



Inspection of the UK Border Agency in Scotland and Northern Ireland: Countering Abuse of the Common Travel Area

August 2010 – December 2010

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Independent Chief Inspector of the UK Border Agency

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Foreword from John Vine CBE QPM



This inspection assessed how the Scotland and Northern Ireland region of the UK Border Agency was working to counter abuse of the Common Travel Area. It forms part of a wider inspection which also includes the Agency's border operations and representation at first-tier appeals in Scotland.

The United Kingdom, Channel Islands, Isle of Man and Republic of Ireland collectively form a Common Travel Area (CTA). When a person has been given permission to enter one part of the CTA, they have free movement to all other parts within it. However, this freedom of movement can be exploited, as people take advantage of the lack of border controls to transit illegally between the United Kingdom and the Republic of Ireland. Such activity is particularly evident on the sea routes between Northern Ireland and Western Scotland. This inspection examines how the UK Border Agency is managing the risks on these routes.

The current operation to counter abuse of the CTA, known as Operation Gull, successfully detects and identifies immigration offenders. However, given the risks associated with the CTA, I am concerned at the limited assessments of the existing routes between Northern Ireland and Great Britain: staff regularly prioritise their activity and resources on information that is more than two years old.

Additionally, greater internal collaboration between UK Border Agency staff is needed. During this inspection, we observed two Agency teams operating at the same port however neither was aware of the other's presence until they arrived. Even then, both operations continued independently, resulting in confusion for arriving passengers. A more coherent approach to identifying and dealing with the exploitation and improved assessment of risks is required.

Finally, I am also concerned that staff lack confidence in the legality of the powers they are using to counter abuse of the CTA. The UK Border Agency must be satisfied that the practices it employs are legally robust and reassure staff accordingly.

Overall, the Agency needs to improve its operations in controlling the CTA, through improved risk assessments, guidance and policy.

I have set out my findings and made six recommendations which I believe will strengthen the UK Border Agency's operations in Scotland and Northern Ireland to counter abuse of the Common Travel Area.

A handwritten signature in black ink that reads 'John Vine' followed by a period.

John Vine CBE QPM
Independent Chief Inspector of the UK Border Agency

1. Executive Summary

1. This inspection of the Common Travel Area (CTA) examined how the Scotland and Northern Ireland region of the UK Border Agency was managing the risks associated with the CTA in order to effectively tackle any abuse.
2. Despite the UK Border Agency finding on average that immigration offending was 2.9% within the CTA, compared to 0.2% for the whole of the UK, there were no specific objectives or performance measures for the Scotland and Northern Ireland region. There was no evidence that the region had a clear plan of what it wanted to achieve from the resources employed to combat abuse of the CTA.
3. The recording of information relating to immigration offences committed in the CTA was limited and inaccurate. The UK Border Agency was unable to tell us how many offenders who were granted temporary release¹ with instructions to report to the Glasgow Reporting Centre, had complied. The Agency was also unable to tell us whether any of the offenders who failed to report had been recorded as absconders and their details circulated on the relevant information systems, for example, the Police National Computer.
4. Some progress has been made in developing guidance for the control of CTA routes, but this was largely geared to Border Force operations. The guidance does not yet adequately consider or incorporate the requirements of other staff in the UK Border Agency, for example, enforcement team operations in Immigration Group.
5. Operationally, we observed similar separation when we witnessed an enforcement team's operation at Belfast City Airport. Border Force staff were working at the same location carrying out detection duties but no joint planning had taken place. Greater internal collaboration is required at all levels.
6. Another example of this lack of collaboration is the production of a Threat Assessment and Problem Profile by Border Force intelligence staff. These documents outline detailed information that has been recorded by Border Force. In contrast, the first assessment of risk carried out by Immigration Group since 2004 was done in July 2010. The information obtained from this risk assessment had not been shared with Border Force colleagues.
7. We found that Immigration Group within the region relied too heavily on historical information, for example, staff deployment is based primarily on previous results. There was no assessment of the risks of other routes that could be used to gain access to the various parts of the CTA.
8. There were good working relationships with external stakeholders, in particular, the Garda from the Republic of Ireland. The UK Border Agency has staff seconded to work with the Garda, sharing information and conducting intelligence and routine checks on behalf of both organisations. There was also evidence of joint operations.

¹ A person who is liable to detention under the powers in the Immigration Acts may, as an alternative to detention, be granted temporary admission or release on restrictions.

9. In contrast, the relationship with Dumfries and Galloway Constabulary was less successful. Dumfries and Galloway Constabulary is a vital partner in combating abuse on the sea routes between Northern Ireland and Scotland. Following the withdrawal of Agency funding for three police officers seconded from Dumfries and Galloway Constabulary to the Agency, the relationship has become strained. This could lead to an increased risk of immigration offenders travelling on the sea routes between Northern Ireland and Great Britain not being identified.
10. Belfast Local Immigration Team runs an operation to identify immigration offenders taking advantage of the lack of controls on the Irish land border between the Republic of Ireland and the United Kingdom. This operation successfully identifies immigration offenders. However, we found a lack of specific guidance for staff and uncertainty over how the legal powers used were being interpreted.
11. We also had concerns regarding the procedures used in Operation Gull, the operation to counter abuse of the CTA. Identification and initial questioning was carried out on all air passengers on any checked routes. On sea routes, we observed only foot passengers were subject to the same questioning. Staff informed us that they were reluctant to examine vehicle passengers as the UK Border Agency would then have responsibility for dealing with the vehicle. There is also a lack of guidance to support the use of discretion by UK Border Agency staff.
12. We did not find any specific evidence of the unfair treatment of any individuals. Examination of complaints revealed that no specific complaints had been made by passengers at the ports we visited, with the port operators also receiving no complaints. However, our findings within the main body of the report suggest there is a risk of complaints or challenges being made against the UK Border Agency regarding the operations currently underway.

2. Summary of Recommendations

We recommend that the UK Border Agency:

1. Sets specific aims and objectives for controlling abuse of the CTA, ensuring adequate information is recorded to enable detailed analysis of immigration offences.
2. Develops processes to ensure that all offenders given temporary release are monitored and accounted for.
3. Improves joint working and co-ordination between Border Force and Immigration Group in the scoping of risk and threat assessment, sharing policy and guidance and the planning of joint operations.
4. Develops a strong working relationship with Dumfries and Galloway Constabulary to tackle immigration offences and control the risks posed by the routes into and out of Stranraer and Cairnryan.
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 in a port environment.
6. Commences a process of regular risk and threat assessments for all routes into Northern Ireland.

3. The Inspection

3.1 The role of the Independent Chief Inspector of the UK Border Agency was established by the UK Borders Act 2007 to examine the efficiency and effectiveness of the UK Border Agency. The Border Citizenship and Immigration Act 2009 provided additional responsibilities for the Chief Inspector to inspect former customs functions and the work of the Agency's contractors.

3.2 The Chief Inspector is independent of the UK Border Agency and reports directly to the Home Secretary.

Purpose and Aim

3.3 To undertake an inspection of how UK Border Agency's Scotland and Northern Ireland region manages the risk to the integrity of the border presented by the Common Travel Area (CTA), by collecting evidence to measure the efficiency and effectiveness of the operations and compliance with relevant guidance and legislation.

Scope

3.4 The scope of the inspection was to assess:

- implementation of UK Border Agency Border Force policy and guidance governing the CTA;
- implementation of policy and guidance owned by Immigration Group when dealing with potential immigration offenders via the Republic of Ireland;
- joint working between Border Force and Immigration Group;
- the role of the Belfast Local Immigration Team (LIT) Operation Gull, an intelligence-led operation on domestic air and sea routes targeting the movement of potential immigration offenders between the UK and the Republic of Ireland;
- relationships with stakeholders and delivery partners, including the devolved administration of Northern Ireland;
 - in particular, liaison with the police Ports Unit at Stranraer/Cairnryan who deal with potential immigration offenders over the land border from the Republic of Ireland and by ferry to the UK;
- links with the Garda and UK Border Agency staff based in Dublin to assess the risk posed by the land border, including joint working and sharing of intelligence; and
- general treatment of passengers by UK Border Agency staff and in terms of profiling when travelling through the CTA.

Inspection Criteria

3.5 The inspection was carried out against a selection of the Independent Chief Inspector's Core Criteria² covering the following three themes:

- high level outcomes of the business;
- processes and procedures including quality of decision-making and consistency of approach; and
- impact on people subject to UK Border Agency services.

Further details about the Core Criteria are provided in Appendix 1.

² <http://icinspector.independent.gov.uk/inspections/inspection-programmes/>

Methodology

- 3.6 The onsite phase of the inspection took place between 1 November and 3 December 2010. A one day pre-inspection planning meeting was held onsite on 23 August 2010.
- 3.7 A range of methods were used during the inspection, including:
- considering evidence provided by the UK Border Agency;
 - consulting with a range of stakeholders (see Appendix 2);
 - conducting onsite work in Belfast, Stranraer and Glasgow;
 - observing officers from Belfast LIT conducting operations to counter abuse of the CTA; and
 - interviewing a variety of staff and conducting focus groups.
- 3.8 Nine days after the completion of the onsite phase of the inspection, the inspection team provided feedback on high level emerging findings to the UK Border Agency.
- 3.9 The inspection identified six recommendations for improvement to operational service delivery in countering abuse of the CTA in the Scotland and Northern Ireland region. A full summary of recommendations is provided on page five of this report.

4. Background

UK Border Agency structure

4.1 At the time of this inspection, the UK Border Agency was structured into seven business areas:

- Criminality and Detention Group;
- Intelligence Group;
- Immigration Group;
- Border Force;
- International Group;
- Corporate Services; and
- Strategy and Policy.

The majority of UK based staff work within either Immigration Group or Border Force.

4.2 Immigration Group has six regions in the UK. Within the Scotland and Northern Ireland region, Immigration Group teams are mainly office based in Glasgow and Belfast including:

- asylum case owners;
- presenting officers dealing with appeals;
- public enquiry offices and reporting centres;
- operational enforcement staff (also based in Aberdeen and Edinburgh); and
- the Senior Management Team and Secretariat.

4.3 Generally, Local Immigration Teams (LITs) bring together the range of UK Border Agency staff outlined above. However, the LIT structure has not been fully adopted in Scotland because the current operation of the Immigration Group already reflects the way in which a LIT is designed to operate.

4.4 The whole of Northern Ireland is covered by a single LIT which has been established over the last 18 months. This LIT amongst other enforcement functions, manages the risk to the integrity of the border presented by the Common Travel Area. Enforcement staff from Glasgow are responsible for managing the risks that exist at the ports of Stranraer and Cairnryan in Scotland.

4.5 Border Force (BF) is structured into three regions, which differ from Immigration Group's six regions. Both Scotland and Northern Ireland lie within BF North, the largest geographical Border Force region. BF North is responsible for border control operations and customs detection services at all air and sea ports for arrivals from abroad. Immigration Group is responsible for CTA passenger traffic across the Irish land border and journeys between Northern Ireland and Great Britain.

The Common Travel Area

4.6 The United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland collectively form a Common Travel Area. A person who has been examined for the purposes of immigration control at the point at which they enter any one of the four areas of the CTA does not normally require permission to enter any other part of the Area. However, certain persons subject to the Immigration (Control of Entry through the Republic of Ireland) Order 1972 (as amended) who enter the United Kingdom through the Republic of Ireland do require permission to enter. This includes:

- those who merely transited the Republic of Ireland en route to the UK;
 - persons requiring visas to enter the UK;
 - persons who entered or were in the Republic of Ireland unlawfully;
 - persons who are subject to directions given by the Secretary of State for their exclusion from the United Kingdom on the ground that their exclusion is conducive to the public good; and
 - persons who entered the Republic of Ireland from the United Kingdom and Islands after entering there unlawfully or overstaying their leave;
 - persons who have been refused entry to the UK and who have since not specifically been granted leave; and
 - persons who are the subject of a deportation order.
- 4.7 Immigration issues arising from the CTA can occur when a person meeting the Immigration Order 1972 (as amended) exploits the lack of formal controls to transit between the areas of the CTA. One significant route is the route between the Republic of Ireland and Great Britain, through Northern Ireland via the Irish land border.
- 4.8 During 2009, approximately 13.7 million passengers travelled between the UK and the Republic of Ireland by air and sea: 10.8 million by air³, and the remaining 2.9 million by sea⁴. Additionally, there were 5.7 million air passengers⁵ travelling between Northern Ireland and Great Britain and 2.2 million sea passengers⁶ between these destinations.
- 4.9 In 2009 (the last full year of data), Border Force recorded 388 immigration offences within the CTA. Between April 2009 and March 2010, Immigration Group recorded 487 offences related to its operations. Research by the Home Office and Border Force has shown that for 2008 and 2009 collectively, the detection rate for immigration offenders for the whole of the UK was approximately 0.2%. The same research showed that between 2004 and 2009, the average detection rate for the whole of the CTA was approximately 2.9%. During the same period, in Northern Ireland, which includes Belfast Docks, Belfast City Airport and Belfast International Airport, the detection rate was 5.6%.

Relevant Legislation

- 4.10 The CTA was purely an administrative arrangement until it was given statutory recognition in the UK under the Immigration Act 1971 and the Immigration (Control of Entry through the Republic of Ireland) Order 1972. Section 1(3) of the Immigration Act 1971 states that:
- “Arrival in and departure from the United Kingdom on a local journey from or to any of the islands (that is to say, the Channel Islands and Isle of Man) or the Republic of Ireland shall not be subject to control under this Act, nor shall a person require leave to enter the United Kingdom on so arriving, except in so far as any of those places is for any purpose excluded from this subsection under the powers conferred by this Act; and in this Act the United Kingdom and those places, or such of them as are not so excluded, are collectively referred to as ‘the common travel area’”.*
- 4.11 Despite the 1972 Order defining that travellers should not normally be subject of controls when travelling within the CTA, Paragraph 2(1) of Schedule 2 to the Immigration Act 1971 provides powers for the UK Border Agency to question people arriving in the United Kingdom to ascertain their immigration status.

3 http://www.caa.co.uk/docs/80/airport_data/2009Annual/Table_12_1_Intl_Air_Pax_Route_Analysis_2009.pdf

4 <http://www.dft.gov.uk/adobepdf/162469/221412/221658/228808/222300/seapassenger2009.pdf> – Table C

5 http://www.caa.co.uk/docs/80/airport_data/2009Annual/Table_12_2_Dom_Air_Pax_Route_Analysis_2009.pdf

6 <http://www.dft.gov.uk/adobepdf/162469/221412/221658/228808/222300/seapassenger2009.pdf> – Table D

- 4.12 This above section of the legislation applies to people who have arrived from outside the United Kingdom. For journeys between Northern Ireland and Great Britain, the journey is from another port within the United Kingdom. These domestic journeys are commonly known as ‘in-country’ movements.
- 4.13 The power used by the UK Border Agency to stop people on ‘in-country’ journeys is derived from the interpretation of the use of Paragraph 2(1) of Schedule 2 to the Immigration Act 1971 following a decision by the Divisional Court in the case of *Singh v Hammond* [1987] 1 All ER 829 (since confirmed by the Criminal Courts of Appeal in N.Ireland and England & Wales).
- 4.14 In this case, the appellant questioned if the UK Border Agency was entitled to use the powers in the 1971 Act to examine people other than on arrival from abroad. In addressing this, the Court held that:
- “An examination ... can properly be conducted by an immigration officer away from the place of entry and on a later date after the person subject of the examination has already entered, if the immigration officer has some information in his possession which causes him to inquire whether the person being examined is a British citizen, and, if not, whether he may enter the United Kingdom without leave, and, if not ... whether he should be given leave and on what conditions.”*
- 4.15 In relying on this judgement, the UK Border Agency only has authority to stop and question a person on an ‘in-country’ journey if they have information in their possession to suggest a person may not have permission to be in the UK.
- 4.16 In 2008, the then Immigration Minister commenced a consultation process on behalf of the government to tighten controls within the CTA. However, the required changes were not put before Parliament and at the time of this inspection, management of CTA routes continued as before.

Operation of the CTA

- 4.17 The control of movements within the CTA is managed in two ways as mentioned earlier: international journeys from the Republic of Ireland to Great Britain and ‘in-country’ journeys that provide onward transit routes to other parts of the CTA. Examples of these are as follows:
- international journey – a flight from Dublin to London, or a ferry from Dun Laoghaire to Holyhead;
 - in-country journey – a flight from Belfast City Airport to Manchester or a ferry from Belfast to Stranraer in Scotland.

In-country journeys can be used to connect passengers to road and rail networks for onward travel to other parts of the CTA. For example, flights from Great Britain into Belfast or the City of Derry airport can also be used to connect to the road and rail networks for onward travel to the Republic of Ireland. The reverse of these routes (from Republic of Ireland to Northern Ireland across the Irish land border then using a ferry or flight from Northern Ireland to return to Great Britain), would also constitute an in-country journey between Northern Ireland and Great Britain.

- 4.18 The control of immigration from international journeys between the Republic of Ireland and Great Britain is the responsibility of Border Force. A risk assessment of the route and passengers will typically take place to ascertain whether formal immigration controls should be exercised or not. Under Section 1(3) of the Act, not all international journeys are subject to border control checks.
- 4.19 In-country movements are the responsibility of the Immigration Group, specifically, enforcement teams within the Local Immigration Teams. In the Scotland and Northern Ireland region, immigration checks are conducted predominantly at the Port of Stranraer, under the responsibility of the enforcement team in Glasgow. In Belfast, the responsibility lies with the Local Immigration Team for Northern Ireland.

5. Inspection findings – High level outcomes of the business

Operational policies, priorities, and activity is driven by clear analysis of environment, risks, threats, capabilities and impact

- 5.1 We found that Border Force have created a CTA Project Team to develop standard operating procedures which will provide guidance to staff for dealing with flights / ferries from the Republic of Ireland. The documents will include:
- Standard Operating Procedures (in-country powers);
 - Standard Operating Procedures (border powers);
 - Frequently Asked Questions (in-country powers);
 - Frequently Asked Questions (border powers); and
 - Extracts from legislation.
- 5.2 In addition to these standard operating procedures, the project team have also produced a Problem Profile, a document which identifies the threats and risk of abuse of the CTA. The team are also developing an aide memoir to be used by UK Border Agency staff.
- 5.3 The development of the above documents is a positive step for the Agency. However, we were surprised to note that the guidance did not include instructions for in-country operations conducted by Immigration Group enforcement teams specifically to counter abuse of the CTA. This is in spite of attendance on the project team by a member of the Senior Management Team for the Scotland and Northern Ireland region.
- 5.4 We also found that the depth of analysis regarding the threats and risks to the CTA differed between Border Force and Immigration Group. This included the type of information used to form the basis of the analysis. Border Force produce detailed documents outlining the threats and risks posed by the CTA from their perspective. Within Immigration Group, we found that the inadequate recording of information hindered detailed and useful analysis, for example, databases were not being completed correctly and the accessibility of information was insufficient.
- 5.5 Border Force, through their National Intelligence Analysis Team, produced documents which detailed the threats and risks posed by the CTA. We were provided with the latest versions of these documents which focused on exploitation of the CTA for immigration offences and the illicit movement of commodities. They identify the known and potential routes used to exploit the CTA, the range of nationalities and the different methods used by offenders.
- 5.6 In contrast, the level of analysis and the volume of information used by the Immigration Group was limited. We found that due to the inadequate recording of information highlighted earlier, there was a reliance on information produced by the police. For example, the data used by the intelligence team at Glasgow to produce a monthly Tactical Assessment was drawn from data provided by the police at Stranraer. We also found that there was significant reliance on historic data. As a minimum, when analysing risk and deploying resources, we would expect the UK Border Agency to have their own information, using other sources, e.g. the police for corroboration or comparative analysis.

- 5.7 To emphasise this point, we found a perception amongst staff and stakeholders across the region that the Belfast to Stranraer ferry route and the Belfast City Airport to London airports were the most common routes exploited by immigration offenders. This perception is due to the low cost of these routes and accessibility to connecting services on to major cities. Another route, Larne to Cairnryan, is not considered to be such a high risk due to the lack of connecting services.
- 5.8 However, during the course of our inspection, we were informed that the current ferry terminal operated by the Stena Line ferry company at Stranraer is to close due to the development of a new £200m terminal approximately one mile away from the current P&O terminal at Cairnryan. The new terminal is due to open during autumn 2011⁷.
- 5.9 The change in location of this terminal will result in improved infrastructure, opening up transport links to both routes into Cairnryan; this could increase opportunities for offenders to consider the use of the route between Larne and Cairnryan. It was therefore disappointing to note that staff in Northern Ireland who carry out analysis of risk were unaware of the new development and analysis of future risks has not yet been considered.

Scoping of Risk

- 5.10 We found that the scoping of risks and intelligence gathering needed to be improved to ensure adequate information was available to combat abuse of the CTA.
- 5.11 Since 2004, testing of the routes between Belfast and Great Britain had only been carried out once to determine the risks and threats they posed. The enforcement team in Belfast was responsible for monitoring these routes.
- 5.12 The first risk assessment of air and sea routes was carried out in 2004. At that time, the ferry crossing that linked with buses which provided connections to Glasgow and London were identified as high risk. The cheapest flights between Belfast and London were also identified as high risk.
- 5.13 In June 2010, further testing of the routes was conducted and established that these risks still existed. However, there has been no assessment of other routes and no scoping of whether the enforcement activity on known routes has resulted in a dispersal effect, with offenders using other routes as a means to avoid detection.
- 5.14 Prioritising the routes where there are high numbers of detections results in ‘self-fulfilling’ intelligence, where the actions of the enforcement team and results derived from these actions drive future activity. For example, more emphasis placed on certain routes will produce higher results than other routes. As a consequence, statistically, these routes then show a higher risk. This may be correct, but there is also a need to ensure that other routes are not overlooked. Risk assessing different routes may require collaboration with other agencies, for example the police and internally with Border Force to ensure all relevant information available is analysed. The risk assessments of all routes should be conducted on a regular basis.
- 5.15 We also found information recorded was neither accurate nor in a form that enabled adequate analysis. The data inaccuracies could result in a knock-on effect on any subsequent use of that data.
- 5.16 We found it concerning that the UK Border Agency were unable to analyse the depth of immigration abuse to a sufficient level to determine the true scale of the problem. One example is that for the port of Stranraer, the UK Border Agency was unable to tell us how many immigration offenders had been identified at the port. We were informed that the ‘place’ where an immigration offender is detected is not routinely monitored. This was despite some offenders being arrested and others given temporary release. Of the offenders given temporary release, the UK Border Agency was unable to tell us how many subsequently reported at the reporting centre as instructed.

⁷ <http://www.stenaline.co.uk/ferry/media/news/news-100210-new-scottish-port/>

- 5.17 We were told that this information is not analysed and therefore, those who fail to report are not necessarily being recorded as absconders. Failure to record offenders as absconders means that they are unlikely to be identified as immigration offenders if they come into contact with other agencies in the future, for example, the police. The same applies for the UK Border Agency who will have to interrogate their databases to reveal an accurate status of the offender.
- 5.18 The current level of information being recorded and the subsequent impact on the analysis is unacceptable. The UK Border Agency is in a position where they do not know the number of immigration offenders who have been arrested but have failed to report. They are also not aware of the current location of these offenders. The failure to record sufficient information impacts on the ability to adequately assess the risks being posed by the routes within the CTA now and in the future. This is also deeply concerning given the evidence that is already available which shows the scale of abuse on these routes.
- 5.19 The inaccuracy of the data is also evidenced by the difference in the data recorded by the UK Border Agency and that of the police for detections at Stranraer. Between April 2008 and September 2010, the UK Border Agency recorded 29 people as failed asylum seekers, while Dumfries and Galloway Constabulary recorded 103 cases. This anomaly not only highlights the possible inaccuracies of the data recording systems, but also the lack of collaboration between the UK Border Agency and their stakeholders to ensure data is accurate.
- 5.20 All arrests and detections achieved by the LIT in Belfast should be recorded on a UK Border Agency database. We were told by staff that those offenders who have had papers served, for example, removal instructions, should additionally be recorded as arrested. However, we found that the information was not being recorded.
- 5.21 In the Tactical Assessment⁸ for October 2010, the intelligence team based in Glasgow had already identified this issue as a gap and proposed that additional data elements should be recorded. The proposal includes the following which are already recorded as minimum requirements:
- name;
 - date of birth;
 - nationality.
- 5.22 However, the intelligence team in Glasgow have also recommended that the following data should also be recorded:
- routes;
 - details of any possible facilitation⁹;
 - details of any organised crime group involvement.
- 5.23 Recording this extra information should help to identify any indication that alternative routes or methods are being used by immigration offenders. However, while the extra information is a positive step, the UK Border Agency will only benefit from the information if there are robust processes in place to ensure that the source data is recorded correctly, records are complete and that information is subject to quality assurance.

⁸ An assessment to enable informed resource allocation decisions based upon issues affecting the region.

⁹ Where a person or organised crime group provides the resources, e.g. tickets, forged documents or transport, for an immigration offender to avoid detection.

Business Plan

- 5.24 We found that the current business plan for the Scotland and Northern Ireland region does not include a specific priority for controlling abuse of the CTA. Other areas of business, for example, Asylum Casework or Appeals have specific priorities set for the current year. We were surprised that no specific measures were in place given the large number of immigration offenders encountered / identified in the region.
- 5.25 Currently, the CTA only features in the section relating to key partnerships, where it states “...to maintain and manage asylum intake levels at 2009/10 levels and control illegal migration within the Common Travel Area.”
- 5.26 Specific objectives should be explicit in the business plan given the potential large scale abuse of the CTA by passengers through ports at Stranraer, Cairnryan, Belfast and Larne, coupled with the volume of resources that are employed to combat the abuse. In our opinion, further detailed analysis is required to ensure that the abuse is being managed effectively. For example, accurate figures for the number of detections need to be recorded, in addition to the volume of checks carried out as a proportion to the total number of passenger movements. This will provide a current benchmark from which to set objectives and targets for the future.
- 5.27 Detailed analysis and target setting may enable better collaboration between Immigration Group and Border Force, ensuring that the UK Border Agency as a whole is equipped with sufficient information to manage the CTA efficiently and effectively.

We recommend that the UK Border Agency:

- sets specific aims and objectives for controlling abuse of the CTA, ensuring adequate information is recorded to enable detailed analysis of immigration offences;
- develops processes to ensure that all offenders given temporary release are monitored and accounted for;
- improves 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.

There is effective joint working with external and internal delivery partners, including enforcement and security agencies; and the links between Border Force and the Immigration Group

- 5.28 During the inspection, we interviewed a number of stakeholders regarding their relationship with the UK Border Agency. There was evidence of good working relationships between the Agency and some police forces and port operators.
- 5.29 We spoke to port operators from Larne, Belfast Docks, Londonderry Port and Warrenpoint who were content that they were kept informed of UK Border Agency operations that affected their ports. There was also evidence that the UK Border Agency was invited to and attended Transec Meetings held at ports. Transec Meetings are part of a transport security initiative covering all forms of transport in the United Kingdom, run by the Department of Transport which includes the requirement to hold security meetings twice a year.
- 5.30 We also found evidence of the UK Border Agency being an active part of the Cross Border Organised Crime Group. This group is jointly chaired by the Police Service of Northern Ireland and the Garda from the Republic of Ireland. Other UK stakeholders include HM Revenue and Customs, the Department of Justice, and the Serious Organised Crime Agency (SOCA), with the Irish Tax and Customs Office and the Department for Justice and Law Reform from the Republic of Ireland.

- 5.31 The 2010 assessment by the Cross Border Organised Crime Group¹⁰ showed the different types of crime evident across the border between the Republic of Ireland and Northern Ireland. This included the movement of commodities, money laundering, vehicle crime and organised immigration crimes. The report specifically highlighted the risk of abuse of the CTA, stating:
- “Ireland can be used as a back door to gain access to the United Kingdom and vice versa. Northern Ireland can be used to gain access from the United Kingdom into Ireland; both Northern Ireland and Ireland are also attractive final destinations as well as being used as transit routes.”*
- 5.32 In addition to being members of the Cross Border Organised Crime Group, we also found an excellent working relationship between the UK Border Agency and the Garda National Immigration Bureau (GNIB) based in Dublin.
- 5.33 The UK Border Agency has had staff seconded to work in the GNIB since 2004 as CTA liaison officers to combat abuse of the CTA. The need for these roles is highlighted by the significant increase in the number of asylum seekers within the Republic of Ireland. There has also been a significant increase in the transient population within the Republic of Ireland. In 1992, the number of people claiming asylum was 32; by 1999, this figure had increased to over 10,000 but by 2010 had reduced again to 1940. In a similar period, passenger numbers for Dublin Airport increased from 5 million per year in 1992, to approximately 23 million per year by 2008¹¹.
- 5.34 The seconded officers act as a liaison point to conduct checks of UK Border Agency data for both UK Border Agency staff and also Garda staff when a person is suspected of trying to exploit the CTA. People apply for an Irish Visa which allows them entry into the Republic of Ireland, and subsequently under the ‘free movement’ principle of the CTA, entry into the United Kingdom. We were told that some people will also try and claim asylum separately in both countries in order to gain social welfare in each country.
- 5.35 We were provided with reports from the liaison officers. One example showed that for the month of September 2010, 399 checks were carried out by liaison officers for the agencies outlined in Figure 1 below.

Figure 1: Number of checks of people on behalf of organisations by the CTA Liaison Officers

Organisation	No. of Checks
UK Border Agency – Immigration Group	38
UK Border Agency – Border Force	6
UK Border Agency – International Group	11
Police	6
UK Managed Migration	9
Garda National Immigration Bureau	37
Irish Naturalisation and Immigration Service	284
Other	8
Total	399

10 <http://www.octf.gov.uk/getattachment/7029767f-4016-4cee-bf71-3d7b13c4db37/Cross-border-crime-assessment-2010.aspx>

11 <http://www.dublinairport.com/gns/about-us/statistics.aspx>

- 5.36 These checks resulted in the following achievements:
- removal of 28 illegal immigrants from the UK, including 13 failed asylum seekers;
 - removals of three failed asylum seekers from the Republic of Ireland;
 - identification of 34 Irish visa applicants with adverse data held in the UK;
 - refused entry / denial of boarding of seven people at Dublin Airport;
 - identification of three suspected facilitators.
- 5.37 In addition to the above, the Irish Social Services have recorded savings of 15.5 million euros in the six year period since the UK Border Agency has had officers seconded to the GNIB because of the immigration work conducted by all agencies combating abuse of the CTA. The UK Border Agency had no information available regarding the savings achieved for the United Kingdom from this initiative.
- 5.38 Given the results set out above, we were surprised to find that the current staff seconded to the CTA liaison posts are due to leave their roles in June 2011 without plans to continue the post or provide alternative arrangements which would provide comparative benefits. We believe that if the UK Border Agency is posting staff in Dublin, they should be in a position to state the value and benefits of the postings. Following this inspection, we were informed that value for money options were being considered regarding these posts, however, no evidence of this was provided to us at the time of inspection.

Ports of Stranraer and Cairnryan

- 5.39 Whilst we found evidence of a good relationship between the UK Border Agency and police forces in both Northern Ireland and the Republic of Ireland, we found that the relationship with Dumfries and Galloway Constabulary had become strained.
- 5.40 Dumfries and Galloway Constabulary are responsible for policing the ports of Cairnryan and Stranraer, two key routes into Great Britain from Northern Ireland. The scale of their permanent presence at these ports is a result of the terrorist activity originating from Northern Ireland.
- 5.41 Stranraer and Cairnryan have also been identified as a common route for illegal travellers transiting between Great Britain and Northern Ireland, some with a view to further travel to the Republic of Ireland. Statistics provided by Dumfries and Galloway Constabulary in Figure 2 below show the number of arrests for immigration offences over the last six years.

Figure 2: Number of Immigration Offenders Identified at Stranraer and Cairnryan

Year	No. of Arrests
2004	117
2005	304
2006	323
2007	262
2008	239
2009	185

- 5.42 Prior to 2006, UK Border Agency Immigration Group staff attended Stranraer and Cairnryan ports on an ad hoc basis to work alongside the Ports Policing Unit of Dumfries and Galloway Constabulary to identify immigration offenders. However, despite the large number of offenders being identified, the UK Border Agency did not consider this to be an effective use of resources. Instead, the UK Border Agency agreed to fund three police officers to identify immigration offenders and funding commenced in July 2006.

- 5.43 In July 2010, however, the UK Border Agency decided not to renew the funding when the agreement expired. The initial agreement was for funding to remain in place until the end of March 2011, however, funding was withdrawn early in November 2010.
- 5.44 The rationale for the withdrawal in funding for the officers was that the roles did not meet the aim set out for seconded police officers to the UK Border Agency. Seconded police officers are intended to *“be an important part of level 2 crime capability in the UK and to deliver skill transference to Immigration Officer staff to build on the UK Border Agency capability”*¹². Therefore, a decision was made by the Criminology and Detention Group to cease the funding.
- 5.45 The withdrawal of funding has left no permanent UK Border Agency presence at the Ports of Stranraer and Cairnryan and has placed reliance on the police to refer all potential immigration offenders to the UK Border Agency.
- 5.46 When the police identify a potential immigration offender, the offender is assessed against a scale for their potential to cause harm to the public. Depending on the outcome of this assessment, the police will be instructed to arrest the individual or give them temporary release.
- 5.47 At the time of the inspection, we were informed that when a person is arrested by the police, the interview for immigration offences is conducted by the police and not the UK Border Agency. As a result of this, there is a need for both the UK Border Agency and the police to share or exchange accurate information about alleged immigration offenders.
- 5.48 However, we were provided with evidence of incorrect information being passed to the Dumfries and Galloway Constabulary by the UK Border Agency. The incorrect information relates to the status checks being conducted by the UK Border Agency on behalf of the police. One impact of incorrect information is a potential claim for wrongful arrest. The police have identified seven such cases. The following case study highlights this issue.

Figure 3: Case study – Immigration Arrest by Dumfries and Galloway Constabulary

The subject:

- a male arrived at Stranraer and was identified as a potential immigration offender by Dumfries and Galloway Constabulary.

Police and UK Border Agency actions:

- police contacted the UK Border Agency Command and Control Unit (CCU) to ascertain the status of the individual.
- police were advised by the CCU that the person was an overstayer and had no leave to remain. They were instructed to arrest the individual to enable the UK Border Agency Glasgow office to conduct further enquiries the following day.
- checks the following day revealed the man had an outstanding appeal yet to be heard and that he had leave to remain in the UK.
- police were instructed to release him with no further action.

Outcome:

- man held in custody for almost 14 hours; potential for a claim for wrongful arrest.

- 5.49 The risk of wrongful arrest has already been evidenced by a claim by a passenger at Stranraer that is currently being pursued through the courts.

¹² Level 2 Crime is cross border crime affecting more than one area within a police force, affecting another police force or relating to regional crime activity usually requiring additional resources

- 5.50 We found examples of a lack of co-operation between the UK Border Agency and Dumfries and Galloway Constabulary. While police have responsibility for dealing with offenders, this inspection has found evidence that there is a significant risk to the security of the UK border from people exploiting the Irish land border and routes between Northern Ireland and the ports of Stranraer and Cairnryan. An effective working relationship is absolutely essential in addressing this risk.
- 5.51 The UK Border Agency have plans to increase the volume of immigration checks in Northern Ireland, carrying out checks on embarking and disembarking passengers using intelligence-led and risk based tactics to ensure it complies with current legislation. Through this new approach, the UK Border Agency aims to reduce the burden placed on Dumfries and Galloway Constabulary.
- 5.52 However, we are of the opinion that when the increase in checks in Northern Ireland takes place, not all passengers will be subject to examination. There remains a possibility that the Ports Unit of Dumfries and Galloway Constabulary will continue to identify a proportion of immigration offenders using these routes.

We recommend that the UK Border Agency:

- Develops a strong working relationship with Dumfries and Galloway Constabulary to tackle immigration offences and control the risks posed by the routes into and out of Stranraer and Cairnryan.

6. Inspection Findings – Processes and procedures including quality of decision making and consistency of approach

Specific Criteria

- Objective criteria based on evidence are applied consistently and transparently, without unjustified/unauthorized adverse impact on any nationality/ethnic group
- Decisions are made clearly based on all of the evidence and in accordance with current statutory requirements, published policy, guidance and procedures

Countering abuse of the CTA

- 6.1 Countering abuse of the CTA in Northern Ireland is the responsibility of the Local Immigration Team in Belfast. The enforcement operation, which goes under the codename of Operation Gull, pays particular attention to the routes between Great Britain and Belfast and also the land border between Northern Ireland and the Republic of Ireland.
- 6.2 Documentary evidence obtained showed that the enforcement team plan 10 operational days each month to counter abuse of the CTA. The remainder of their time is dedicated to other enforcement activity, for example, identifying and arresting those involved in illegal working activities.
- 6.3 Intelligence-led operations to identify immigration offenders are run on an ad hoc basis on the land border between the Republic of Ireland and Northern Ireland. These operations are done in conjunction with the Garda and other agencies, for example, Irish Social Services from the Republic of Ireland. We also saw evidence that this multi-agency approach to the operations was conducted on operations in Belfast.

Figure 4 below shows the number of identifications of immigration offenders for 2009.

Period	No. of Identifications
2008 – 2009	738
2009 – 2010	487

- 6.4 The enforcement operation monitors in-country journeys and relies on the power in paragraph 2(1) Schedule 2 of the Immigration Act 1971 as interpreted by *Singh v Hammond* as the basis for their operations.
- 6.5 The *Singh v Hammond* judgement (*Singh v Hammond* [1987] 1 All ER 829) came about as a result of a challenge against the use of powers assigned by Paragraph 2(1) of Schedule 2 to the Immigration Act 1971 which allows the UK Border Agency to stop and examine any person upon arrival at a port. The challenge in this case was because the examination was undertaken in a place other than a port. The judge in the case deemed it acceptable for the UK Border Agency to use the powers of Paragraph 2(1) of Schedule 2 to the Immigration Act 1971 where the UK Border Agency has information in its possession which causes it to enquire whether the person being examined is an immigration offender.

- 6.6 Further challenges have since been made to this decision. One case brought by an appellant included a challenge to the powers which had been used to stop and question him. This case, known as the *Emmanson case* is still yet to conclude as further challenges have been made against the High Court's decision to uphold the case. Nevertheless, it demonstrates the risks that exist to the UK Border Agency in exercising the current powers.
- 6.7 Prior to February 2010, not all passengers were checked during the running of an operation. UK Border Agency staff would try to identify offenders and request identification. Using this approach, there was a risk that the UK Border Agency could contravene discrimination legislation by singling people out for questioning.
- 6.8 Since February 2010, in order to reduce the risk of unlawful discrimination against passengers and to provide consistent application of the operation, all passengers from selected flights at the Belfast airports are checked. For ferry crossings, all foot passengers are checked. Operational Orders which define how the operation will be executed state that all passengers from selected ferries and flights will be invited to provide identification to UK Border Agency staff. We were provided with a copy of the order relevant to the operation that we observed.
- 6.9 However, in the case of airline passengers, we observed that the UK Border Agency were only able to ensure all passengers on arriving flights were checked. This was achieved by UK Border Agency staff taking position in the arrivals hall. For departing passengers, the team stood near the departure gate at a time when they believed passengers would be checking in and heading to the gate. Therefore, there was no guarantee that all passengers on relevant flights would be checked.
- 6.10 During the inspection, we observed staff from Belfast performing duties on an operation at Belfast City Airport and also at the Stena Line Ferry Terminal at Belfast. At Belfast City Airport, we observed the enforcement team briefing which informed staff about the process of the operation and which flights and ferry crossings would be subject to checks that day.
- 6.11 We observed the arrival of a flight from London Heathrow into Belfast City Airport. The enforcement team were positioned in the arrivals hall either side of the exit route from the baggage reclaim area. All passengers were asked to produce identification.
- 6.12 The same applied for departing passengers. UK Border Agency staff stood just before the airport security gate which leads to the departure lounge. All passengers were checked and none were allowed through without being asked to produce identification.
- 6.13 In the ferry terminal, we observed that only foot passengers were subject to checks, on both departing and arriving ferries. All foot passengers were checked by the UK Border Agency. We did not observe any checks of drivers and passengers boarding or disembarking the ferries in vehicles. Whilst what we observed appeared to be effective, the way the operation was executed raises concerns – as set out below.
- 6.14 UK Border Agency staff informed us that they were reluctant to arrest an offender in a car, as then the Agency would have responsibility for dealing with the vehicle and the associated administrative processes. They stated that immigration offenders tend to be foot passengers because the cost of travelling this way is far cheaper than taking a car. No data was available to back up this claim.
- 6.15 We believe this approach could result in the UK Border Agency missing immigration offenders who are using the services of facilitators to assist their travels. Facilitators are often part of organised crime groups who have far more resources than the offenders themselves. They are also more aware of opportunities or weaknesses in the processes operated by the UK Border Agency.

- 6.16 The Cross-Border Organised Crime Assessment 2010 referred to earlier in this report has identified the use of facilitation for ‘Organised Immigration Crime’. The Assessment states that facilitation includes “*the organising of a transportation route for a fee*”. It goes on to say that cases of facilitation have been investigated in Northern Ireland and the Republic of Ireland and “*there is often a cross border element*”
- 6.17 It is of concern that the UK Border Agency is employing differing tactics for passengers depending on their mode of embarkation or disembarkation to the ferry, according to their assumption that only foot passengers are likely to be committing immigration offences. We were informed that one factor in not stopping vehicles is the health and safety risk to staff making the stops due to there being no facilities to control the movements of vehicles within the port environment. However, these factors have been overcome at other ports where the UK Border Agency operates. We are therefore concerned that the decision not to stop vehicular passengers is partly based upon potential administrative burdens instead of consideration to the security of the border.
- 6.18 A second concern regarded passengers who were stopped but who did not have any photographic identification. In these cases, we were told by staff that they could use discretion depending on the demeanour of the individual and their response to additional questions. This use of discretion without specific guidance can result in some passengers being treated differently to others. We refer to lack of guidance in more detail in paragraph 6.30.
- 6.19 We also had reservations about the way the operation was carried out and whether the powers being used were within the spirit of the *Singh v Hammond* judgement. There was no specific intelligence about any individual on the routes for the flights or ferry crossings we observed. The only information the Agency had was that this route had previously produced positive results. We considered that the way that staff had positioned themselves in the airport was as if they were operating a temporary border control.
- 6.20 When the UK Border Agency is working on joint operations with the police, the police, using their powers under the Terrorism Act 2000, can stop and question any person. During these joint operations with the Agency, the police will ask basic questions about a person’s immigration status and if the police believe further questioning may be necessary, they will refer the person to the Agency. In these cases, it is clear that the immigration officer possesses information which would cause him/her to examine the person according to the *Singh v Hammond* judgement.
- 6.21 We examined the policy and guidance available to staff when running an operation on CTA routes in respect of the above concerns.
- 6.22 There was no specific guidance for this type of operation. All policies and procedures are generic and are based on other enforcement activity. Enforcement Instructions and Guidance¹³ sets out the circumstances in which the power in paragraph 2(1) schedule 2 of the Immigration Act 1971 to stop and question people can be used. This is based on the case of *Singh v Hammond* which the guidance refers to. There is a specific section of guidance dedicated to this judgement for crime and street operations where members of the public are stopped in-country. The guidance does not extend to how it can and should be used in a port environment on CTA routes.
- 6.23 However, we were told that the CTA Project Team, a project run by Border Force, is currently developing this guidance. We were provided with a copy of guidance entitled “*Common Travel Area – National Standard Operating Procedure – Immigration Checks and Embarkation Checks on Passengers Travelling Within the Common Travel Area.*” The document sets out the use of the *Singh v Hammond* judgement and provides guidance on what constitutes ‘reasonable suspicion’.

¹³ An electronic series of manuals for UK Border Agency staff providing guidance, policy and instruction on all areas of enforcement.

- 6.24 The term ‘reasonable suspicion’ is used throughout the UK Border Agency guidance as the grounds for stopping passengers relying on the *Singh v Hammond* judgement. However, this is not a statement used in the legal judgement of the case. The guidance sets out the use of statutory power to stop and question people, taking into account the *Singh v Hammond* judgment, and provides guidance on what constitutes ‘reasonable suspicion’.
- 6.25 In addition to the guidance being developed by Border Force, we found guidance relating to Caution Plus 2 which is found within the Enforcement Guidance and Instructions. Caution Plus 2 is a caution used by an Immigration Officer exercising administrative powers. Administrative powers are separate from the criminal powers an immigration officer holds and are for dealing with specific offences. Administrative powers are used for immigration offences where the objective is to remove a person from the UK.
- 6.26 Caution Plus 2 is a combination of the criminal caution given by numerous law enforcement agencies:
- “You do not have to say anything but it may harm your defence if you do not mention, when questioned, something which you later rely on in court. Anything you do say may be given in evidence”.*
- The ‘Plus 2’ element relates to the administrative aspect of the questioning by adding the following two statements:
- “(i) you are not under arrest; and (ii) you are free to leave at any time”*
- 6.27 The ‘Plus 2’ element ensures that the UK Border Agency is operating within the confines of Article 5 of the Human Rights Act and that no passengers are unlawfully deprived of their liberty. It clearly indicates that the stop and questioning is voluntary and that the person is not under arrest. During our observation, we witnessed some passengers being taken aside for additional questioning, however we did not witness any of the passengers taking advantage of the Plus 2 element of the caution and refusing to answer questions.
- 6.28 All staff were aware of this guidance and informed us that this, coupled with the guidance on the *Singh v Hammond* judgement, was the only guidance available to them for running this kind of operation. As a result, staff at various grades within the enforcement team expressed a lack of confidence in the powers they were using. They felt that the lack of knowledge amongst the travelling public was a significant factor in the low number of challenges made against their operations.
- 6.29 We also found no evidence of any guidance to support the discretionary option available to staff when passengers are not carrying sufficient identification. Without specific instructions, there is a risk that the UK Border Agency will have inconsistent approaches to dealing with this issue and could subject itself to the risk of challenges under discrimination legislation by stopping some passengers and not others despite the general intelligence being the same for all passengers.
- 6.30 In view of the lack of clear guidance to support the running of Operation Gull, we believe that part of the success of the operation was due to the compliant nature of the passengers. The UK Border Agency should satisfy itself that the current exercise of the operation is wholly within the spirit of the *Singh v Hammond* judgement. We therefore recommend that the UK Border Agency considers what constitutes sufficient information for the purposes of relying on *Singh v Hammond* and satisfies itself that potential challenges can be met.

We recommend that the UK Border Agency:

- 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.
- Commences a process of regular risk and threat assessments for all routes into Northern Ireland.

7. Inspection Findings – Impact on people subject to UK Border Agency services

The needs of those travelling and trading are properly balanced with the need to protect the security of the Border

- 7.1 As mentioned earlier, prior to February 2010, the operation to counter abuse of the CTA did not stop all passengers and UK Border Agency staff were selective regarding who they stopped for examination of their status for entry into the United Kingdom. During this period, at least four identifications resulted in a judicial review of the UK Border Agency's intervention and subsequent action against people. The UK Border Agency was unable to provide information about the exact number of judicial reviews prior to February 2010.
- 7.2 However, since February 2010, the change in process, which now results in all relevant passengers being stopped, has not resulted in any judicial reviews being lodged. While this is positive for the UK Border Agency in terms of the reduction of challenges made to their operations and decisions, we found areas where the operations could be improved further.
- 7.3 When the Belfast Local Immigration Team (LIT) enforcement team were conducting an operation, we observed that insufficient information was provided to passengers.
- 7.4 Passengers making in-country journeys are aware, either through their own knowledge or through information from ferry or airline companies that passports are not required because there is no border control in place for these types of journeys. As a result, they may not be expecting to be confronted by UK Border Agency staff wishing to see photographic identification. We observed a number of operations being conducted at the airport and ferry terminals, on both inbound and outbound flights and ferry crossings. In all cases, no information was given in advance to passengers alerting them that identification checks were being conducted.
- 7.5 We observed first hand the negative impact this had on a large number of passengers. For example, at Belfast City Airport, passengers who had checked in for their flight had shown their identification and travel documents to the airline check-in staff. On arrival at the security gate for departing passengers, Belfast LIT enforcement teams would ask again for identification. We observed a number of passengers having to stop and search their bags in order to retrieve the documentation again. When a number of passengers had been requested to do this, the delay had a knock-on effect resulting in passengers being inconvenienced.
- 7.6 A similar situation occurred when the enforcement team were checking arriving passengers. Most people were not aware that checks were being conducted with the result of a concertina effect in the arrivals hall, delaying the journeys of these travellers.
- 7.7 We believe that the UK Border Agency should better inform passengers that checks are taking place. This will ensure that the passengers are prepared and therefore minimise the impact on their journey.
- 7.8 The scenario within the arrivals hall was exacerbated by the presence of Border Force staff who were carrying out detection duties for flights arriving from destinations within the CTA where the journey had originated outside the CTA. Special Branch police officers were also in attendance conducting their own checks.

- 7.9 On this occasion, we observed chaotic scenes with passengers unsure where to go first: the Belfast LIT enforcement team, the Border Force detection staff or the police. People who had their bags checked as well as their identification were effectively seen twice by the UK Border Agency. We were informed by the staff from the Belfast LIT, Border Force and the police, who were also in attendance, that this scenario is not rare and it was common for Border Force staff to be present when the Belfast LIT were running operations to counter abuse of the CTA.
- 7.10 We were informed by both the Belfast LIT and Border Force teams that there is no joint planning or coordination of these different operations. Neither team knows that the others are there until they arrive at the airport. This is clear evidence of the lack of collaboration and communication between Immigration Group and Border Force. As we have stated earlier, greater collaboration is required in assessing the risks and threats posed by the CTA and in the execution of the operations.
- 7.11 In order to consider the level of discontent amongst passengers, we examined the process for dealing with complaints made by passengers. We were informed that if a passenger wishes to make a complaint at that time, they are referred to the Chief Immigration Officer (CIO) leading the operation on that particular day. We were subsequently informed that complaints are dealt with verbally. We also observed that within the arrival halls at Belfast City Airport and the Stena Line Ferry terminal, there was no information available for passengers on how to make a complaint.
- 7.12 This verbal resolution to complaints by the CIO is part of the UK Border Agency's guidance for dealing with complaints. However, the guidance states that a record of these complaints should be maintained. In the cases of verbal complaints made to the CIO, there was no information regarding the volume or types of complaints received and how they were resolved. The Independent Chief Inspector has already examined the complaints procedures in his report "*Lessons to learn: UK Border Agency's handling of complaints and MPs' correspondence*"¹⁴.
- 7.13 In addition to checking for the number of complaints against the UK Border Agency or their operations regarding CTA, We also asked the port operators for the number of complaints related to the UK Border Agency which they may have received and were pleased to note that none of the ports had received any such complaints.

¹⁴ http://icinspector.independent.gov.uk/wp-content/uploads/2010/07/Lessons-to-learn_The-UK-Border-Agency's-handling-of-complaints-and-MPs-correspondence.pdf, published 7 July 2010.

Appendix 1

Inspection Framework and Core Criteria

The criteria used in this inspection were taken from the Independent Chief Inspector's Core Inspection Criteria. They are shown below.

Section 1 – High level outcomes of the business

1.1 General Criterion: The borders are secured and immigration is controlled for the benefit of the country. The specific criteria are;

Specific criterion:

- 1.1 (b) Operational policies, priorities, and activity is driven by clear analysis of environment, risks, threats, capabilities and impact
- 1.1(c) There is effective joint working with external and internal delivery partners, including enforcement and security agencies; and the links between Border Force and the Immigration Group

Section 2 – Processes and procedures including quality of decision making and consistency of approach

2.1 General Criterion: UKBA is compliant with equalities legislation and specific duties in relation to race and diversity.

Specific criterion:

- 2.1.(c) Objective criteria based on evidence are applied consistently and transparently, without unjustified/unauthorized adverse impact on any nationality/ethnic group

2.2 General Criterion: UKBA staff make lawful and reasonable decisions.

Specific criterion:

- 2.2(d) Decisions are made clearly based on all of the evidence and in accordance with current statutory requirements, published policy, guidance and procedures

Section 3 – Impact of people subject to UK Border Agency services

3.2 General Criterion: Facilities and services met the needs of the customers and are conducive to ensuring 'business' is progressed.

Specific criterion:

- 3.2(f) The needs of those travelling and trading are properly balanced with the need to protect the security of the Border

Appendix 2

List of stakeholders

During the inspection, we contacted and provided opportunities for comment to a wide variety of stakeholders, as listed below.

- British Air Transport Association
- Chief Constable of Dumfries and Galloway
- Counter Terrorism lead for the Association of Chief Police Officers
- Garda National Immigration Bureau
- HM Inspector of Constabulary Scotland
- Immigration Advisory Service
- International Organisation for Migration
- Immigration Services Union
- Joint Council For the Welfare Of Immigrants
- Justice Department
- Members of Parliament for Scotland
- Members of Legislative Assembly
- Northern Ireland Commissioner for Children and Young People
- Northern Ireland Human Rights Commission
- Northern Ireland Law Centre
- Northern Ireland Council for Ethnic Minorities
- Public and Commercial Services Union
- Port operators
- Police Service of Northern Ireland
- Refugee and Migrant Justice
- Scottish Immigration Law Practitioners' Association
- Scottish Legal Aid Board
- Scottish Refugee Council
- Serious Organised Crime Agency

Appendix 3

Glossary

Term	Description
A	
Absconder	A term used by the Agency to describe a person who the Agency has lost contact with, who has breached reporting restrictions or bail conditions and/or who they are unable to make contact with via their last known address.
Agency	Refers to the UK Border Agency
Allegation	An allegation is a piece of information which brings to the attention of the Agency a perceived breach of the immigration/visa system.
B	
Border Force	Part of the UK Border Agency, responsible for frontline operations at air, sea and rail ports.
C	
Command and Control Unit	UK Border Agency unit responsible for critical incident management.
Commodities	Drugs, cigarettes, money.
Common Travel Area (CTA)	Allows free movement between Britain, Ireland, the Isle of Man and the Channel Islands, subject to conditions set out in the Immigration Act 1971.
Complaint	Defined by the UK Border Agency as ‘any expression of dissatisfaction about the services provided by or for the UK Border Agency and/or about the professional conduct of UK Border Agency staff including contractors’.
Complaints management guidance	The formal UK Border Agency guidance for the management and handling of complaints
Customer	Defined by the UK Border Agency as anyone who uses the services of the Agency, including people seeking to enter the United Kingdom, people in detention and MPs.
D	
Detection	A function carried out by Border Force staff in the customs area (to detect the illicit trade or importation of illegal goods).
Director	Senior UK Border Agency manager, typically responsible for a directorate, region or operational business area.
E	
e-Borders	A multi-agency programme being delivered by the UK Border Agency in partnership with the police and the security and intelligence agencies. It focuses on the capture and analysis of passenger and crew data from carriers, in advance of movements into and out of the UK by air, sea and rail.
Enforcement Team	A team of UK Border Agency officers who conduct operations in the field such as visits to employers of illegal workers.

European Economic Area (EEA)	<p>The European Economic Area (EEA) was established on 1 January 1994 following an agreement between the member states of the European Free Trade Association (EFTA) and the European Community, later the European Union (EU).</p> <p>All European Economic Area (EEA) nationals enjoy free movement rights in the EEA. This means that they are not subject to the Immigration Rules and may come to the United Kingdom and reside here in accordance with the 2006 Regulations. They do not require permission from the UK Border Agency to enter or remain, nor do they require a document confirming their free movement status.</p>
H	
Harm Agenda	The scale against which the UK Border Agency prioritises which cases should be removed first, putting more resources into removing those who may cause more harm to the public such as foreign national prisoners.
Her Majesty's Inspector of Immigration (HMI)	The UK Border Agency senior manager primarily responsible for legacy immigration staff.
Home Office	The Home Office is the lead government department for immigration and passports, drugs policy, crime, counter-terrorism and police.
I	
Immigration Group	The directorate within the UK Border Agency which is responsible for asylum, enforcement and compliance and nationality.
Independent Chief Inspector of the UK Border Agency	The role of the Independent Chief Inspector of the UK Border Agency was established by the UK Borders Act 2007 to examine the efficiency and effectiveness of the UK Border Agency. The Chief Inspector is independent of the UK Border Agency and reports directly to the Home Secretary.
J	
Judicial Review (JR)	The means through which a person or people can ask a High Court Judge to review the lawfulness of public bodies' decisions.
L	
Local Immigration Team (LIT)	A LIT is a local team undertaking as many functions as practicable at a local level in a defined area within a region. They undertake key enforcement roles in their locality. LITs build on the work carried out by the best local enforcement offices but have a wider remit to encompass community engagement beyond enforcement.
N	
Non-visa nationals	A national or citizen of any country that is not listed on the UK Border Agency website (Appendix 1 of the Immigration Rules). A non-visa national does not need a visa to come to the United Kingdom for less than six months, unless it is a requirement of the immigration category under which they are entering. A non-visa national coming to the United Kingdom for more than six months will need a visa.
P	
Police National Computer (PNC)	The PNC holds details of people, vehicles, crimes and property that can be electronically accessed by the police and other criminal justice agencies.

R	
Race Relations Act 1976	An Act of Parliament established to prevent discrimination on the grounds of race.
Race Relations (Amendment) Act 2000	The Race Relations (Amendment) Act 2000 was an Act to extend further the application of the Race Relations Act 1976 to the police and other public authorities; to amend the exemption under that Act for acts done for the purpose of safeguarding national security; and for connected purposes. Section 19D sets out exceptions from section 19B for certain acts in immigration and nationality cases. Section 19B does not make it unlawful for a relevant person to discriminate against another person on grounds of nationality or ethnic or national origins in carrying out immigration and nationality functions.
Regional Director	Senior manager responsible for one of the six Immigration Group regions.
Removal	The process by which a person or person(s) voluntarily, through assistance or through enforcement by UK Border Agency staff, physically leaves the UK after a failed asylum application.
Reporting Centre	UK Border Agency office where people who are liable to detention by the Agency (for example, failed asylum seekers) are required to report on a regular basis.
S	
Strategic Threat Assessment (STA)	A document which describes and assesses the threats to the UK border from irregular migration, organised crime, terrorism and smuggling and considers how these threats might develop.
T	
Tasking and coordination group (TCG)	A system to prioritise threats, set objectives and plan resources and action at all levels of the organisation. In essence, a business process supported by intelligence.
Third country national	A person who is neither a British citizen nor a Commonwealth citizen with the right of abode, nor a person who is entitled to enter or remain in the United Kingdom by virtue of the provisions of the 2006 European Economic Area Regulations. Third country nationals therefore require leave to enter the United Kingdom.
U	
United Kingdom and Islands	The United Kingdom is made up of England, Scotland, Wales and Northern Ireland. The Channel Islands and the Isle of Man are not part of the United Kingdom. The geographical term 'British Isles' covers the United Kingdom, all of Ireland, the Channel Islands and the Isle of Man.
United Kingdom Border Agency (UKBA)	Executive agency of the Home Office responsible for border control, enforcing immigration and customs regulations.

V	
Visa Nationals	<p>Visa nationals are those who require a visa for every entry to the United Kingdom. A visa national is a national of a country listed on the UK Border Agency website (Appendix 1 of the Immigration Rules). Some visa nationals may pass through the United Kingdom on the way to another country without a visa, but in some circumstances they will require a direct airside visa or visitor in transit visa. Visa nationals must obtain entry clearance before travelling to the United Kingdom unless they are:</p> <ul style="list-style-type: none"> • returning residents; • those who have been given permission to stay in the United Kingdom and, after temporarily leaving the United Kingdom, return within the duration of that permission to stay; • school children resident in a European Union member state who are on an organised school trip from a general education school and accompanied by a teacher.
W	
Warning Index	A database of names available to the UK Border Agency for matters of national security.
Warning Index Control Unit (WICU)	A unit within the UK Border Agency responsible for updating and maintaining the Warning Index system.

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