



**THE UK BORDER AGENCY AND BORDER FORCE
RESPONSE TO THE INDEPENDENT CHIEF
INSPECTOR'S REPORT:**

**HOW CUSTOMS AND IMMIGRATION OFFENCES ARE
HANDLED AT PORTS [MAY – OCTOBER 2012]**



The UK Border Agency and Border Force thank the Independent Chief Inspector (ICI) for advance sight of this report which examined the efficiency and effectiveness of the way we handle those who are suspected of committing immigration and customs offences at Heathrow, Manchester Airport and Dover. We are pleased to note that you found a broadly consistent approach towards the investigation of offences by the Agency's Criminal and Financial Investigation (CFI) teams¹. You also found Border Force made appropriate use of their powers to confiscate goods, seize cash and issue fines. In immigration cases you found that removal was a cost-effective and efficient alternative to prosecution where individuals did not claim asylum.

The UK Border Agency and Border Force response to the Independent Chief Inspector's recommendations:

- 1. The UK Border Agency implements a management information strategy on customs and immigration offences to enable it to analyse trends and performance, and to direct future activity.** The UK Border Agency accepts this recommendation in relation to immigration offences.

1.1 The Performance and Compliance Unit within the Agency will engage with the Crime Directorate in the development of a strategy on immigration offences. The report acknowledges the Crime Directorate has been developing a crime database as part of the Agency's national operations database (NOD). The new crime database, which is currently being rolled out, will capture a wide range of detailed information on all investigations. This will include a full analytical and management information capacity that will allow the analysis of all workflows, tasking, and trends to be monitored and adapted and has a number of functions that will allow the manipulation of data to produce detailed reports on all static data recorded on an investigation.

1.2 The responsibility for, and resource to investigate, customs offences is to transfer to the shadow Border Police Command (BPC) and as such the development of a management information strategy on customs offences will sit with the National Crime Agency (NCA).

- 2. The UK Border Agency ensures that decisions whether or not to investigate suspected immigration and customs offences are clearly documented.** The UK Border Agency accepts this recommendation.

2.2 The new crime database includes a mandatory field for completion on all CFI Immigration investigations to record the reasons for acceptance or non acceptance of a case, which is an auditable record that can be reviewed and produced as analytical data as well as information on where cases have been referred on to or back to another agency or investigative body.

2.3 The new crime database is not being rolled out to the CFI teams investigating customs offences owing to this function transferring to the shadow BPC. However, the report acknowledges the Crime Directorate has made improvements to ensure a consistent approach in the way that cases are reported. The directorate introduced in July 2012 a more detailed process for recording the decision on whether to adopt a referral for investigation or not. These decisions are captured and retained on a central record for corporate memory purposes and management assurance. In addition to this central record, the information recorded will also be backed up by individual case manager / officer records which will have more background details as to the rationale behind the decision to adopt or decline. We expect this central record to continue in the transition period.

¹ CFI Teams are part of the Crime Directorate within the UK Border Agency

3. The UK Border Agency and Border Force clarify and communicate to staff the circumstances in which suspected immigration offences should be referred to CFI teams. The UK Border Agency and Border Force accept this recommendation.

3.1 While acknowledging that a range of guidance is already available to staff in the UK Border Agency and Border Force on which suspected immigration offences should be referred to CFI teams we accept that there is scope to improve and clarify this in the wake of the report's findings. We now aim to develop a unitary set of instructions covering this area of operations. The criminal investigation landscape at the border is set to change markedly with the establishing of the BPC within the NCA and detail as to which offences will continue to fall to the Agency's CFI teams to investigate or alternatively be referred to the BPC is being worked through in conjunction with the Crime Prosecution Service (CPS) and Home Office. The new structures will be in place in shadow form from April 2013 and it is our aim to have a clear set of guidance in place for operational officers on commencement of the proposed changes.

4. The UK Border Agency ensures there is clear guidance or policy on when a re-referral to CFI teams should take place in immigration cases and communicates this to Border Force and Agency staff. The UK Border Agency accepts this recommendation

4.1 The re-referral of cases to the Agency's CFI teams is currently largely tasked by investigation case officers on a one to one basis with their operational counterparts in Border Force and this system has been in place for a number of years and largely works in practice though we accept that there is potential for cases entering the administrative process to be overlooked for consideration of prosecution action particularly where there is a significant delay between initial referral and a final leave or asylum decision. The lack of follow up prosecution action in such cases can on occasion be explained by the difficulty investigators face in gathering evidence with the passage of time or because removal presents a more suitable and cost effective resolution.

4.2 We accept however that in some asylum cases there may be a lack of communication between those involved at the end of the asylum case work process and CFI investigators who initially investigated the subject; we aim to address this through a revised case handling process that will see all potential offenders who claim asylum and who are not immediately investigated being monitored through the consideration process with their cases actively reviewed post decision. Guidance on the revised process is currently in development with CPS and HOLAB and will be issued to Border Force officers and caseworkers with the aim of introducing the changes by April 2013 in line with the guidance already mentioned in respect of recommendation 3.

5. The UK Border Agency makes initial decisions on asylum claims in line with its own published standards and ensures that reasons for any delay are properly recorded and communicated to claimants. UK Border Agency accepts this recommendation.

5.1 We are committed to taking initial decisions as quickly as possible and balancing the demands of delivering performance at the beginning, middle and end of the asylum system and are focusing our efforts accordingly. The 15 asylum Key Performance Indicators (KPIs) were introduced by the UK Border Agency to ensure we maintain a robust management of full asylum system health.

5.2 In 2010-11 and 2011-12 we concluded 53% of asylum claims within six months. We have ramped up performance on concluding older cases and have pushed conclusions

within 12 months up from 56% in 2010-11 to 63% in 2011-12. We have also increased conclusion rates at 36 months driving them up from 63% in 2010-11 to 70% in 2011-12. This demonstrates our increased grip on the asylum system and our strong desire to keep improving our performance.

5.3 From April 2013 we will be implementing our new Asylum Operating Model. The changes we will introduce as part of our new operating model are designed to deliver more conclusions, faster, at lower cost and higher quality than ever before. The UK Border Agency has arrangements in place in its asylum casework teams to respond to letters seeking progress on outstanding applications. We will though consider ways that we can more proactively record and communicate reasons for any delays to claimants.

6. The UK Border Agency and Border Force ensure that an audit of all contact with children is documented in line with guidance on keeping children safe. The UK Border Agency and Border Force do not accept this recommendation but do accept that we should be better able to identify and retrieve case files that involve children.

6.1 The guidance does not require us to audit (as in record in writing) all contact with children in which we carry out safeguarding duties. We feel that the report does not fully reflect an understanding of the duty that we have developed and that has been resolved in hearings before the courts.

6.2 The Immigration Rules, particularly in child visitor or family cases, are designed to establish relationships and legitimacy of being accompanied by that adult. Standard identity checks and scrutiny of adult documents and child documents are also part of the assurance. Further questions may be asked but it is the irregularities and indicators of concern that are noted, not the fact that being vigilant has not given rise to concern. And the s.55 duty is not a separate "stand alone" check that is necessarily recorded separately and that can be audited separately.

6.3 Only if we are intervening in a child's journey by detaining them on account of possible risk, or to await an adult to arrive so we can interview, or to refer them to children's services because they have no person to look after them in the UK, do we create a formal auditable log of all actions taken. It is at this point that we would be at fault if the auditable log were not created. Where passengers are likely to be refused entry then a case file is created. If a family unit are refused because of reasons relating to the parents or accompanying adults then the entries on the children will often be confined to name, date of birth, nationality. Only if examination or background checks give rise to concerns about child safety or welfare will entries about children be in depth.

6.4 However, that the UK Border Agency and Border Force should be better able to retrieve case files that involve children, so recording that a child is involved in the case file and then being able to extract that case file easily, is something we accept.

6.5 Please see below the Agency's and Border Force's response to how we will make improvements to our file retention and retrieval processes.

7. The UK Border Agency and Border Force ensure that file retention and retrieval processes are managed to enable information to be provided efficiently to authorised recipients. The UK Border Agency and Border Force accept the Inspector's (reiterated) recommendation over the need to improve paper file tracking and retrieval.

7.1 The Agency's previous File Tracking System was not sufficiently effective in tracking paper records (particularly as many units didn't have access to FTS or used their own

system for creating and numbering files, e.g. port files) and the Joint Approvals Committee (JAC) commissioned a replacement system. The new Records Management system (RMS) was developed with our contractors Iron Mountain UK, and rolled out across the Agency, Border Force and IPS in September/October 2012. The benefits we fully expect to see from RMS would therefore not have been realised during this inspection period.

7.2 The RMS allows the tracking of all bar-coded records in and around the Agency at all touch points including to individual officers, and back out to off-site storage. The system is web-based and available to all staff on the POISE desktop and over 7,000 users currently have accounts. The system identifies locations and individuals via their Adelphi cost centres so we can now hold cost centre owners to account for spend and non-compliance with record disciplines.

7.3 Overall the RMS gives us the opportunity to keep a far better eye on the whereabouts of our paper records and be compliant with the Data Protection Act and Public Records Act in relation to the storage and accessibility of customer information. This does however require everyone to use RMS and roll out has not been as fast as hoped.

7.4 With particular reference to the findings in the report, Border Force previously chose not to use FTS and their files were in effect invisible to the rest of the Agency until they were sent to another unit and/or offsite storage where they were then amalgamated with a HO file and made their 'real' appearance on the system. We have therefore used the introduction of RMS to mandate that all newly created port files are to be entered onto RMS and tracked using RMS. Senior managers have been asked to ensure compliance and help/onsite training is being offered. Clearly when the files move into the Border Casework² high standards of file discipline can be assured.

7.5 Given the number of files that we were unable to provide for this inspection, the Record Services Support Team has offered their support, in co-ordinating the retrieval of files for future ICI inspections. This would have the added benefit of highlighting any areas not currently operating the RMS properly and allow us to rectify data entry errors. Please let us know if you would like to set that process up (or at least trial it for the next relevant inspection).

7.6 One final associated point is that a project to reduce the amount of material kept on files has been commissioned. This will have the bonus of decreasing storage costs but also speed up the time taken to read a file e.g. in preparation for litigation or disclosure. We will use this opportunity to remind managers of their responsibilities generally over greater rigour around file quality and tracking.

² Following the decision to separate Border Force from the UK Border Agency last year, immigration casework, including the bulk of that related to the Border, sits with the Agency. Transfer of Heathrow and Gatwick casework units from Border Force to the Agency took place on 3 December 2012 and by end of March the national model will be designed and ready for implementation.