



Border Force

**THE BORDER FORCE RESPONSE TO THE
INDEPENDENT CHIEF INSPECTOR'S REPORT:
INSPECTION OF GATWICK AIRPORT NORTH
TERMINAL APRIL – SEPTEMBER 2011**

Border Force thanks the Independent Chief Inspector (ICI) for advance sight of his report on Gatwick Airport North Terminal.

Border Force response to the recommendations:

1. **RECOMMENDATION 1:** Improves the quality and consistency of decision making in granting leave to enter the UK and in granting temporary admission to the UK.
 - 1.1 Border Force accepts this recommendation.
 - 1.2 Immigration officers perform a critical role in ensuring border security at the primary border control, determining who should be allowed into the UK without further consideration and who merits closer attention. An officer will consider passenger behaviour and response to questioning, previous immigration or criminal history, authenticity of travel documentation and possession of appropriate entry clearance where required to assist them in making their decision. The Chief Inspector observed officers performing duties at the primary control which showed a general consistency of practice in a number of key areas. However in a few isolated instances inconsistent practice was observed resulting in this recommendation.
 - 1.3 The Chief Inspector expressed concerns about the quality of decision making in a minority of cases. The Chief Inspector analysed casework and found that 98% of refusal decisions including temporary admissions and 83% of decisions to grant leave to enter were soundly based.
 - 1.4 Border Force has a comprehensive training programme to ensure our officers perform to a high, consistent and professional manner. We will review our guidance and training to ensure the issues identified can be addressed by refresher training and a new robust assurance program. Any shortfalls identified in our training will be rectified and new training will be delivered to our officers.
 - 1.5 Target for completion of training 30 November 2012.
2. **RECOMMENDATION 2:** Improves consistency of practice in immigration casework ensuring that the conduct of case interviews is in line with guidance and case file documentation provides a robust audit trail of all decision stages.
 - 2.1 Border Force accepts this recommendation.
 - 2.2 Detailed interviews are conducted by immigration officers to help inform landing/refusal decisions where queries cannot readily be resolved with simple checks and where passengers need to provide further information to satisfy immigration officers about their intentions. These interviews give passengers the chance to explain their circumstances, address inconsistencies raised and respond to queries about items found in their possession.

- 2.3 Fourteen case interviews were observed as part of the inspection. The Chief Inspector identified more positive than negative practice and stated that officers performing at the primary control revealed a general consistency of practice and that staff were generally professional in their dealings with passengers. 166 case files or persons refused leave to enter the UK were reviewed to consider the quality and consistency of both decision making and file management approaches. 98% of refusal decisions were found to be soundly based and in line with the Immigration Rules. 103 case files of persons granted leave to enter the UK between 1 December 2010 and 18 March 2011 were reviewed to consider decision quality and approaches to file management. The inspection team found 83% of the decisions were soundly based from the records seen. The Chief Inspector acknowledged that their case file analysis of refusal and granting decisions is undertaken without being present at the interview process/observing interactions with passengers and behavioural factors may influence the case outcome. However, they did comment that in such cases they would expect the reasons to be fully articulated in the case file.
- 2.4 We will examine our training and will implement refresher training to our officers and managers in relation to passenger interviews and supporting casework. We will undertake assurance on our interviews and will improve the quality and consistency of our interviews. This work will be supported by a new robust audit/assurance program including more observation of interviews by managers and mentoring to improve performance.
- 2.5 Target for completion of training 30 November 2012.
- 3. RECOMMENDATION 3:** Ensures all detection staff are selecting passengers for challenge with sufficient basis and in line with guidance; and enforce the law in relation to goods in excess of non-EU allowances.
- 3.1 Border Force accepts this recommendation.
- 3.2 The inspection team observed a number of detection officers in the green channel to consider interactions with passengers and how staff identified passengers for interception. The team witnessed numerous professional and courteous interactions and noted that staff remained calm when passengers became agitated during stops and baggage searches. Staff were asked why they had selected a particular individual for questioning to examine the basis for passenger selection. Some answers were in line with guidance relating to the visual selection of passengers, others caused concern.
- 3.3 Inconsistent practice was observed in the green channel concerning passengers with undeclared excess goods. Strict duty free legal limits are imposed on passengers travelling on non-EU flights in relation to bringing cigarettes and alcohol into the country. Passengers who declare they are carrying excess goods can pay the extra duty in the red channel and keep their purchase. However passengers found to be carrying excess goods in the green channel forfeit the right to retain the allowance amount and all

goods are required to be seized by detection staff. The inspection team were surprised to find some officers using discretion on this issue resulting in different passenger outcomes for those carrying undeclared excess amounts. The Chief Inspector acknowledged that officers had confirmed that discretion was 'not officially allowed' but had stated that it was common practice.

- 3.4 Border Force has a comprehensive training program to ensure that all our officers act within the guidance and the law. Management assurance systems are in place to ensure officers act in a professional manner and within the guidance and the law. This assurance was clearly ineffective in identifying the inconsistent practice in relation to selection of passengers and those found with excess goods in the green channel. We have already reissued instructions to all detection managers in line with the guidance in the HMRC Enforcement Handbook. To back this up we are implementing a program of refresher training. We have completed a program of 1 to 1 meetings with detection managers to check compliance, reinforce standards and ensure effective assurance systems are in place.
- 3.5 Target date for completion of refresher training, 31 May 2012.
4. **RECOMMENDATION 4:** Implements port-specific commodity targets for detection operations based on local seizure patterns.
 - 4.1 Border Force rejects this recommendation.
 - 4.2 The inspection team identified airport detection teams are not assigned specific targets at port, team or individual levels. It noted regional commodity seizure targets are in place for each Border Force region and ports are expected to contribute to these overall targets. A number of staff interviewed considered that regional targets did not provide a strong motivating factor for local seizures and caused some confusion regarding priorities.
 - 4.3 Border Force is a national business and operates against the Border Force Control Strategy. Individual ports already have performance measures and expectations of delivery in line with the previous year's performance and current year's national targets.
 - 4.4 More detailed port specific targets have the potential to be restrictive as they are likely to impact individual officer behaviour and drive deployment to meet specific targets, rather than meet the changing priorities of the Control Strategy in a dynamic operational environment. Officers need to be aware and understand Border Force operational priorities (100% passport control, Cyclamen and Class A drugs). The Chief Inspector acknowledged that staff were aware that Class A drugs were the overriding commodity priority in line with the Border Force Control Strategy. More officer involvement in business planning is underway, along with daily team briefings. Both are aimed at ensuring officers and teams understand the changing priorities and how their port contributes to overall targets.

5. RECOMMENDATION 5: Ensures passengers are advised about complaints procedures at the point of contact with the Agency and the level of complaints is accurately recorded.

5.1 Border Force accepts this recommendation and has already implemented it.

5.2 Border Force defines complaints as any expression of dissatisfaction about the services provided by or for the Border Force and/or about the professional conduct of Border Force staff or contractors. Complaints are categorised as either service complaints, minor misconduct or serious misconduct complaints.

5.3 Border Force takes complaints from the public seriously and has robust national procedures for recording and replying to all complaints received. During the Inspection posters and leaflets were not on show as these were being re-branded as part of the transformation of UKBA, of which Border Force was a part of at the time of inspection.

5.4 Posters and leaflets were obtained during the inspection and were on show and available for the public before the inspection was completed.

5.5 The level of complaints is recorded nationally.

6. RECOMMENDATION 6: Ensures there are effective local mechanisms to analyse and learn from complaints and that complaints analysis at regional and national levels is widely disseminated including to frontline staff.

6.1 Border Force accepts this recommendation.

6.2 The UK Border Agency Customer Strategy, which Border Force follows, was launched in April 2009. The strategy outlined that poor service quality costs our organisation, and that excellent service can enable us to release resources to the front line and to use those front line resources more effectively. In response to this we have implemented a Border Force Gatwick – Service Excellence Strategy to improve the quality of our service in line with the Home Office core values.

6.3 Complaints are managed on a national basis, and whilst feedback is given to specific ports and individuals where deemed appropriate, there is no systematic feedback on trends or learning. We accept that analysis of complaints would be of benefit to frontline staff and that this needs to be taken forward at a national level, as well as at a local level. We will liaise with the Central Services Team to seek assistance in taking this forward. The proposal is to provide both national feedback and analysis that can be drawn down locally to address specific areas of development.

7. RECOMMENDATION 7: Implements robust monitoring mechanisms so that data is routinely captured and analysed to determine if there are any differential race impacts across the spectrum of detection operations including in relation to initial passenger stops and searches of person.

- 7.1 Border Force accepts this recommendation in part pending further work. .
- 7.2 Border Force is subject to the Equality Act 2010 which came into effect in October 2010 and has been required to meet the general public sector equality duty since April 2011. The public sector equality duty requires that in exercising its functions Border Force has due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; advance equality of opportunity between people who share a protected characteristic and those who do not and foster good relationships between people who share a protected characteristic and those who do not. Immigration functions are exempt from aspects of the general equality duty in relation to race, religion, age and the advancement of equality. Border Force's detection functions are however subject to all aspects of the general public sector duty. The Inspection Team found that the majority of passenger interactions in the arrivals hall and detection channels reflected positively on Border Force and exchanges were generally professional and courteous.
- 7.3 Border Force already records ethnicity data for passengers arrested or subject to a search of their person. This data is captured in line with current guidance and policy.
- 7.4 We will refer the wider recommendation to the central policy team to consider whether or not our current policy of recording ethnicity data for passengers arrested or subject to a search of person should be extended to all passenger stops. The cooperation of all passengers would be needed for the data to be meaningful and there would be practical difficulties and operational implications in collecting this sensitive data. These potential difficulties will need to be considered against the perceived benefits.
- 7.5 Submission to the Border Force Senior Management Team by 31 May 2012.
- 8. RECOMMENDATION 8:** Investigates the extent of discriminatory practice in relation to detection operations and takes urgent action to address any inappropriate activity.
- 8.1 Border Force accepts this recommendation.
- 8.2 Detection officers were questioned about their specific reasons for stopping and questioning particular individuals. Although the team witnessed numerous professional and courteous interactions some answers revealed some highly inappropriate reasons used to justify passenger challenge based on prejudice and stereotypical views of individuals rather than evidenced based criteria as set out in the guidance.
- 8.3 Border Force takes accusations of discriminatory practice very seriously and has procedures in place to deal with any complaints received of this nature.

- 8.4 Border Force officers are trained to select passengers on the basis of intelligence profiles. These profiles help ensure passengers are only selected for examination on the basis of risk rather than their race or gender.
- 8.5 We will investigate any evidence of potential discriminatory practice and, if any is identified, will act to stop such practice. We will implement refresher training and a robust assurance process.
- 8.6 Target date of 31 May 2012 to have assurance in place.
- 9. RECOMMENDATION 9:** Ensures all searches of person are justified, proportionate and conducted in accordance with the law and guidance with proper documentary records maintained.
- 9.1 Border Force accepts this recommendation.
- 9.2 Searches of person are permitted under S164 of the Customs and Excise Management Act (CEMA) 1979 which provides the powers to search any person where there are reasonable grounds to suspect the person is carrying an article which is either chargeable with any duty which has not been paid or secured or is prohibited or restricted. Powers to search an arrested person are also provided under Section 32 of the Police and Criminal Evidence Act (PACE) 1984 which permits search where there are reasonable grounds for believing that the person may present a danger to themselves and others, has anything which may be used to assist escape from lawful custody or which might be evidence relating to an offence. Detection officers use these powers in the course of their duties in detecting concealed goods and in supporting the prosecution of criminal offences. All search of person forms reviewed were completed appropriately. However a number of prominent failings were revealed by the review of notebook records. These failings included a lack of understanding of evidential requirements for undertaking person searches and of the indicator levels appropriate to different types of search (rub down/ strip search). The inspection team accepted that some of the apparently unjustified person searches may have been conducted under more legitimate grounds than those set out in the documentation; however, the failure to fully record these grounds means that justification for many searches was not demonstrably evidenced.
- 9.3 Border Force has detailed guidance for officers to follow when conducting search of person and realise this is one of the most invasive examinations officers undertake on passengers. The Border Force Professionalism Group are currently working with HMRC, the owners of the Enforcement Handbook, to improve the guidance and the analysis of data collected on these searches to ensure we are applying our powers proportionately.
- 9.4 We believe that the majority of searches carried out were justified, proportionate and conducted in accordance with the law and guidance. However, we accept that in the cases identified our recording of search of person fell well below the standards laid down in the HMRC Enforcement

Handbook resulting in an inability to provide evidence that the searches were justified and proportionate.

- 9.5 To address these shortcomings we have issued an instruction to all detection team leaders advising them on the records they and their teams are required to keep. We have undertaken 1 to 1 meetings with all detection managers to establish the extent of the issues identified, to examine their records and to emphasise the importance of rectifying the issues raised. We will implement a program of refresher training and assurance to back this training up.

We have also put a submission to the Border Force Senior Management Team to consider a joint proposal from Gatwick and Heathrow to introduce an increased level of authority for an officer to conduct a strip search involving approval from an independent manager. This was agreed in April for implementation in early May 2012.

- 9.6 Target date for completion of refresher training, 31 May 2012.

10. RECOMMENDATION 10: Ensures that all arrests associated with person searches are undertaken in accordance with the law.

- 10.1 Border Force accepts this recommendation.

10.2 The inspection team's review of the documentation associated with person searches also revealed that in 17 of the cases where a person was searched with a negative outcome, the person was arrested and subjected to further checks (such as body scan or X-ray) without any clear explanation as to the increased level of suspicion or grounds for arrest.

10.3 Border Force officers have extensive training and robust guidance to follow to ensure they apply the law evenly and appropriately. Officers have managers working with them the majority of the time to assure compliance with the guidance and the law.

10.4 Although we believe that arrests are made in accordance with the law we accept that the recording of the searches were not in line with the HMRC Enforcement Handbook resulting in an inability to provide assurance and proof that any arrest associated with the search were conducted in accordance with the law. To address these shortcomings we have issued an instruction to all detection team leaders advising them on the records they and their teams are required to keep. We have undertaken 1 to 1 meetings with all detection managers to establish the extent of the issues identified and to take the appropriate remedial action. We will implement a program of refresher training and assurance to support this action.

10.5 We will invite the Border Force assurance team to undertake assurance on this area of our work in 6 months to ensure the improvement required in this area has happened.

- 10.6 In HMRC these checks were subject to external scrutiny. We will recommend to the Border Force Senior Management Team that external scrutiny is re-introduced.
- 10.7 Target date for completion of refresher training, 31 May 2012.
- 11. RECOMMENDATION 11:** Ensures the duty of care to unaccompanied children is discharged effectively at the primary control and that sponsors and reception arrangements are checked in each case with records kept of the checks made.
- 11.1 Border Force accepts this recommendation.
- 11.2 Safeguarding children is a legal responsibility for Border Force set out in Section 55 of the Borders, Citizenship and Immigration Act 2009, which requires the Secretary of State to make arrangements to ensure that immigration, asylum, nationality and customs functions are exercised having regard to the need to safeguard and promote the welfare of children in the United Kingdom. The legislation also places a clear duty of care with Border Force such that while a Border Force Officer is considering the application for entry of an unaccompanied child, Border Force has a duty of care to that child including contact with the sponsor. The inspection considered the effectiveness of Border Force in discharging its legal duties in regard to safeguarding children in the conduct of immigration functions. Interactions at the primary control involving children were observed and casework involving unaccompanied children was also examined including the checks made in regard to reception arrangements in removal cases. Liaison arrangements with social services were also discussed with both Border Force and local authorities. Many of the interactions observed between immigration staff and accompanied children/accompanying adults at the primary control revealed care taken in regard to their welfare. However, there were also cases where the inspector concluded that significantly more stringent checks should have been undertaken
- 11.3 Border Force takes its duty under section 55 of the Immigration Act very seriously. Every officer receives training on children and young persons and this is refreshed on a regular basis. Ports have children teams in place comprising of officers trained to a higher level to assist all officers in dealing with this vulnerable group of passengers. At Gatwick we have a close working relationship with social services and this was recognised in the Chief Inspector's report.
- 11.4 To address the concerns raised we will review our operating instructions and will reissue these to managers and staff. Team leaders' briefings will also be undertaken to ensure all staff understand the importance of this work and their duty under section 55 of the Immigration Act.
- 11.5 Instructions have now been re-issued and team briefings were held with all teams in March and April.

12. RECOMMENDATION 12: Ensures that ports receive specific information about goods seizures appealed by passengers to support local learning.

12.1 Border Force accepts this recommendation.

12.2 The inspection team identified that more proactive approaches to share learning from existing practice would be beneficial in a number of areas including analysis of appeals processes and post seizure outcomes.

12.3 A central team has responsibility for this data. Currently it is not possible to analyse this data by port. We will request this data is supplied to ports on a monthly basis and will further recommend that this is rolled out nationally.

12.4 Data to be requested by 31 May 2012.

13. RECOMMENDATION 13: Strengthens corporate governance procedures including formal risk management processes to ensure that key operational risks are regularly evaluated and actively managed.

13.1 Border Force accepts this recommendation and has already implemented it.

13.2 The inspection revealed the management of risk and other fundamental areas of corporate governance fell short of the standards required. Senior managers stated they had only formally reviewed the local risk register once during the previous six months. This register lists the key operational risks for Border Force at Gatwick and provides the basis for keeping track of the status and effective management of these risks.

13.3 At the time of the inspection Border Force at Gatwick was going through a significant change program. The focus was on the corporate governance of the change program and as a result we accept the governance of the other areas of operation were not as robust as they should have been.

13.4 To address the concerns raised we now keep formal records of all senior management team meetings at both SO and HO level. Risk registers are in place and are reviewed and updated at the SO monthly meeting. The Gatwick Local Planning Group meets monthly to agree deployment of resources to meet national priorities. Minutes and deployment plans are kept for these meetings. A leadership event has taken place to improve the cohesion of the senior management team and individual performance development plans for the SO team reflected the need to improve working as a team.