



**THE UK BORDER AGENCY RESPONSE TO
THE INDEPENDENT CHIEF INSPECTOR'S REPORT
ON THE INSPECTION OF THE COMMON TRAVEL AREA**



The UK Border Agency thanks the Independent Chief Inspector (ICI) for advance sight of this report. The UK Border Agency's Immigration Group has only recently fully established in Northern Ireland and the Border Force had just completed a substantial organisational restructure at the time of inspection.

It is therefore pleasing to note the positive comments in the report about the progress that the UK Border Agency has already made in developing operations and procedures to counter illegal migration via the Common Travel Area (CTA) routes and the acknowledgement of good relations and joint working with key partners

The UK Border Agency response to the recommendations:

- 1. Recommendation 1: Sets specific aims and objectives for controlling abuse of the CTA, ensuring adequate information is recorded to enable detailed analysis of immigration offences.**
 - 1.1 The UK Border Agency accepts this recommendation.
 - 1.2 The UK Border Agency Immigration Group accepts that at the time of inspection CTA management information and intelligence gathering systems for Stranraer and Cairnryan were largely reliant on information collected on our behalf by seconded officers from Dumfries and Galloway police. Since December 2010, when Immigration Group operations were expanded to cover ferry traffic, information has been gathered by Immigration Group enforcement staff and used to inform deployments and wider CTA threat assessments.
 - 1.3 Information gathered and passed to the Regional Intelligence Unit now includes nationality, direction and time of travel, place of encounter, offence types, routes and methods used by immigration offenders to enter the UK and reasons stated for entry. Improved data cleansing and quality assurance systems have also been introduced.
 - 1.4 The Immigration Group records all arrests on its database. However, people who are detained using administrative powers are recorded separately. Changes will be implemented to show the combined and separate figures for arrests and detentions on Operation Gull.
- 2. Recommendation 2: Develops processes to ensure that all offenders given temporary release are monitored and accounted for.**
 - 2.1 The UK Border Agency accepts this recommendation.
 - 2.2 Offender compliance with reporting restrictions was not systematically analysed prior to December 2010. This information is now included and analysed within Immigration Group's CTA risk assessment process.
- 3. Recommendation 3: Improves the joint working and co-ordination between Border Force and Immigration Group in the scoping of risk and threat assessment, sharing of policy and guidance and the planning of joint operations.**
 - 3.1 The UK Border Agency accepts this recommendation.

- 3.2 The UK Border Agency accepts that provision and analysis should be more systematic at local and national levels and formal arrangements are in progress.
- 3.3 Border Force holds the national CTA policy brief and lead on a strategy of joint work with Ireland and the Crown dependencies to strengthen the external Common Travel Area border, whilst continuing with internal operations within the CTA. The Border Force project team that was developing CTA national standard operating procedures for immigration and embarkation checks was set up for the UK Border Agency as a whole – including Immigration Group. Guidance for UK Border Agency officers on in-country powers (used by Immigration Group) was being developed by the project team at the time of the inspection and included input from Immigration Group.
- 3.4 The UK Border Agency accepts that the Immigration Group and the Border Force should improve joint planning and tasking procedures to better co-ordinate deployments and avoid unnecessary impacts on people. On the day that Border Force was carrying out customs detection duties (on baggage originating from outside the CTA) at the same location and at the same time as Immigration Group was looking at passengers on a domestic UK journey, informal sharing of information about deployments failed. Formal procedures to avoid recurrence have now been introduced. A formal protocol between Immigration Group and Border Force has been introduced and covers advance (written) communications to confirm and compare deployments, procedures for operating in the same airport areas and joint operational partnership reviews. The protocol will ensure that tasking is fully co-ordinated, immigration controls continue to be effective and scope for passenger confusion is reduced.
- 4. Recommendation 4: Develops a strong working relationship with Dumfries and Galloway Constabulary to tackle immigration offences and control the risks posed by the routes in and out of Stranraer and Cairnryan.**
- 4.1 The UK Border Agency accepts this recommendation.
- 4.2 The combined efforts of our enforcement staff in Belfast and police officers in Dumfries and Galloway have led to significant increases in detections since January 2011. The majority of these detections were made by the UK Border Agency at Belfast and Larne docks. On 5 May 2011, Immigration Group and Dumfries and Galloway Police held positive discussions on strengthening relations and working more closely to enhance the controls that operate at the ferry ports. Significant progress was made towards joint tasking and working, sharing results and intelligence and developing new work methods. A systematic programme of operational and strategy progress meetings will be in place by June.
- 5. Recommendation 5: Strengthens the procedures of Operation Gull by ensuring that current practices are within the spirit of the *Singh v Hammond* judgement and that all guidance on stop, search and discretion is updated for use within a port environment.**

- 5.1 The UK Border Agency accepts this recommendation in part.
 - 5.2 Immigration Group CTA operations are conducted using the legal powers set out in Paragraph 2(1) of Schedule 2 of the Immigration Act 1971 as interpreted by the courts in the ***Singh v Hammond*** judgment which has been repeatedly endorsed by the Courts of Appeal both in Northern Ireland and in England & Wales.
 - 5.3 The law as interpreted by the courts is complex and creates a fusion of powers exercised at a port of entry from overseas and in-country law enforcement powers which is not easy to codify in minute detail. The UK Border Agency accepts that distinct guidance for staff working on Operation Gull could enhance their understanding and increase their confidence in operating these powers. The UK Border Agency's Immigration Group, Border Force and Professional Standards Unit are consulting with staff to address any perceived gaps and will issue guidance specifically for Operation Gull. This is an area of developing law and an Operation Gull case is before the Supreme Court. The UK Border Agency will consider whether a further review of guidance is needed when the case has been decided.
- 6. Recommendation 6: Commences a process of regular risk and threat assessments for all routes into Northern Ireland.**
- 6.1 The UK Border Agency accepts this recommendation.
 - 6.2 The UK Border Agency agrees that all routes through the CTA need to be subject to ongoing risk and threat assessment and will continue to monitor and gather intelligence about the level of threat presented by the Irish land border to all domestic routes in the UK.