majority of them were Tamils from Sri Lanka, but some Middle East Kurds were also involved. These were all refugee cases.

However, the process by which this pressure was exerted on the Home Office is of particular interest. Nothing was done until a Member contacted the United Nations High Commission For Refugees and the United Kingdom Immigration Advisory Service (UKIAS).

The people involved with the plight of refugees[10] from these countries believed that the Home Office was trying to 'out-resource' them by imposing the 24 hour deadline for representations. They could see no justification that could be given for turning people away on the grounds of their asylum applications, each case was a matter of grave human rights violations.

If representations were not sent within the 24 hour deadline the refugees would be immediately removed to their country of origin.

A group of people decided that they were going to meet the new restrictions and met every deadline for the representations. A system was set up for the Tamil cases through the Tamil Refugee Action Group(TRAG) and the Kurds with their own organisation. Together with UKIAS a form of registration was set up with the help of all the Members who were likely to be contacted. A central index was set up at UKIAS. All the names of the people refused entry from these countries were recorded with the latest information on each case.

When a case came up the Members registered it at UKIAS. This also acted as central information service for all the different people and organisations involved. Law Centres were contacted and helpers recruited to interview at the airports and do the necessary work to make the representations. Other helpers were stationed at the detention and remand centres enabling a more accurate and speedy information service to be available. This system proved more precise than the Home Office records and it was felt it forced the Home office to return to the old system.

When Parliament returned from recess Members argued forcibly against the representation deadline. It was only then that the Home Office decided to go back to the old system. Ironically, the reason for this reversal was felt by the people involved to be the inability of the *Home Office* to keep up with the 24 hour deadline.

During this period no case was granted temporary admission because of the 24 hour deadline. Many people thought that the Home Office did not expect many representations would be made because of this new regulation. This 24 hour deadline was a request by the Minister, but in reality if Members did not adhere to this requirement, the case would not be looked into by the Minister and the person would be removed.

Subsequently, there was great controversy in the House of Commons when the Minister of State for the Home Department accused some Members of abusing their right to make representations in immigration cases. This took the form of an oral answer to a question by Ms Claire Short MP on the 24th October 1985. The question simply asked if the Minister considered the arrangement to visit the UK for people from the Indian subcontinent unacceptable. Mr Waddington, the then Minister of State for immigration, said:

> The arrangements are not working well as they might, partly because some Members are abusing their right to make representations in cases.

During the days of the 25th to 29th of October 1985 there were angry exchanges in the house of Commons concerning Members representations in immigration cases. These took the form of points of order demanding the Minister to name Members who abused the system. No evidence was put forward to substantiate this claim, and no names were produced.

On the 28th of October 1985 in a letter to Mr Kaufman, (the then opposition spokesperson on Home Affairs), the Minister of State, Mr Waddington, set out

what he considered the areas of abuse to be (Appendix 4). He highlighted six areas of abuse:

i. He considered there to be lack of knowledge about cases that Members took up, and that they took up cases brought to them by total strangers.

ii. Members would ask for a 'stop' which would be granted and then no representation would be sent creating a great deal of time being wasted by the Minister's staff and immigration officers. The Minister would need a report from the immigration officer because of the 'stop' being placed. In some cases where a representation was not sent, at the last moment the Member would ask for another 'stop' to be placed without producing new evidence which the Minister considered to be an abuse.

iii. When some Members turned down a case. the sponsor would sometimes contact another Member who would take it up. This may have a tenuous link to that constituency or in some cases no links at all.

iv. Members would sometimes take up a case which is clearly from another's constituency without telling the Member concerned.

v. The abuse which created most of the problems from the point of view of the Minister, was when Members advised friends and relatives of the people stopped at ports of entry that they could gain temporary admission by contacting the Member.

vi. The last abuse was the gaining of entry on a temporary basis because of a Member intervention, when the Member knew that the person was not entitled entry under the law and rules.

This letter was made public and given to the press. The Minister commented that he could not name the Members abusing the system because of the confidentiality of particular cases.

All this culminated in a statement on the 29th of October 1985 by Douglas Hurd, the Home Secretary, in which he supported Mr Waddington. This led to the 'Draft Guidelines' for Members on how to handle immigration cases (February 1986). Douglas Hurd's statement referred to the increase in letters received by Minister concerning immigration cases from about 20 a week in 1980 to 70 in 1984, creating a large administrative problem caused by the misuse of the system. He did not use the word 'abuse' and exchanges followed

on the finer points of the two different words. He also commented that he could not name the Members involved in this misuse for the same reasons as Mr Waddington, but that 23 Members were involved.

Mr Kaufman, the opposition spokesperson, in a reply pointed out that he could see no abuse suggested by Mr waddington. He commented that it was a Members right to question and to bring to the Ministers attention any injustice. The majority of those stopped at the ports of entry were genuine visitors unjustly refused entry.

In conclusion, Mr Hurd repeated the accusation of misuse by 23 Members, and said he would be writing to them asking their permission to make public some of the confidential files.

On 11 February 1986 Mr Waddington, the Minister of State, wrote to all Members to ask their opinion of the draft guidelines. This was a short letter asking Members to contact him with their opinions.

The draft guidelines were the first comprehensive written information that Members had available on how to handle immigration cases. Three main proposals emerged:

i. That a Member writing to obtain reasons for refusal should contact the chief immigration officer at the port of entry, rather than the Minister's private office which had previously been the case.

ii. It proposed that where a visitor was likely to be refused entry and knew that a Member would still make a representation and secure temporary admission on their behalf, this was likely to be refused and the passenger kept in custody.

iii. It stipulated that written representations in support of the initial 'stop' should be received within ten working days. It was the case before the guidelines that a Member could take as long as they wanted or until the Minister wrote to them saying that he would make a decision without the Members representation.

On 1 May 1986 the actual enforced guidelines were introduced (Appendix 5). These guidelines were debated at the House of Commons on the 26th of March 1986. It was a very long debate and eventually a vote was taken, with a government majority of 69.

During the debate Mr Hurd, the Home Secretary, pointed out that the requirement to contact the port of entry rather than the Ministers private office had been dropped, and that the revised version recognised a need for flexibility in the acceptance of representation from Members other than the constituency involved. The detention as opposed to temporary admission for a person refused entry advised by a Member that temporary admission would be gained by their interventions (proposal ii, above), would not be so stringently applied as had been suggested. The time limit for written representations would also be increased from ten working days to twelve working days.

The opposition argued that Members had broken no laws and they were within their right to use their position to the fullest extent. It was the right of the opposition Members to create as much work as possible for the Ministers. There would be no need for the involvement of Members if immigration officers did not refuse entry to genuine visitors and immigrants.

These guidelines have been amended twice since their introduction. The first time was in October 1986 when it was stated that if a Member requested a 'stop' in a case were the person needed a visa, it would not be automatically given (Hansard 22 October 1986, written answers). The second amendment to the guidelines was in November 1986, and was given in the form of a written answer to Roy Galley MP (Hansard, Thursday 6 November 1986, written answers). This stated that when a person acting on behalf of someone who was refused entry stated that the help of a Member was being sought, then the removal would be delayed for 24 hours.

The principal objection to the guidelines by 14 of the Members interviewed was the fact that the decision whether or not a case was worthy of a representation by a Member, was left to the Minister and his staff, who did not have to see the people involved face to face.

This is the case for people who have no right of appeal against the immigration officer's decision not to allow entry within this country. The guidelines stipulate that the Minister would intervene only if there is new and compelling evidence which was not available to the immigration officer. What is new and compelling is left to the discretion of the Minister and his staff. What a Member considers to be new and compelling is very much irrelevant.

Three of the Members interviewed objected to the whole system of the guidelines because they saw it in the context of Members rights being eroded.

At the same time it was felt to be an attack on the ethnic minorities, particularly on Black minorities as they were in the main the ones who were regularly stopped at ports of entry by immigration officers.

5. MP's CASES AND REPRESENTATIONS

The Members of Parliament take up a great variety of cases relating to immigration cases and in the main they tend to be from the following categories:

a) Visitors:

The people who seek entry in order to visit friends, relatives, or just visit the country and are refused entry at the ports tended to be the main bulk of Members work did in relation to immigration matters. From the interviews with Members of Parliament it appears that this workload has decreased dramatically since the introduction of visas for people from Sri Lanka in 1985, India, Pakistan, Bangladesh, Ghana and Nigeria in 1986.

Table 3: Passengers Admitted as Visitors

Year	No. (000's)
1979	5,200
1980	4,830
1981	4,380
1982	4,480
1983	5,080
1984	5,900
1985	6,570
1986	5,350

* EC nationals do not have to obtain residence permit
Source: The Home Office.11 excluding EC nationals*

These are the only statistics available in relation to visitors, and little can be drawn from them because there are no statistics as to:

i) how many people were refused entry as visitors.

ii) how many of those were removed.

iii) how many of those were represented by a Member of Parliament.

iv) how many of the representations by Members were positive and negative towards the visitor seeking entry.

Before the introduction of visas for people from the Indian subcontinent visitor cases were the main bulk of immigration cases Members dealt with. From the interviews carried out with the Members and their assistants, one Member said visitor cases constituted about 65% of the immigration cases that he took up, another 35%. More recently, Members take up very few cases of this type. One of the Members said that since the introduction of visas, less than 2% of the immigration cases involved visitors, another Member said that now one case every three to four weeks involved visitors, which was about 5% of the total immigration cases which he handled.

None of the Members wanted to be quoted about the figures because they could not give a precise evaluation. They all commented that they did not have the resources to employ a system where the statistics could be collected. It should be noted that the above figures given by the Members are estimates.

Of particular significance here is the one recent piece of legislation that has made it even more difficult for people to enter this country without entry clearance; The Carriers Liability Act of 1987 which penalizes airline companies for carrying a person without valid documentation. According to the Members interviewed, this Act has removed the problem from the immigration service at the ports of entry, to the airlines coming to this country. The airline employee has become a *de facto* immigration officer, who can refuse to carry a person on the grounds that they do not qualify to enter this country.

Yet when a person is refused entry, and a Member of Parliament has placed a 'stop' and sent the representation, it takes about two months for the Minister to reply. By then the person might have had a reasonable time to make a visit. Many of the Members interviewed felt that a large proportion of the visitor cases they handled were of this type.

Most of the Members interviewed felt that the Minister takes the side of the immigration officer with the person finally asked to be removed. In many cases the person by this time would have made a voluntary departure. Extra time could be gained if additional information was sent as it would take at least another month for the Minister to review the case, which once again invariably Members felt it would lead to the person being asked to be removed.

However, the second representation is no longer possible unless the Minister agrees to accept it.

One visitor case highlighted by a Member concerned an Indian girl of 13, who arrived at an airport and was refused entry by an immigration officer on the ground that she was trying to settle in this country. This incident occurred before the visa impositions of 1986. The girl wished to visit her grandparents who lived here, she had a return ticket for a stay of two months. The grandparent contacted their Member of Parliament who placed a 'stop' and made a representation on her behalf. Without this intervention from the Member of Parliament the girl would have been sent back on the next available flight.

The Minister reversed the immigration officers decision and she was allowed to stay for the two months holidays, and then left. This case highlighted the worrying aspect that children were possibly being deported without good reasons.

Some case are straightforward because the Minister rules against the immigration officers decision and the people are allowed to stay as visitors. Unfortunately, statistics on the results of Ministerial decisions are not available.

It seems from the interviews that the problem of entry has been shifted from the ports of entry to the country of departures due to visa requirements. Instead of the Home Office, Members of Parliament now have to write to the Foreign and Commonwealth Office to determine why these people are refused visas.

A typical representation sent to the Minister needs to contain as much information as possible about the persons reasons to go back to their country. These would include family ties, the possession of property, employment, return ticket and other relevant information to indicate that they have no reason to stay. Therefore they are genuine visitors and will return to their country of origin.

The number of cases that resulted in a satisfactory outcome according to the Members varied greatly between 50-70%. These figures are for cases before the introduction of visas for the Indian subcontinent. Members were unable to comment on what the figures are now.

b) Students

A person who is a 'non visa national' (i.e. not requiring visas to enter), may enter the country as a student and seek a course in an educational establishment. It is preferable if the person coming as a student has an entry clearance because the likelihood of being refused entry is considerably lower. In the case of visa national a visa is required before they can come to this country.

Table 4: The number of passengers admitted into the UK as students excluding EC nationals

YEAR	NUMBER (in 000's)
1979	120
1980	109
1981	99
1982	101
1983	112
1984	124
1985	147
1986	132

Greece, Portugal and Spain are included for the years before each entered the EC.
Source: The Home Office[12]

When a student is refused entry they are liable to be sent back their country of origin without appeal in this country (if they do not have a visa) unless a Member of Parliament intervenes and places a 'stop' deferring removal. The right of appeal can be exercised from abroad.

Most of the student cases the Members take up have friends or relatives living here. To take a typical case, a Malaysian man came to study for three months a course of English to further his career in the banking business. He was refused entry. even though he produced a certificate of enrollment and a letter from his employers saying he had a job waiting for him once he finished his course. He contacted a friend, who in turn got in touch with a Member of Parliament who placed a 'stop', and the man was granted temporary admission.

After the concerned Member made a representation to the Minister a reply was received after four months. The Minister upheld the decision by the immigration officer on the grounds that the man did not know his friend very

well and discrepancies could be found in their stories over how they knew each other.

When the Member of Parliament received a reply from the Minister the man had finished his course and had left the country. This is what is called 'a voluntary departure', in the sense that the man did not have to be removed by the immigration authorities and left voluntarily.

The information required to send a representation in student cases is the same as for visitors, but with the added information of the course the person intends to enroll in, if they have not done so already, and the confirmation that they have been accepted.

Generally the student would be granted temporary admission when refused entry. By the time the Member gets an answer from the Minister, which might take two to four months, the person might have completed their course and left the country. According to the Members interviewed when the answer from the Minister is negative and the person is still in the country, most of them make voluntary departures.

When this does not happen the Member can make new representations if there is more information available or information which had been left out in the first representation. This can gain additional time to finish the course.

Unfortunately there are no statistics available, but all the Members interviewed said that in general this type of case constituted a small number of their total amount of immigration cases (between 2-10%, on average 5%).

Since the guidelines for Members came into force in 1986, the second representation which could have been made has now been removed. The reason is that new and compelling evidence has to be produced. As already mentioned the information that is 'new and compelling' is determined by the Minister and his staff.

c) Settlement Cases

These cases are considered by many of the Members of Parliament interviewed to be the most difficult cases to handle in order to get a satisfactory solution. They take up a great deal of time, effort, and emotional resources.

Most cases tend to take a long time to reach a solution and letters exchanged with Ministers can take years in some cases. It is impossible to say how long

as an average case takes up, but one year would constitute a bare minimum, and in one extreme case cited it took 25 years to reach a resolution.

No statistics are available in relation to the amount of time people have to wait to get a decision by the Minister, or the details of the Members work.

Table 5: The number of people accepted for settlement since 1979 are as follows:

YEAR	NUMBER OF PEOPLE
1979	69,670
1980	69,750
1981	59,060
1982	53,870
1983	53,460
1984	50,950
1985	55,360
1986	46,820

Source: The Home Office[12]

The figures indicate the general trend of acceptances in settlement cases is downwards which represents a drop of 33% in the period of 1979-1986.

One case explained by a Member of Parliament readily demonstrates why people feel so much animosity towards the Home Office.[14] It involves an Indian man who got married in India, and tried to bring his wife to live here with him. The man lived here and had a good job, and his earnings were sufficient to take care of himself and his family. His wife has refused entry on the grounds that the Home Office was not satisfied that the marriage had taken place. The man launched appeal after appeal to no effect.

He went to India every two to three years to see his wife and children. He sent money for them to live on, he had bank statements to that effect.

It took 25 years for the Home Office and the Ministers to accept that his family could enter to be united with him. They never accepted that the marriage had taken place, but changed their minds on the grounds that they had behaved as if they were married.

This is one extreme example because it took 25 years to get to a satisfactory solution from the point of view of the Indian man. The amount of pain, stress,

and uncertainty imposed on that family seems to typify the complains to the Members of Parliament.

The introduction of DNA testing has made it possible to have a stronger argument against refusal from the Home Office to grant entry in dependency cases on the grounds that people are not related, specially if a child is refused entry on the ground that the people are not the parents. It can only be used for the most direct family ties.

The DNA test is considered to give irrefutable evidence as to whether a person's child is their own. This test was formally introduced in 1987, although it was used in some cases as early as 1985 (New Scientist 7/11/85 p.19). Most of the Members interviewed advice people to take the test, because it would provide a stronger case and be less time consuming to get a result. Statistics referring to the number of people who have used this method to support their case are not available.

In the case of a person trying to settle in this country in order to marry, the imposition of the Primary Purpose Rule in 1980 has made it almost impossible to settle in this country on the grounds of marriage. The Rule states that the purpose of marriage must not be for reasons of settlement and the arbitrary interpretation of this rule has caused countless problems.

This has led to many lawyers to comment that the basic principle of the law that a person is innocent until proven guilty is no longer applicable in this case. The Home Office now does not have to prove that the people got married with the intention to settle, but the responsibility is now on the applicants to prove this was not their intention, that it was not the meaninglessly defined 'primary purpose' of the marriage itself.

At present no official no statistics can be found relating to the work of Members in these cases, or the proportion of this type of case they take up.

d) **Refugees**

Refugee cases are commonly very complex because they depend so much upon the government of the day's policies towards the relevant country of origin.

For example, Conservative governments under Edward Heath and Margaret Thatcher did not accept Chilean refugees. During the last Labour government (1974-1979) the policy initially was to take a long time to accept Chilean

refugees, but that changed with lobbying from within the Labour party, trade unions, and most importantly pressure by Ministers sympathetic to the plight of those refugees, Ministers such as Alex Lyons and Judith Hart.[15] This particular case was complicated by the fact that intelligence information had to be acquired from the American government because Britain did not have a network covering Chile.

The present Conservative government at the start of the Iranian revolution granted asylum to Iranian students who feared returning, and to those who escaped the regime. Now it has become very difficult for any Iranian to gain asylum.[16]

One example explained by a Member concerns a pregnant Iranian couple and child who came via a third country. They were refused asylum and given removal directions, but a Member intervened and made representations which were turned down by the Minister.

The family were put on a plane bound for Iran at which point the woman cut her wrist. At this the captain of the plane then refused to take anybody against their will.

The Member concerned with the case talked to the couple and stated that in his opinion it was easy to see the family fear of being forced to return to Iran. He could not understand the immigration authorities decision. This case is at present still being reviewed by the Minister.

The plight of Tamil refugees is complicated by the fact that most of them arrived with false passports and are therefore liable to be removed as illegal immigrants, which seems to have happened to the first Tamils who arrived until Members began to intervened.[17]

Refugees generally arrive with little documentation because of the nature of the governments they are trying to escape. The nature of refugee flight does not accord well with the bureaucratic rules of immigration law. Typically, in 1987 a group of Tamils were going to be forcefully returned to Sri Lanka, because their applications for asylum were turned down. On their way to the plane they took off all their clothes to prevent their removal. The Minister is now re-assessing their cases in the light of new development and Members new representations.

On the 17th of July 1984 the Home Secretary announced that he had decided that there were no longer sufficient grounds for maintaining a distinction between the granting of asylum with or without refugee status. Before this announcement only those granted full refugee status were entitled to the protection of the United Nation High Commission on Refugees and documentation under the 1951 United Nations convention relating to the status of refugees and its 1967 Protocol.

Refugees cases now provide the main bulk of immigration work that Members become involved in, as the problem of visitors has been taken away from the ports of entries due to the introduction of visas. This can be up to 60% of the total number of cases handled by some Members.

Table 6: The number of applications for asylum/refugee and the decisions in the UK from 1980 to 1986 are as follows:

Year	Number of applications	Number of active cases	Number of decisions
1980	2352	3060	1797
1981	2425	3425	2325
1982	4223	5106	2942
1983	4296	6226	2950
1984	3869	6928	1984
1985	4900	10235	3739
1986	3885	10089	3499

Table 7

Year	Refused refugee status	% Refused	Number Refugee/ Asylum	%
1980	412	23	1147	64
1981	607	26	1473	62
1982	904	31	1727	59
1983	826	28	1185	40
1984	556	28	649	33
1985	751	20	866	23
1986	708	20	459	14

Source: the Home Office

Table 8: The asylum seekers main country of origin for the years 1980-1986

Country of origin	Years 1980	1981	1982	1983	1984	1985	1986
Iran	1421	1547	2280	1862	1310	1126	865
Sri Lanka	18	12	16	380	548	2306	1009
Ghana	29	13	407	689	337	175	174
Iraq	149	14	271	298	348	350	237
Poland	55	92	494	127	109	71	57
Ethiopia	97	90	90	126	135	209	178
Uganda	28	99	66	199	165	203	162
Others	530	558	599	615	617	1004	1200
Total	2352	2425	4223	4296	3869	5444	3882

Source: The Home Office[18]

These figures point out the increasing usage in granting exceptional leave to remain rather than the full refugee status. One significant aspect is the increased number of active cases.

Yet such successes that are achieved may not be complete. The members interviewed said that for the cases they handled which were 'won', a large proportion were granted exceptional leave to remain rather than refugee status.

6. MEMBERS OF PARLIAMENT AND COMMUNITY AND VOLUNTARY ORGANISATIONS

Members of Parliament are contacted by people personally or via a third party, normally organisations which the person with the immigration problem has contacted. Most active among such groups are the local Law Centres, Church leaders, and Citizen's Advice Bureaux.

Members of Parliament are contacted in a variety of ways which include:

1) Phoning at the House of Commons

2) Via the Members local party office

3) By telephoning their home

4) Via their constituency office

5) Writing to the Member at the House of Commons.

The agencies concerned with immigrants welfare such as the Joint Council for the Welfare of Immigrants (JCWI) and the United Kingdom Immigration Advisory Service (UKIAS), know how to get in touch with a Member, or at least a Member who might take the case.

Many Members hold advice surgeries once a month, most hold them once every two weeks. Some Members when they are not available make arrangements for other Members to take the cases. This happens when Members are on holidays or out of the country.

Some Members interviewed said that they make arrangements for the advice surgeries to be held when a Member is available when they are not. Some take this to the point of arranging their holidays so that when they are away a Member in an adjacent constituency is available. These Members have adjacent constituencies.

All the Members interviewed advertise the ways in which they can be contacted (e.g. the time, the place of advice surgeries). Those who have assistants advertise how the assistant can be contacted.

When the person with an immigration problem has time, they can get in touch with a Member by writing to them at the House of Commons which is relatively rapid because the House of Commons mail has priority in the post.

In cases when the person is going to be 'removed' in a short period of time the organisations involved in immigration matters advise people to get in touch with a Member willing to request a 'stop', then to get in touch with the Member more directly concerned at a later date. This is a way of insuring that the person is not removed until a representation is made.

Most of the Members interviewed worked closely with a constituency Law centre. In the case of those who did not have a Law Centre in their constituency they worked with the nearest one.

The Members interviewed said they generally never get involved in immigration appeals, but will do so by giving *affidavit* when they know the case and the

people involved very well. If, however, the appeal is unsuccessful Members will request a 'stop', if the person is the country. The people who would handle the appeals are the clients own solicitor or the Law Centre's solicitor and barrister.

One type of organisation which commonly seeks the help of Members of Parliament on behalf of others with immigration problems are the different religious churches. It is normal for people with a religious inclination to seek the help of their religious leaders. 'Church leaders' contact the Member on their behalf. There are many occasions when the 'religious leader' do not get involved personally, they only advise the person to see their Member of Parliament to see what they can do for them.

Most Members interviewed had close links relevant organisations in the constituency, it is a way to get to know the problems that people face. This way Members can get a personal feel of the people involved. Yet Members of Parliament do not base their solely on such links and letters from the public concerned with a particular issue. They also receive regular communications from a great many other organisations and pressure groups. Therefore organisations concerned with immigration matters such as the Runnymede Trust, the Immigration Law Practitioners Association, etc. send to the members briefing papers on their own analyses of different legislative changes affecting the people with immigration problems, or the problems those changes create on the Member's constituency. Another institution which regularly sends Members many publications and information is of course the Home Office.

All the Members interviewed receive many such articles, books,and publications in relation to the plight of immigrants from the British Refugee Council, Joint Council for the Welfare of Immigrants, UKIAS, etc.

Members of Parliament use such organisations to help them with representations to the Ministers in the Home Office. Some members rely on these organisations to make the representations themselves. Effectively, these Members become, to some extent, a post box for access to Ministers. The reason for this is that Members do not have the time to follow all the cases personally, nor do they know all the relevant languages that people speak. For example,Members argued that refugees from Kurdistan are the ones who know their problems best and so Members will rely on them for information upon which to base their representations. A list of organisations which most commonly use Members, or vice versa, is to be found in Appendix 1.

The closeness of some members to this sort of organisation can be illustrated by the case of Mr David Winnick MP who, apart from being a Member of Parliament, is also the chairperson of the United Kingdom Immigration Advisory Service, which provides invaluable help to people with immigration problems.

When official representations fail, other activities may be necessary to further individual cases. Members can ask a question in Parliament about a particular case. Some Members who are very senior figures in the House said that if they feel a case warrants, they can disrupt House business by seeking the help of other Members.

Some Members also play a role in specific issues such as the Viraj Mendis campaign in Manchester, revolving around an individual who is in sanctuary in a church and is subject to a deportation order. Not all Members support such campaigns, of those interviewed ten did, the other saying in principle they did only regarding people with a stronger case.

7. CONCLUSION

There are many ways in which Members can react to immigration cases brought to them at advice surgeries and other meetings and functions attended during their political life.

The way Members deal with these problems is further complicated by the different party policies towards immigration problem. Members will obviously be influenced in their actions by the views of their party. The Members are also influenced by the views of their constituency electorate.

The different approaches to immigration cases that Members adopt can be broken into three categories:

1) Members who simply refuse to handle immigration cases brought to them.

2) Members who handle immigration cases who make a representation and accept the Minster's decision, but take no further action.

3) Members who handle immigration cases and fight for a positive outcome, even if the first representation had a negative response, until the problem is resolved.

At times some Members may know that a case cannot get a positive outcome because it does not qualify under the Immigration Act and Rules,and the Minister may not have any sympathies with that type of case. When the Member knows that a positive outcome to the person's case is unlikely then they will advise their clients of the likely outcome. Not withstanding this, some Members still pursue these cases when they consider it appropriate.

Members who fought the Minister's decision when the first representation was rejected, tend to represent a constituency with a high proportion of people with an ethnic background, at least 10%, although accurate statistics are not always available to substantiate the precise number. This figure is based on the estimates of relevant different organisations (Appendix 1) and the views of the Member of relevant constituencies.

Interviews with Members strongly suggest that the determinate factor influencing their attitude towards immigration cases is the population mix of their constituency. Whilst one might expect Conservative Members to be unsympathetic towards immigrants because of tough party policies on immigration control this is not the case for all Members of the Conservative party.

Two Conservative Members were interviewed who represented constituencies considered to have a high number of people from an 'ethnic' background. Both expressed the view that the immigration rules and laws were unfair, contrary to their party policy.

Conversely, the Conservative Members interviewed whose constituencies did not have a significant proportion of people with an ethnic background expressed the opinion that Members of Parliament should not get involved in immigration matters, they commented that the laws should be tightened further to reduce immigration. The debates in Hansard reaffirm the view expressed above on the attitudes of the different Conservative Members.

Members with a relatively large ethnic population listen to the problems of immigrants at the advice surgeries. They become aware not only of problems concerning the Laws and Rules in immigration, but also of the human emotions, feelings, and the dignity of the person that feels violated. At a very basic level, Members may be affected by those emotions, when for example, parents are separated from their children who are not allowed to enter, or refugees who have suffered greatly in their own country are being refused asylum.

However, there are also Members from other political parties who are particularly sympathetic to the plight of immigrants. This is the case of the Plaid Cymru Member, Daffid Wigley, who regularly speaks on behalf of Tamil refugees coming to this country asking for asylum. It is also true of the SLD member, Simon Hughes, who is well known for his help to people with immigration problems in his constituency.

With regards to immigration cases, Members of Parliament differ in the amount of knowledge they have of their own rights to represent people with immigration problems, and their knowledge of the different immigration Laws and Rules.

Because of its recurrent prominence on the political agenda most Members have some awareness of immigration issues. However it is not possible here precisely to quantify these differences in knowledge of practice, which certainly do exist. Members interviewed for this study were chosen because of their strong opinions and involvement in the politics of immigration. Some Members, in part because of the small ethnic population in their constituency, had a limited knowledge of immigration matters and so their opinions were less informed.

The level of knowledge Members have on immigration matters can be very significant. Mr Dennis Howell MP said that he had never had a 'stop' refused. He suggested this was because he knew his rights as a Member to represent people with immigration problems, and whenever the Minister's office argued that they would not accept a request for a 'stop' he demanded his constitutional right to do so. Other Members, especially those who have been in the House for a short time, did not press the Minister because of their lack of knowledge and experience.

The way Members handle an immigration case is also affected by their standing in the House and within their own party. All Members can ask to see the Minister about any case, but the Minister does not have to agree. In the case of Privy Councillors the Minister has no alternative but to meet the Member.

When a case is discussed personally between the Minister and the Member, the Members can obviously present a stronger case. All the Members interviewed commented that when a case was discussed face to face with the Minister the case was 'won'. (One possible reason for this is that a meeting was only sought with the Minister when the Member had a strong case.)

How Members come to know which immigration case to adopt and how to handle them in the many possible ways is disappointing. They learn by trial and error, and by talking to other Members more experienced in immigration matters. Since 1986 guidelines have been available (Appendix 5), yet the value of such guidelines for gleaning knowledge may be strictly limited. Commonly, Members might have more knowledge about immigration matters because they have worked in areas where immigration problems arise such community advice centres.

The present government has claimed that they have a good record on refugees issues, but analyzing their own statistics does not confirm this. The tables on pages 28-29 shows clearly the decrease in the numbers of people granted refugee status from 64% of the applicants in 1980 to 14% in 1986. The government have argued that this is because of the increased number of applications for refugee status, from 2352 in 1980 to 3882 in 1986, yet in reality the numbers allowed to stay as refugees has decreased from 1147 in 1980 to 459 in 1986.

Many organisations involved with the plight of refugees have reported that many governments have shown a lack of concern about political refugees. The Amnesty International report on exiles in the UK published in 1987 cites the UK as having particularly restrictive entry regulations for refugees.

One medium through which this restriction has taken place has been the progressive reduction in the number of cases and the manner in which a Member of Parliament can intervene, as with the introduction of the guidelines in 1986 and the changes in the Rules governing the Immigration Act. 'Refugee problems', a subject which has come to the fore of Members' concerns in Immigration politics, is one area where the present government has acted systematically to curb the effectiveness of their interventions

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4) The British Nationality Act 1948 S 32

5) Second reading of the Bill 2nd Of January 1969

6) 1971 Immigration Act s

7) Parliamentary answer given to Jeremy Corbyn MP on the 12 April 1988

8) Control of Immigration: Statistics UK 1987

9) Hansard: July 27th 1979 July 28th 1982

10) Interview with The Tamil Refugee Action Group on March 12th 1988 and UKIAS on March 16th 1988

11) Control of Immigration Statistics 1987

12) as above

13) as above

14) Interview with Jeremy Corbyn MP on the 2nd of April 1988

15) Interview with Alex Lyons on the March the 7th 1988

16) Discussion during a conference on the problems faced by Iranian refugees organised by the West London Iranian Assoc. in October the 10th 1987.

17) Interview with TRAG on March the 12th 1988

18) The Home Office publication as in reference 8 and Asylum seekers in the UK-essential statistics compiled by Clive Nettleton and Audrey Simcock in 1987

APPENDIX 1

ORGANISATIONS CONSULTED

1) United Kingdom Immigrants Advisory Service
2) Joint Council for the ¦Welfare of Immigrants
3) United Nations High commission for Refugees
4) Migrants Resource Centre
5) London Anti Deportation Committee
6) Different Law Centres
7) Tamil Refugee Action Group
8) Latin American Advisory Committee
9) Divided Families Campaign
10) Community relations Council
11) Indian Workers Association
12) Union of Turkish Workers
13) Immigration Law Practitioners Association
14) Iraqi Community and Advice Centre
15) Chile Democratico
16) Chile Solidarity Campaign
17) British Refugee Council
18) Commission for Racial Equality
19) Southall Rights
20) El Salvador Solidarity Campaign
21) The Runnymede Trust
22) The Various Churches

APPENDIX 2

MEMBERS OF PARLIAMENT INTERVIEWED

1) Sid Bidwell MP March 23th 1988
2) Robin Corbett MP March 12th 1988
3) Jeremy Corbyn MP February 19th 1988
4) Harry Cohen MP May 5th 1988
5) Bob Cryer MP April 21st 1988
6) Alfred Dubs MP March 24th 1988
7) Andrew Faulds MP March 23rd 1988
8) Bernie Grant MP April 10th 1988
9) Dennis Howell MP March 23rd 1988
10) Alex Lyons March 7th 1988
11) Max Madden MP March 23rd 1988
12) David Nellist MP March 20th 1988
13) Claire Short MP March 25th 1988
14) David Winnick MP March 27th 1988
15) John Wheeler MP March 24th 1988
16) Imtiaz Karim assistant to Roy Hattersley MP March 23rd 1988

APPENDIX 3

Letter from David Waddington, then Minister of State at the Home Office, to all MP's

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

14 JUL 1983

Dear Colleague,

You will of course know that as the Minister responsible for Immigration a great deal of my time is taken up looking into representations about cases by Members of both Houses. This is as it should be, but I am concerned at the way in which the system is now working. One of the problems is that as a result of successive rounds of representations, perhaps by a number of different Members, people with no real claim to be here can spin out their stays. What is more important, individuals can suffer as a result of being detained for long periods or left in a prolonged state of anxiety about their future. Considering all these representations in detail also results in frustrating delays for the many deserving applicants whose cases are not taken up by Members.

I am sure therefore you will agree that we need to have more sensible arrangements for handling representations; and I am equally sure that the cornerstone of these arrangements must be the constituency MP. What I intend to do therefore is this. In future I will consider in detail the first representations I receive, from which ever House they come. However, if it is apparent that these do not come from the constituency Member but the constituency Member can be readily identified, I will notify that Member of the fact that representations have been made and give him or her the opportunity to comment if he or she wishes to do so. I think it is reasonable to say that generally speaking stays on decisions taken after the first representations - and any comments from the constituency MP in a case taken up by someone else - have been considered will not be made unless there are significant new facts. I recognise that this cannot be an inflexible rule; but on the other hand it cannot, I feel, be right to allow cases to be prolonged indefinitely by repeated re-examination of previous arguments.

I do assure Members that I have no intention of operating these guidelines inflexibly and will do all I can to help when approached about a case. But I do believe that by adopting this basic procedure a fairer system for all concerned will develop and there will be a useful improvement in the handling of these difficult matters.

Yours Sincerely
David Waddington

(DAVID WADDINGTON)

APPENDIX 4

Letter from David Waddington, then Minister of State at the Home Office, to Gerald Kaufman, then opposition spokesperson on Home Affairs

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

28 October 1985

MINISTER OF STATE

Dear Gerald

I have read about your press conference and it is obvious from some of your comments that we had first better be clear as to what we are talking about.

MPs have of course the right of access to Ministers about any case but in immigration cases where people are refused entry at a port MPs expect not only to be able to raise with the Minister the question of whether the refusal of entry is justified. They also expect that until there has been an opportunity to write or talk to the Minister about a particular case and the Minister has looked into the Immigration Officer's decision and decided whether or not it should be upheld the passenger will not be sent back where he has come from. When a passenger is refused entry at a port and an MP is approached by a constituent on the passenger's behalf the MP contacts my private office and my office rings the port of entry telling the Immigration Service to defer removal.

If removal is deferred the Immigration Service has to decide whether pending the MP making his representations, the passenger should be kept in custody or granted temporary admission. Sometimes the Service judges that the risk of someone disappearing is so great that temporary admission cannot be granted but immigration officers try to be as liberal as possible and temporary admission is now granted in a high percentage of cases, a far higher percentage than under the Labour Government. This liberal policy involves two risks: one that the passenger will go to ground, the other that people abroad will get the message that it does not matter whether they have a right to enter or not. If they are refused entry they will have a fair chance of being admitted on a temporary basis anyhow. If, however, we all act sensibly these risks, need not I reckon, be great and are worth taking. No one wants to keep someone in detention if it can be reasonable avoided.

I will only mention one other matter by way of background. If MPs in a large number of cases ask that removal be 'stayed' and do so in a very large number of cases which on any objective view have no merit and if MPs having asked for removal to be stayed take weeks and weeks and sometimes months to make any representations at all, the tax payer in the event of the original decisions of the immigration officers being upheld, has to pay the cost of removal of the passengers. This, as you know, is because the airlines etc have an obligation under the Immigration Act to pay for the removal of a passenger refused admission only if directions for the passenger's removal are given within two months of the original refusal. This year the tax payer may well have to pay £1 million in removal costs; the number of cases in which MPs have asked to make representations has shot up from about 1,000 in 1980 to some 5000 in the first ten months of 1985. This as you know is not because we are refusing entry to a higher percentage of passengers. Neither can it be accounted for by the general increase in traffic. In dealing

with visitors the immigration officers are operating according to exactly the same criteria as they did under Labour. The general refusal rate has year on year remained pretty constant but while traffic from the world as a whole has gone up by 25% since 1979 and from the New Commonwealth and Pakistan also by 25% MPs representations have multiplied fivefold.

The system is being abused in a variety of ways but there are degrees of abuse and there may at the bottom of the scale be differences of opinion as to whether what has occurred should be described as abuse or in more charitable terms. At the top of the scale there are practices which I am sure you would condemn. In between are practices which I consider abuses and which I hope you will consider do at least deserve careful consideration.

First, I think we really should consider whether it is right for MPs to ask for at 'stop' on the removal of a passenger without making any enquiries at all into the merits of the case. I appreciate that there are bound to be cases where it is impossible to make enquiries in the time available and I do not think anyone would argue that in each and every case where there is an absence of enquiries the Member is not behaving properly. But there seem to be a lot of cases where MPs are approached by people of whom they apparently know nothing and they allow themselves to be used as intermediaries by total strangers. It must be open to question as to whether this was contemplated when the practice of deferral of removal on representations being made by a member first came into being.

Second, there are cases where MPs call for a 'stop' and then never turn up with any representations at all and we eventually write and tell the MP that as we have not heard a word from him I intend to judge the matter on the report of the immigration officer alone. In effect a report to me has had to be prepared for no obvious purpose and our staff have been put to a great deal of trouble for nothing. One can hardly help but conclude that in some of these cases the MPs have been prevailed upon to put 'stops' on cases not with the object of representations being made but in order to procure temporary admission for a passenger who as a result of an Immigration Officer ruling has no entitlement to come here. That is an abuse surely in any terms.

There is a variant of this past abuse. The MP does not produce representations. We keep asking him to do so. We eventually write and tell the MP we have dealt with the matter on the papers, and that I have decided that the immigration officer's decision must be upheld and the passenger is going to be removed. The MP then rings up and says that he wants another stop without producing new evidence at all. This sort of action almost certainly results in the passenger eventually having to be removed at public expense for the reasons I have already mentioned.

Thirdly there are cases where a passenger is stopped, the constituency MP or the sponsor is approached and as a result of what he is told and after perhaps he has got in touch with the port and spoken to the Immigration Of:

he refuses to intervene. The sponsor then goes shopping around and eventually gets another MP with whom he has only the most tenuous links or no links at all and prevails upon him to ask for a stop. Sometimes the second MP does not know that an MP has been involved already. Sometimes he does. His intervention, I hope you agree, is an abuse.

Fourthly there are cases of quite deliberate poaching. MPs who have apparently no connection with the sponsor ring our office and ask for a stop to be put on a case often without telling the constituent MP what they are doing. We in the Home Office take the view that it is not for us to police the convention that MPs do not interfere in matters concerning other MPs constituents and sometimes we are criticised by MPs for not policing it. But I hope you agree that MPs should not poach and the convention should be observed.

Fifthly there have been cases where MPs have apparently communicated with people abroad telling them that if they arrive and are refused entry they have only to contact the MP and the MP will take up the case. This goes well beyond the right of an MP referred to at the beginning of this letter which is of course to look after a person on behalf of a constituent if he is approached after a man has arrived and has found himself in trouble at the port. It cannot possibly be right to encourage people abroad to believe that even if the Immigration Service finds they are not qualified to enter they will still get in by mentioning the name of an MP. That is the way to encourage people who know they are not qualified to enter to have a shot at it. I note that in the Daily Telegraph on Saturday there is a report that "some Labour MPs were saying privately ... that certain colleagues whom they were loth to name would readily sign papers encouraging visitors from the Indian Sub Continent on this basis". I hope you will agree that this is an abuse.

Sixthly during this Parliament a few cases have occurred of MPs inviting people to come not in the belief that they might be qualified to enter but knowing perfectly well that they are not. In one particular case a person had been refused entry clearance to come and settle here as a husband and had appealed against that decision. Pending the hearing of the appeal he clearly would not be admitted if he arrived at a port asking to stay here permanently and almost certainly he would not be admitted as a visitor because it would be difficult not to conclude that his true intention was to stay permanently. An MP invited that man to travel to Britain on the understanding that temporary admission for him would be obtained and he would thereby be able to attend the hearing of his appeal in this country. As you know the Rules do not give a person a right to be present at his appeal in circumstances like this. I hope you agree that the MP was abusing the system.

I have a feeling that even now I may not have catalogued all the various abuses which are practised and I reserve the right to enlarge on this sorry tale if further examination of our files brings to light other matters. On the question of naming names it certainly would not be proper for me to do so outside the House and I think that if I were to do so in the House

I might well be accused of revealing the contents of confidential correspondence between an MP and myself. But I am prepared to discuss how your request be met if on reflection you really do wish to pursue it. You may however feel that the important thing now is to find a way in which we can all sit down and try and work out how we can get the system working in a sensible way, which will be acceptable to colleagues on all sides of the House.

Finally may I say that I like you wish to see no obstacles put in the way of genuine visitors coming here to see our constituents or of course the rights of MPs to make representations. As I pointed out in the House the proportion of people refused entry has not altered to any great extent over the years: and few are refused. 99.8% of all passengers and about 99% of those from the sub-continent were admitted last year. I do not think the Labour Government set out deliberately to exclude the relatives of your constituents wishing to pay visits here. I hope you will acknowledge that this Government is not doing so either.

In view of the publicity you have given to this matter I am releasing this letter to the press.

(DAVID WADDINGTON)

APPENDIX 5

GUIDELINES ON THE HANDLING OF REPRESENTATIONS BY MEMBERS OF PARLIAMENT IN IMMIGRATION CASES

The Home Office

March 1986

INTRODUCTION

1. This document sets out guidelines for the assistance of MPs in carrying out their responsibilities on behalf of constituents in the general run of immigration cases. In particular it describes the way the Home Office will proceed in carrying out its responsibility for implementing an effective and efficient immigration control in accordance with the Immigration Act 1971 and the Immigration Rules which have been endorsed by Parliament.

THE ROLE AND PRACTICE OF THE HOME OFFICE

Representations in cases where a person has been refused entry

Appeal Rights

2. Section 4(1) of the Immigration Act 1971 makes it clear that the statutory power to admit a person to this country is vested in the immigration officer, not the Minister. The law provides that unless a person has on arrival an entry clearance or work permit he can only appeal from abroad against the immigration officer's decision to refuse leave to enter. When, therefore, a person refused entry has no right of appeal in this country, the Minster will not normally intervene to overturn the decision of an immigration officer unless he considers that there is new and compelling evidence which was not available to the immigration officer.

Representations to the Minister

3. A Member wishing to submit representations in the case of a passenger refused entry may request the Minster's Private Office, or, out of working hours, the Home Office Duty Officer, to arrange for the removal of the passenger to be deferred. Action to remove the passenger will then normally be deferred for a period of 12 working days to enable the Member to submit written representations.

Temporary admission

4. If removal arrangements are deferred the Act provides that the passenger may be detained under the authority of an immigration officer or with his written authority granted temporary admission. Temporary admission is likely to be granted except where the Immigration Service judges that there is a high risk of the passenger not keeping to the terms of temporary admission (but see also paragraph 19 below).

5. Temporary admission is an alternative to detention. It is not the grant of leave to enter and persons who became engaged to marry or marry while on temporary admission are ineligible to stay on the basis of their marriage or engagement. The Rules require them to obtain entry clearance abroad.

No written representations received within the time limit

6. In the event of written representations not being received in the Home Office within 12 working days the Minister's private office will instruct the Immigration service to proceed with the passenger's removal as soon as practicable.

Receipt of written representations to the Minister

7. On receipt within that time of written representations challenging a refusal decision the Minister's Private Office will arrange for the deferment of removal and for the passenger's temporary admission, if appropriate, to be extended until the Minister has had the opportunity to review the case.

Decision reversed by the Minister

8. If the Minister decides to reverse the refusal decision, the Minister's Private Office will instruct the Immigration Service to grant the passenger leave to enter. At the same time the Minister will inform the Member in writing of the decision.

Decision upheld by the Minister

9. If the Minister upholds the refusal decision the Minister's Private Office will notify the Immigration Service of the outcome. At the same time the Minister will inform the Member in writing of the decision. The Immigration Service will not, however, effect the removal of the passenger until four working days after the date of the Minister's reply to the Member. Removal will not normally be further deferred unless new and compelling evidence is received within that timescale.

Representations made on after-entry cases

Appeal rights

10. In after entry cases a statutory right of appeal is exercisable in this country, unless the decision relates to an application made after a person's leave to remain has expired or to the removal of an illegal entrant.

Cases where an appeal is pending (either against the refusal to grant further leave to remain or against a decision to deport)

11. When an appeal is lodged no action is taken to remove the appellant until the appeal proceedings have been completed and the determination has been considered by the Home Office. The Minister will not normally intervene while an appeal is pending and, unless there has been a significant change of circumstances, there is therefore little point in a Member making representations at this stage.

Cases where an appeal has been dismissed

12. Even if the appellate authorities dismiss an appeal a recommendation may be made and any such recommendation will be seriously considered by the Minister. If, however, the appellate authorities dismiss an appeal and do not feel it is appropriate to make a recommendation, the Minister is unlikely to overturn that decision unless new and compelling evidence is provided.

Cases where there is no right of appeal or where the right of appeal has not been exercised

13. Representations may be considered in cases in which either the right of appeal against a decision has not been exercised or if the law provides no right of appeal. Due account will be taken, however, of the reasons why there was no right of appeal or why an appeal right was not exercised, and the Minister is unlikely to reverse the decision unless the Member raises any

significant or compelling factors which were not known when the decision was taken.

Requests for deferment in deportation/illegal entry cases

14. Deportation can only follow the issue of a notice of intention to deport on the recommendation of a Court, against both of which there is a right of appeal. Members may wish to defer making representations until the appeal process has been completed. If after an appeal has been dismissed a Member requests deferment of removal he will be asked to submit written representations within 5 working days and advised that removal will be deferred for that period. If written representations are not received within this period, the Minister's Private Office will give instructions for the removal arrangements to be implemented.

15. If a Member requests deferment of removal in an illegal entry case (in which there is no right of appeal in this country) or a deportation case in which the right of appeal has not been exercised, he will be asked to submit written representations within 12 working days and advised that removal will be deferred for that period. If written representations are not received within this period, the Minster's Private Office will give instructions for the removal arrangements to be implemented.

16. If the Minister upholds the decision to remove he will inform the Member in writing. Arrangements to effect removal will not be made until four working days after the date of the Minister's reply to the Member. Removal will not normally be further deferred unless new and compelling evidence is received within that timescale.

THE ROLE OF MPSs

The Constituency Member

17. It is not for the Home Office to police the convention that Members of Parliament do not take up cases involving other Members' constituents, but the Home Office will not normally accept a request to defer removal from anyone other than the person who appears to be the constituency Member, or a Member dealing with constituency business on his behalf if he is absent or ill.

Members with special interests

18. Ministers recognise that Members with a known specialist interest in the problem of particular national groups do sometimes wish to raise matters including immigration matters touching on the welfare of those nationals, but in hearing any such representations Ministers assume that the Member making the representations has consulted the constituency Member. A copy of any reply sent to the Member will be sent to the constituency Member where he or she can be identified.

Advice to or for persons abroad

19. A person intending to travel to this country who has doubts as to whether he will be admitted can apply for entry clearance abroad, even though entry clearance is not required by the Immigration Rules. If there is clear evidence that a Member, though fully aware that a passenger is most unlikely to be admitted under the rules, nevertheless advises him to travel without entry clearance on the presumption that if refused entry he will gain access to the country on temporary admission as a result of representations to the Minister, then temporary admission will not readily be granted.

House of Lords

21. The Home Office recognises that Members of the House of Lords do sometimes wish to make representations in individual cases. In hearing any such representations Ministers will assume that the Peer concerned has consulted the constituency Member and will send the constituency Member a copy of any reply where he or she can be identified. If the constituency Member has already taken up the case the Peer will be told and he will be sent a copy of the reply to the constituency Member.