



National Audit Office

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## **Report**

by the Comptroller  
and Auditor General

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**Home Office, Ministry of Justice and  
Foreign & Commonwealth Office**

# Managing and removing foreign national offenders

## Key facts

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**12,250**

foreign national offenders in England and Wales, serving in prison or living in the community after prison pending removal action, end of March 2014

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**5,100**

foreign national offenders removed from the UK, 2013-14

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**£850m**

our estimate of public spending on managing and removing foreign national offenders, 2013-14

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- 10,650** foreign nationals in the prison estate in England and Wales at 31 March 2014, of which 2,600 were on remand or not sentenced
- 30%** proportion of arrested foreign nationals on which police carried out an overseas criminal record check through the ACPO Criminal Records Office, 2013-14
- 1 in 25** foreign national offender files arriving at the Home Office to start processing for removal which have sufficient identity documents
- 139** number of days foreign national offenders are removed from the UK after the end of their sentence in 2013-14, on average
- 146** prison days saved as a result of foreign national offenders being removed as part of early removal schemes in 2013-14, on average
- 37%** proportion of foreign national offenders removed from the UK which were part of early removal schemes, 2013-14
- 4,200** foreign national offenders living in the community pending removal at the end of March 2014
- 1 in 6** foreign national offenders living in the community that had absconded at the end of March 2014
- 151** Departmental estimate of foreign national offenders released from prison without being considered for deportation, January 2009 to March 2014

# Summary

**1** The government aims to remove as many foreign national offenders (FNOs) as quickly as possible to their home countries, to protect the public, to reduce costs and to free up spaces in prison. At the end of March 2014, there were 10,600 foreign nationals in the prison estate in England and Wales – about 1 in 8 of all prisoners – from over 150 countries. Various public bodies work together to achieve removal:

- The Home Office (the Department) has overall responsibility for removal.
- The Ministry of Justice (the Ministry) and the National Offender Management Service (the Agency), manage offenders in custody and negotiate international agreements on prisoner transfers.
- The Foreign & Commonwealth Office manages relations with foreign governments to speed up removals.

**2** In recent years the government has put more effort and resources into managing and removing FNOs from the UK. This is largely in response to problems identified in 2006 when the Department found that 1,013 FNOs were released without having been considered for deportation, even though some had committed serious offences. The Committee of Public Accounts (the Committee) criticised the Department for systemic failure in managing FNOs and for weak strategy and controls, silo working and ineffective caseworking.

**3** This report assesses the opportunities for improving the process for removing FNOs and the actions which the government could take which are within its control to make better progress. Overall we evaluate whether the public bodies involved are making enough progress in improving FNO management and removals for the effort and resources deployed.

## Key findings

### Overall progress and barriers to improvement

**4 Overall progress since 2006 on reducing the foreign national prison population in the UK has been slow despite increased resources and tougher powers.** The number of foreign nationals in the prison estate in England and Wales has remained fairly constant with an increase of 4% from 10,231 to 10,649 between 2006 and 2014. After an initial surge following the issues identified in 2006, removal numbers peaked at 5,613 in 2008-09 and have not matched that level since. This is despite an increase in the number of staff within the Department working on FNO casework from less than 100 in 2006 to over 900 in 2013-14, and tougher domestic legislation on immigration rules (paragraphs 1.4 to 1.6).

**5 Removing FNOs from the UK continues to be inherently difficult and public bodies involved have been hampered in their efforts by a range of barriers, although poor administration has still played a part.** The number and speed of removals can be restricted by law – typically the European Convention on Human Rights and EU law on the free movement of persons. Until recently, FNOs had 17 grounds for appeal that could delay removal. Administrative factors also form barriers with some FNOs exploiting legal and medical obstacles to removal. Many overseas countries are unwilling to receive FNOs back home. However, lack of joint working and administration errors have often led to missed opportunities for removal (paragraphs 1.7 to 1.9).

**6 A new 2013 cross-government FNO action plan aims to deliver greater progress and tackle barriers.** Recognising that despite increased resources and effort progress has been slower than expected, in 2013, the first cross-government strategy for FNOs was developed – the FNO action plan. This aims to increase removals by 1,000 over 3 years (from 4,600 to 5,600) and reduce the number of FNOs in the UK by 2,000 over the same period. The plan aims to improve preventative measures, improve caseworking and amend the law to tackle barriers (paragraphs 1.10 and 1.11).

#### Preventative measures and early action

**7 Before December 2012, the government did relatively little to tackle the problem of potential FNOs entering the UK. The action plan has focused efforts on this aspect of prevention, but lacks a sufficiently structured and informed approach which may limit progress.** Current information held in the UK on foreign nationals who have committed serious crimes in their own countries is less complete than most European countries. The Department has new initiatives in place to remedy this, such as connecting to the Schengen Information System in December 2014 and making better use of other intelligence databases. It has also changed its regulations so that some low level European criminals removed from the UK cannot return for 12 months. Progress on modernising the Department's Warnings Index – its border information system – has been slow, however. We found that elements of the action plan were not sufficiently joined up and lacked the cost information needed to know whether investment in prevention initiatives is effective (paragraphs 2.3 to 2.6, 4.11).

**8 Opportunities at police stations and in court to facilitate and speed up FNO removals later in the process and reduce costs are being missed, although a new scheme to embed immigration officers in police stations looks promising.** Identifying FNOs early, including obtaining relevant documents such as passports, is crucial to speeding up removal at a later stage and managing the risk posed by the FNO while in prison. But police officers often do not undertake the checks and searches needed when they suspect someone of being a foreign national. We estimate that £70 million could be saved each year if all early identification opportunities were seized and acted upon. Operation Nexus, a scheme launched in London in 2012 and extended to other areas, to raise awareness among the police of these issues appears effective and is being rolled out more extensively (paragraphs 2.7 to 2.15).

**9 Similarly, the Department and the Agency are not maximising opportunities to improve the likelihood of early removal when an FNO enters prison.** Thirty-five per cent of foreign nationals in prison are held within 14 designated FNO prisons, with dedicated immigration officers working with FNOs and prison staff. The Department asserts that this model increases FNO removals but at present has no evidence to support this. On our prison visits we noted several factors hampering the earlier removal of FNOs including: poor use of IT; lack of integration between immigration and prison staff; slow interaction with FNOs when they first enter prison; and a failure to use available legislation which could act as a deterrent for FNOs who refuse to comply with the removal process. Furthermore, the Agency's process for referring new FNOs to the Department is cumbersome and slow, preventing caseworkers making a start on the removal process at the earliest opportunity (paragraphs 2.17, 2.18, 2.20 and 3.7).

### Maximising early removals

**10 Although removals have fallen since 2008-09, they increased 12% over the last 2 years, largely because of a change in the Department's approach to deportation.** Removals increased from 4,539 in 2011-12 to 5,097 in 2013-14 following concerted caseworking efforts and a change in the Department's approach after April 2013 to ensure that all FNOs are considered by a central team for removal, not just those who met the deportation criteria. In 2013-14, the Department was able to remove around 300 additional FNOs as a result of the latter change (paragraphs 3.4 to 3.7).

**11 The time taken to deport FNOs is reducing but there is considerable opportunity to further speed up the process.** It took the Department an average of 319 days in 2013-14 to deport an FNO once it had decided to do so, down from 369 days the previous year. We noted, however, that delays in starting cases, over-reliance on form-filling, delays in communicating with FNOs in custody and inefficiency in processing cases once under way are having a detrimental impact on speeding up removals. The FNO action plan includes proposals to improve the productivity of the Department's casework, but robust management information to support this is unavailable (paragraphs 3.12 to 3.14 and 3.16).

**12 There is considerable scope for the Department to make more use of early removal schemes which would save money for the taxpayer.** Thirty-seven per cent of FNOs removed in 2013-14 left as part of the Early Removal Scheme which returns them to their home country before they would otherwise be released from prison. We estimate that this saved £27.5 million by reducing the average number of days spent in prison by 146. But still the average FNO is removed 139 days after their release from prison. Those not removed during their Early Removal Scheme window are removed an average of 327 days after their release date. We found that caseworkers target an FNO's release date rather than their earliest removal date. Use of the Facilitated Returns Scheme, which supports early removal by providing an FNO up to £1,500 on their return to their home country on the condition that they comply with the removal process, has halved in recent years following a policy decision to reduce the value of the payment (paragraphs 3.17 and 3.18).

**13 The Ministry expects the use of Prison Transfer Agreements (PTAs) to increase from 2015, but its assumptions look overly optimistic.**

The use of PTAs is rare, largely because the majority of the 107 agreements currently in place rely on the consent of the FNO. They were used on average only 39 times per year over the last 4 years. The FNO action plan predicts significant growth in the number of removals through this process: EU states are due to introduce compulsory PTAs, which do not require the prisoner's consent, by the end of 2014. The Ministry's impact assessment of the EU PTA identified a potential 4,400 additional removals over 10 years and estimated net savings of around £110 million as a result. However, this calculation may be optimistic, particularly as many EU countries have not yet implemented the agreement and others have temporary exemptions (paragraphs 3.19 and 3.20).

**14 The number of failed removals has reduced from 2,200 in 2010-11 to 1,400 in 2013-14 but a significant number still fail because of poor administration.**

The declining number of failed removals indicates the Department is managing this part of the process better. Our analysis of failed removals in 2013-14, however, found that over a third might have been avoided through increased coordination of the bodies involved, fewer administrative errors and better, more timely information being available (paragraph 3.21).

**15 The Department believes that a key barrier to removal will be overcome as it implements the 2014 Immigration Act.**

Only 1 in 7 appeals by FNOs was successful in 2013. Yet appeals are an increasing factor in preventing the Department from removing an FNO and are resource intensive. The 2014 Immigration Act will reduce the number of rights of appeal open to FNOs from 17 to 4. The Department anticipates that appeals will reduce significantly as a result (paragraph 3.22).

**16 The Department's progress since 2006 in managing and removing FNOs who have completed their prison sentence is limited and it does not know how many have been released without being considered for deportation since 2006.**

There are around 4,200 FNOs living in the community pending deportation. At the end of March 2014, more than 1 in 6 FNOs living in the community (760) had absconded, up 6% since 2010. Furthermore, 395 absconders have been missing since before 2010, of which 58 are high harm individuals. The Department's work to trace absconders is matched by the inflow of new cases. Despite the 2006 crisis, the Department does not hold records on the number of FNOs that were released without being considered for deportation before January 2009, after which it believes 151 FNOs were released without consideration (paragraphs 3.24 to 3.28).

## Strategic oversight of FNOs

**17 The government’s strategic oversight of FNOs is improving but the FNO action plan lacks sufficient coherence.** While the FNO action plan is still relatively new, (see paragraph 4.3) the greater collaboration it has introduced has had a galvanising effect on activity, increased joint working between teams and has helped tackle some of the more difficult barriers to FNO removal. But the plan does not prioritise actions effectively and there are no clear links between actions, resulting change and impact on removal. FNO governance has been bolstered by the introduction of a new steering group and new directors to lead the action plan, but this work is hindered by over-complicated arrangements in the Department (paragraphs 4.3, 4.4 and, 4.7 to 4.10).

**18 The Department and the Ministry do not use cost data to manage FNOs, and do not have a good understanding of the costs involved.** Without this basic cost data it is difficult for the government to make informed decisions on where it can maximise opportunities for improvement. In the absence of robust data we undertook a detailed costing exercise and estimate that in 2013-14 public bodies spent £850 million (in a range of between £770 million and £1,041 million) on FNOs. The average cost of managing 1 FNO is therefore around £70,000 per year (paragraphs 4.11 to 4.13).

## Conclusion on value for money

**19** The government’s progress in managing and removing FNOs since 2006 has been slower than we would expect, particularly given the increased resources and effort dedicated to this. This is reflected in the numbers as the FNO population in prison has increased slightly and while removals are now increasing this is largely due to a change of approach in 2013. While the barriers to removal are considerable, some of these are within the control of the public bodies involved and we have identified various, relatively straightforward and inexpensive opportunities to make progress which are not being maximised. In particular, the focus on preventative measures and early action is promising but the government has only just started to exploit these options.

**20** To achieve value for money in the future the government needs to build on the momentum created by the FNO action plan. In particular it needs to know the cost attached to managing FNOs so that it can allocate resources in a more effective way.

## Recommendations

**21** We have categorised our recommendations to highlight those we think are more easily achievable and straightforward and those which will take longer to implement.

- a** **The Department should build on the FNO action plan by evaluating fully the preventative and early intervention measures trialled so far and investing further in these where appropriate.** In particular, early evidence suggests the Department should build its plan to prevent more FNOs from entering the UK at the border through better information and application to the Warnings Index over the next 2 years. It should, in partnership with the police, also invest in better police training and capacity for dealing with foreign nationals at police stations. Together, the Department and the Agency need to work out the optimal prison model for removing FNOs and expand this. They should evaluate process efficiency and joint working arrangements within prisons to further speed up FNO removals.
- b** **The Department needs to develop and standardise its approach to casework.** The Agency's referral process for new prisoners hampers the Department starting its casework at the earliest opportunity so as to target FNOs more quickly. The Department should analyse failed removals to reduce those within its control and should track the impact of the Immigration Act on appeals. It should prioritise work to improve casework productivity and better align the Department's processes with schemes to increase take-up of early removal.
- c** **The Department needs to improve its oversight of FNOs released into the community at the end of their sentence.** The Department needs to strengthen resourcing in its trace and locate team to ensure sufficient effort is focused on tracking absconders, notably prioritising high harm individuals. It also needs to work with other public bodies involved to improve collective search processes. Transparent accountability to Parliament on this issue is essential and the Department needs to ensure it reports progress accurately and fully.
- d** **The 3 departments must ensure that, when developing the FNO action plan, actions and dependencies are aligned to optimise success, and governance structures are streamlined.** The departments should undertake a critical review of the FNO strategy and ensure the action plan prioritises FNO categories and that this prioritisation feeds down into caseworking decisions. The plan should also reflect the dependencies between actions and more explicitly link actions to outputs and outcomes. The plan should be aligned with departmental priorities and governance simplified so that clearer lines of accountability are established.



- e In the longer term, the departments need to work together to develop accurate management information and establish a costing model for FNOs.**  
The departments should put in place systems to ensure they have good quality and complete cost information for all stages of the FNO process. They should then start to allocate resources to actions based on impact.
- f Senior leaders within the departments need to encourage and develop a long-term joint working culture on FNOs.** While joint working has improved over recent years, the bodies involved have missed opportunities to coordinate working and share data and information effectively. Senior leaders in these organisations need to ensure that they align their FNO objectives, join-up systems where possible and ensure staff understand their collective responsibility for the FNO problem.