



# **An investigation into border security checks**

February 2012



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

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By

John Vine CBE QPM

Independent Chief Inspector of the UK Border Agency

Presented to Parliament

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## **OVERALL FINDINGS AND CONCLUSIONS FROM JOHN VINE CBE QPM**

**INDEPENDENT CHIEF INSPECTOR OF THE  
UK BORDER AGENCY**

On 5 November 2011, I was commissioned by the Home Secretary to investigate and report on the level of checks operated at ports of entry to the UK. This followed the disclosure that some checks may have been suspended without the approval of Ministers and the subsequent suspension of the former Head of Border Force from the UK Border Agency. My investigation has sought to establish which checks were in operation, whether any of these were suspended and, if so, on whose authority, and if there has been a potential risk to border security caused by any relaxation of checks. It has also assessed management oversight, the accuracy of record keeping and whether improvements have taken place since November to ensure compliance with border security checks.

To ensure the thoroughness of the investigation, I attended 17 airports and seaports covering 22 terminals across the UK examining the records at each and conducting my own observations of staff carrying out border security checks. I also contacted a further 16 smaller ports. I assessed policy submissions, operational instructions, minutes of meetings and email correspondence from within the Agency and between the Agency and the Home Office, including Ministers and their offices. I interviewed the Home Secretary, the Immigration Minister, the Permanent Secretary at the Home Office, the current and former Chief Executives of the Agency, the former Head of Border Force, senior operational managers and front-line staff. I also met representatives of the British Airports Authority and trade unions. I received excellent co-operation throughout the investigation and I am grateful to all who gave up their time to be interviewed.

There is an urgent need to establish a new framework of border security checks. This should unambiguously specify the checks that must be carried out at all times and those where there is discretion to suspend checks based on risk or health and safety. There must be a shared understanding of any such discretion by Ministers, senior managers and front-line staff across all ports so any suspensions of checks are applied consistently and only when necessary. There must be greater clarity on the levels of authorisation required to suspend checks and when decisions require the explicit agreement of Ministers. Language and terminology must be precise in all policy proposals, responses from Ministers and operational guidance to prevent any misunderstanding by front-line staff.

Records must be kept which accurately set out the number of times checks are suspended and the reasons why. Ministers should be told of the suspension of checks so they are aware of what is happening at the border. If 100% checking at all times is the model that Ministers and the Agency decide upon, it requires a detailed

analysis of staff deployment at the border, how technology is used and how passenger queuing times can be managed without compromising security.

Overall, I found poor communication, poor managerial oversight and a lack of clarity about roles and responsibilities. There was no single framework setting out all potential border security checks, which of these could be suspended, in what circumstances and the level of authority required at Agency or Ministerial level to do so. There is a fundamental question of how free the Agency should be to decide its own operational priorities. These are important issues that need to be considered in order to define and agree the boundaries between the Home Office and the Agency.

There had been no attempt to incorporate the verification of fingerprints using Secure ID within the existing Home Office Warnings Index (WI) Policy. The purpose of the Secure ID check is to identify any passengers trying to enter the UK using a false identity and considerable public money had been spent on its introduction. Despite this, its implementation was hampered by the absence of an operating policy and associated guidance for staff. This led to different assumptions being made about whether, and, if so, in what circumstances, the check could be suspended. When it was introduced, there was no evidence to indicate whether decisions on its use or suspension should be made by the Agency or by Ministers. This lack of clarity continued until May 2011, when the Home Secretary stated that she did not want Secure ID to be suspended as part of a move to risk-based border checks. At that point there was no evidence that the Agency informed Ministers that Secure ID had been suspended in the past or secured approval for any subsequent suspensions.

Communications between the Agency and Ministers and between senior managers and operational staff was poor. There was a lack of clarity in the language used with consequent ambiguity when decisions were converted to operational practice. This was compounded by instructions to staff that did not always accurately reflect what Ministers had agreed. The number of suspensions, the precise reasons they occur, the level of authorisation necessary and the specific impact on both border security and on passenger clearance times must be absolutely clear.

The number of occasions when WI and Secure ID checks were suspended and risk-based measures invoked was affected by a number of factors including the volume of passengers arriving, the level of risk presented by them, the numbers of staff deployed and the infrastructure of ports affected. This was most apparent at Heathrow and Calais and resulted in more frequent suspension of checks at these ports. Any framework of border security checks must take account of these factors and there needs to be a clear understanding of how these policies will operate in practice.

Importantly, there was no clear understanding of when 'health and safety' was a ground for suspension, resulting in different assumptions as to the number of times checks might be suspended. While there was a consistent understanding that suspensions may be necessary for health and safety reasons, these occurred more frequently than the Agency's senior management and Ministers had assumed. In addition, there was no consistent understanding at senior management and

Ministerial level of when and why the length of passenger queues might constitute a health and safety issue.

Records showing the number of times border security checks were suspended and the reasons for these were maintained at all ports. However, the level of detail recorded differed, and there were significant discrepancies between the records maintained at individual ports and records maintained centrally by the Agency. Record-keeping showing the suspension of Secure ID checks was particularly poor. There was limited staff understanding at ports as to why accurate and detailed records needed to be maintained and how and whether the information would be used by the Agency to maintain management oversight, develop policy or change operational practice.

Despite regular visits by senior managers, there were insufficient enquiries undertaken to find out precisely what was happening at ports. No process was put in place to analyse the number of occasions and reasons why checks were suspended. There is nothing I have discovered which could not have been identified and addressed by senior managers exercising proper oversight.

I was particularly concerned to find one example of a local initiative operating at Heathrow under which border controls were relaxed and which had not undergone any scrutiny by more senior managers or Ministers. I found this to be potentially unlawful and it reinforces the need to clarify what local managers can and cannot authorise.

The risk to the border when checks were suspended needs to be kept in perspective. I found that the WI check which indicates whether a passenger has previously committed a terrorist, criminal or immigration offence or is of interest to law enforcement agencies was generally carried out consistently. This check occurred even where other measures were relaxed and provided assurance that those who had previously come to the attention of the authorities would be identified and, where appropriate, refused entry. However, I believe that the number of occasions when this check was suspended – over 350 and notably at the juxtaposed controls - was too high. Although these were generally for health and safety reasons, the volume indicates an urgent need to assess how the particular health and safety issues at those locations can be addressed. Furthermore, it was unacceptable that the WI check had not been carried out for British and EEA nationals on a limited number of Eurostar services. This amounted to a considerable number of passengers over a period of four years.

On the basis of what I have seen since 4 November 2011, it is apparent to me that the Agency does now have a much firmer grip in respect of border security checks than was previously the case. A significant test will be whether this can be maintained during periods of greater passenger volume and for the Olympic and Paralympic Games.

Security of the border is paramount. Overall, I found significant room for improvement in this important area of work. Based on the evidence provided in this report, there is much to do in order to provide the assurance that the public and Parliament expect.

A handwritten signature in black ink, reading "John Vine .". The signature is written in a cursive style with a period at the end.

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

**7 February 2012**

## RECOMMENDATIONS

1. The extent of the UK Border Agency's operational autonomy from the Home Office needs to be explicit, with a clear delineation of roles and responsibilities.
2. A new framework of border security checks, authorised by Ministers, should be produced and implemented urgently. This needs to take account of the different operational environments at ports, the benefits to border security of conducting the checks and the implications for border security of any reduction in checks.
3. Ministers should decide the minimum standard of border security checks to be applied at UK ports before allowing entry to the UK.
4. Ministerial decisions, policy proposals and operational instructions must be communicated effectively with specific and careful use of language.
5. The level of authorisation required for any suspension of or reduction in border security checks must be explicitly set out and authorised by Ministers.
6. Suspension of border security checks should only take place when absolutely necessary. Records showing the frequency of these, the reasons for them and the level of authorisation obtained should be reported to Ministers and senior managers on a quarterly or more frequent basis.
7. To ensure suspension of border security checks is kept to an absolute minimum, a clear understanding of what constitutes health and safety grounds for suspension should be agreed.
8. An operating policy for fingerprint verification of all visa nationals (Secure ID) needs to be produced as a matter of urgency. It must take into account its importance relative to other checks contained within any new framework of border security checks.
9. Record-keeping at ports should be overhauled ensuring that staff know what to record, and why, whilst keeping bureaucracy to a minimum. Management should ask for and review records of border security checks to inform development of policy.
10. A rigorous management assurance process needs to be put in place so that Ministers and the UK Border Agency can be assured that policy is being translated into practice on the ground.
11. The UK Border Agency must ensure that any local initiative regarding suspension of border security checks does not contradict any new framework of border security checks and is lawful and properly authorised.
12. Service standards for passenger queuing times and staffing levels at ports should be reviewed to ensure they are compatible with any new framework of border security checks.

## EXECUTIVE SUMMARY

1. This investigation examined the level of border security checks operated at ports of entry to the UK with a particular focus on the Home Office Warnings Index (WI), Secure ID and the risk-based measures that formed part of the Level 2 pilot. A brief explanation of these checks follow:

- WI – used to ascertain whether passengers are of interest to the UK Border Agency, the police or other government departments;
- Secure ID – checks passengers’ fingerprints at the immigration controls and verifies them against those previously provided during the visa application process;
- Level 2 pilot – a risk-based approach to border checks where it was no longer routine to:
  - open the biometric chip within European Economic Area (EEA) passports; and
  - perform WI checks of EEA children where they were travelling in obvious family units or school groups.

### Warnings Index

2. In 2007, the Agency introduced a policy which set out the requirement to check all passengers against the WI. There was a clear and consistent understanding amongst staff of the importance of and need to carry out these checks on all passengers, except where doing so was likely to result in the health and safety of passengers being put at risk. There was no indication whether Ministers needed to be consulted on, or agree to, any changes to this policy.

3. We found that WI checks took place at the majority of ports. However, the Agency’s records show these checks had been suspended on 354 occasions, with the majority of these being at juxtaposed controls. We noted that these suspensions were primarily on health and safety grounds. We believe that the frequency of these suspensions was too high and is likely to have been higher than either the Agency or Ministers anticipated when the policy was introduced.

4. We found that WI checks were not applied as a matter of course in three other scenarios beyond those envisaged by the policy. A decision was taken to suspend WI checks on EEA school groups, under the age of 16, travelling to the UK by coach through juxtaposed controls. This had been approved by Ministers. A decision was taken to extend this to other seaports and Eurostar services, which Ministers had been informed of. In February 2011, the age restriction for this arrangement was removed for coaches travelling from Calais and Coquelles for a specific weekend.

However, we did not find written evidence that this had received Ministerial authorisation.

5. A decision was taken to suspend checks on the children of returning British families for the February half-term weekend, at Calais and Coquelles, which had been approved by the former Head of Border Force. This measure was then applied for the Easter weekend and had been approved by the Acting Chief Executive. There is evidence that this latter authorisation was raised informally with the Immigration Minister and Home Secretary at the time, but neither had any recollection of this and there is no written record of the discussions.

6. Of considerable concern is that WI checks had not been carried out on EEA nationals travelling to the UK on Eurostar services from Disneyland Paris and other French resorts since 2007. Although the Agency assessed these passengers to have been low risk this measure is likely to have resulted in approximately 500,000 EEA nationals not being checked against the WI. We did not find evidence that these suspensions had been authorised by Ministers.

7. The Agency's records relating to the suspension of the WI were poor. We found that records relating to some suspensions had not been kept, whilst other records did not capture important information, such as whether the emergency services had been consulted before checks were suspended.

8. There was a lack of effective management oversight of the frequency with which checks had been suspended, the reasons for this and which ports were suspending checks. Had this been in place it would have enabled the Agency to develop a plan to reduce the number of suspensions of this important border security check.

## **Secure ID**

9. This investigation established that Secure ID was suspended a total of 482 times between June 2010 and November 2011. We noted that 463 of these suspensions occurred at Heathrow. These suspensions ranged from a matter of minutes to several hours and were applied regularly, primarily at Terminals 3 and 4. Where a start and end time was provided, we identified that the majority of these suspensions were between one and four hours.

10. We found there was no policy document or operational instruction in relation to Secure ID. There was a general perception amongst senior Agency officials and Ministers that Secure ID was a mandatory check. It was evident from the evidence we examined that the Border Force senior management team saw Secure ID as a mandatory check from July 2010 onwards, although it was recognised that there might be exceptional circumstances when it would be appropriate for it to be suspended. The absence of a policy and clear Ministerial direction at this time means that it is not possible to say with any certainty whether any suspension of Secure ID was authorised or not.

11. This position changed when the Immigration Minister and Security Minister gave their approval for Secure ID to become part of a risk-based approach to border checks on 27 January and 14 February 2011 respectively. Although we note that the Immigration Minister states that his approval was provisional, we believe it was reasonable for the Agency to interpret the written response and the Minister's letter to the Transport Minister as approval to implement the proposals during Easter 2011. This resulted in the Agency working towards implementing these changes until, on 13 April 2011, the Home Secretary indicated that she did not approve the risk-based proposal, pending further work.

12. After 13 April 2011, we found that while two of the risk-based measures were viewed by Ministers as viable, pending further work by the Agency to support its approach, the inclusion of risk-based Secure ID was not. At a meeting on 19 May 2011, the Home Secretary specifically excluded the implementation of risk-based Secure ID. This was reinforced on 22 July 2011, when the Level 2 pilot was approved.

13. Despite Ministers' views that suspension of Secure ID should be excluded from the risk-based measures, we found that such suspensions continued at Heathrow (106 Secure ID suspensions took place between 19 May and 1 November 2011); this exceeded Ministerial authority. At this point the Agency should have informed Ministers that suspension of Secure ID was taking place regularly, primarily at Heathrow.

14. The former Head of Border Force told us that he allowed the suspension of Secure ID as the separate WI policy already permitted suspension of checks on health and safety grounds. However, we noted that this policy did not apply to visa nationals and no provision existed to extend the policy, whether the approach was practical or not.

15. We found the suspension of Secure ID was unauthorised from 19 May 2011 onwards. We also found that four days after the Home Secretary approved the Level 2 Pilot on 22 July, senior Border Force officials were discussing ways in which the suspension of Secure ID could apply in extreme circumstances that might arise at Heathrow, such as overcrowding in the immigration arrival hall leading to flights being unable to disembark passengers or unload baggage. Email correspondence suggested that this might happen up to 12 times per week at Terminals 3 and 4. In our view and given the Home Secretary's clear position on this matter, if the Agency believed there was an operational need to suspend Secure ID in emergencies, then specific Ministerial approval should have been obtained at that point.

16. Suspension of Secure ID potentially exposed the border to greater risk. However, we note that this risk would have been mitigated to some extent because passengers continued to be checked against the WI and, other than the specific instances approved by Ministers, travel documents were examined and biometric chips in travel documents were opened in most cases.

17. However, the more checks that are carried out, the greater the assurance that can be provided to the public and Parliament that only those entitled to enter the UK

are doing so. The suspension of fingerprint checks did not occur in individual cases as a result of a risk-based assessment by an Immigration Officer. It occurred primarily at the busiest times of day at the largest airport in the UK. This is unacceptable. There needs to be absolute clarity on whether, in any circumstances, it is appropriate to suspend fingerprint verification. That decision needs to assess the level of risk and needs to take account of the very different passenger volumes and infrastructure at ports across the UK and at the juxtaposed controls. Once the decision is made and communicated, it needs to be applied rigorously and consistently.

18. The Agency had failed to put in place any effective management oversight in relation to Secure ID suspensions. It had not undertaken any formal risk analysis to determine whether the suspension of Secure ID exposed the border to an increased risk, neither had it evaluated the extent to which Secure ID acted as a deterrent against people committing immigration offences.

19. The accuracy and consistency of record keeping in relation to the suspension of Secure ID was particularly poor. Management controls were weak, in that no guidance or suspension templates were provided to help staff record information in a systematic and consistent manner. As a consequence of this, records were incomplete and contained gaps in information. In addition, reasons for suspension were not always recorded and were not always properly authorised.

20. We found no management reporting system in place to support the upward reporting of Secure ID suspensions. We also found an absence of any assurance systems to provide confidence to more senior Agency officials and/or Ministers that suspensions were appropriate and necessary.

## **Level 2 pilot**

21. The Level 2 pilot was authorised by the Home Secretary on 22 July 2011 and ran from 29 July to 4 November 2011. In relation to the ports we inspected as part of this investigation, records show that Level 2 measures were operated a total of 2,081 times.

22. We found that the language used in both the "*Summer pressures*" submission to Ministers and the response provided, was not clear and as a result was open to misinterpretation. Given the importance of decisions to suspend border security checks, it is imperative that the language used is absolutely clear and unambiguous. For example, the written response from the Home Secretary's office said that "*the change in checks should not be a routine measure but only used when the queues get beyond a reasonable length.*" As the key terms were not clearly defined, we found this had been interpreted and operated in different ways at different ports.

23. There was a further lack of clarity in the Agency's Interim Operational Instruction as it failed to define what was meant by "*further measures.*" We found that there was no explicit reference in the submission to Ministers about the possibility of introducing "*further measures*" either on health and safety or other grounds.

24. The Interim Operational Instruction also failed to accurately reflect what had been approved in the submission in relation to the issue of endorsing travel documents and questioning visa holders. This led to further confusion and different interpretations of what should be done in this regard. An example of this was at Heathrow, where managers discouraged staff from asking questions of visa nationals.

25. We established that there was confusion amongst staff, particularly at Heathrow and Gatwick South about whether the Level 2 pilot included the suspension of Secure ID. We believe this was caused in part by similar terminology used during the contingency plans for the industrial action on 30 June 2011.

26. In considering the accuracy and consistency of record keeping, we generally found that ports captured the information that was required. However, we identified discrepancies between local and central records.

27. We found that the weekly update reports submitted to the Chief Executive and Ministers did not contain information about key immigration activities, such as the number of IS81s<sup>1</sup> issued and refusals of leave to enter. This was despite the fact that such activities were included in the Agency's own performance measures for the pilot. In addition we found results related to commodity seizures were not directly linked to the application of Level 2 measures. We found that the systems put in place by the Agency to evaluate the effectiveness of the Level 2 pilot were inadequate. The difficulty in separating out results that could be directly attributable to the Level 2 pilot made reporting to Ministers less reliable.

28. In terms of border security, it is not possible to quantify the extent of the risk that these measures presented to the border. Clearly the more occasions such checks are not carried out, the less assurance can be provided. In relation to EEA nationals, we found there was no evidence that WI checks were suspended at the same time as the Level 2 pilot was in operation, so the risk was mitigated to some extent. However, of more concern was the confusion over whether Secure ID formed part of the pilot and whether visa nationals should be questioned. The benefits and risks of this latter approach had not been articulated clearly or implemented consistently. Failing to exercise appropriate discretion regarding the questioning of visa nationals does, in our view, expose the border to greater risk.

## **Relaxation of Checks: Other Measures**

29. During our investigation, we found three other measures in operation which relaxed border checks. The first of these measures was 'Operation Savant', an Agency initiative to manage student numbers at peak periods of demand allowing resources to be focussed on those considered the highest risk.

30. While we recognise the arrival of large numbers of students at particular times of the year presents challenges to particular ports, we consider that this approach was potentially unlawful.

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<sup>1</sup> A UK Border Agency form which is issued to passengers if Immigration Officers wish to conduct further examinations.

31. The Agency did not maintain records to set out whether any students were allowed into the UK without an entry clearance under this initiative. Consequently, we cannot say whether any student was admitted to the country unlawfully during Operation Savant and any potential risks to security cannot be quantified. We note, however, that Immigration Officers were instructed to admit passengers without an entry clearance only where they appeared to meet all other requirements for admission as a student.

32. Secondly, we found that between January and June 2011 (inclusive), prior to the introduction of the Level 2 pilot, the biometric chip reading facility had been deactivated on 14, 812 occasions at a number of ports. The Agency was unable to explain definitively why these deactivations occurred. It therefore needs to take action to identify the reasons for this and take steps to ensure that checks take place in accordance with policy.

33. The third measure involved a failure to open the biometric chip in e-passports for EEA (other than French) and British nationals at Portsmouth, from August 2010. We consider this was unacceptable and not in accordance with the policy.

34. While it is difficult to quantify the level of risk posed to the border by these two measures, we note that this risk would have been mitigated to some extent because passengers continued to be checked against the WI and their travel documents were examined.

35. On the basis of the evidence provided to this investigation, it is apparent that the Agency does now have a much stronger grip in respect of border security checks than was previously the case. However, there remains a question about whether this approach can continue during periods of greater passenger volume, including during the Olympic and Paralympic Games in the summer of 2012.

# CHAPTER 1. THE INVESTIGATION

## Role and remit of the Independent Chief Inspector

1.1 The role of the Independent Chief Inspector of the UK Border Agency (“the Chief Inspector”) was established by the UK Borders Act 2007<sup>2</sup> to examine the efficiency and effectiveness of the UK Border Agency in dealing with asylum, immigration and nationality functions. The statutory remit of the Chief Inspector was extended to include customs functions and the work of the Agency’s contractors by the Borders, Citizenship and Immigration Act 2009.<sup>3</sup>

## Background to this investigation

1.2 The Chief Inspector’s published Inspection Plan for 2011-12 set out his intention to inspect a number of Border Force ports within the South East region in 2011-12, making assessments about performance using his inspection criteria. Subsequently two locations were selected for full inspection: Gatwick North Terminal and Heathrow Terminal 3.

1.3 The Heathrow inspection took place between 26 September and 19 October 2011. For Heathrow, the terms of reference particularly focussed on “*the primary arrival control and the secondary detection area of Terminal 3*”.

1.4 During the onsite phase of the Heathrow Terminal 3 inspection, the Chief Inspector and his inspection team discovered a number of inconsistencies in the way border security checks were being operated.

1.5 The Chief Inspector verified these findings with his inspection team following the on-site phase of the inspection, to ensure that the evidence collected was properly analysed and quality assured to support the conclusions made. Believing that these issues raised concerns about the effectiveness of border security checks at Heathrow Terminal 3, he brought them to the attention of the Chief Executive of the UK Border Agency at a planned meeting on 2 November 2011.

## Terms of Reference

1.6 Pursuant to section 50 of the 2007 Act, the Home Secretary requested that the Chief Inspector investigate and report to her on those matters set out in the Terms of Reference laid before Parliament on 7 November 2011.

1.7 The terms of reference set by the Home Secretary for this investigation are set out in Figure 1.

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<sup>2</sup> 2007 c.30, section 48

<sup>3</sup> 2009 c.11, section 28

**Figure 1: Independent Investigation – Terms of Reference**

<b>1</b>	<i>To investigate and report the level of checks operated by the UK Border Agency at ports in light of the operational requirements approved by Ministers and report any potential risks to border security created by any unauthorised relaxation.</i>
<b>2</b>	<i>Establish the effectiveness of management oversight in the UK Border Agency including the guidance given to staff on the checks to be undertaken, the levels of authorisation required for any relaxation of checks, whether any unauthorised relaxation of checks occurred and, if so, the reasons why they occurred and whether any assessment of the risk was made and communicated.</i>
<b>3</b>	<i>To investigate and report on the accuracy and consistency of record-keeping at ports in that period and make recommendations on the management information and assurance systems that are required in the UK Border Agency, both locally and nationally, to ensure compliance with all required border security checks.</i>
<b>4</b>	<i>To review and report on any work put in place in UKBA since 4 November 2011 to improve security at the border including arrangements to ensure compliance with all required border security checks.</i>
<b>5</b>	<i>To make any further recommendations on whether operational changes are required to ensure that checks are being operated within the framework approved by Ministers.</i>

## Methodology

**1.8** When this investigation into border security checks commenced on 8 November 2011, we (the Chief Inspector and his inspection team) immediately contacted the Agency and requested that the following evidence was securely retained by a responsible senior manager at each port:

- all records relating to the suspension of the Secure ID fingerprint scanning for visa nationals;
- all records relating to the dates and times when the Level 2 pilot was in operation; and
- the risk assessments made by ports which supported the implementation of Level 2 and/or the suspension of Secure ID fingerprint scanning.

**1.9** On 10 November 2011, we contacted the Agency and requested detailed evidence, including:

- all correspondence<sup>4</sup> between the Agency and the Home Secretary, the Immigration Minister or their Private Offices relating to the preparatory work that was undertaken on the pilot, prior to final approval being given by the Home Secretary;
- all subsequent correspondence between the Agency and the Home Secretary, the Immigration Minister or their Private Offices relating to the pilot;

<sup>4</sup> Correspondence refers to **every record** relating to the Level 2 pilot – submissions, all types of documents, emails, meeting minutes, policy, guidance, all types of oral briefings, etc.

- the minutes of Agency Board meetings throughout 2011 to date and the notes of any meetings between Agency Board members in which border security checks were discussed;
- the Agency documentation that set out the terms under which the final agreed Level 2 pilot would operate, including the aims and objectives of the pilot, the parameters under which the Agency would operate it, the management assurance process, the reporting protocols and the declared benefits/disadvantages of the pilot; and
- the evaluation report submitted by the Agency to the Home Secretary which resulted in her agreeing to extend the pilot on 19 September 2011 (to include the supporting documentation provided by the Agency which informed the evaluation paper submitted in September 2011).

**1.10** Supplementary requests for documentary evidence were made to the Agency, up to and including 25 January 2012 when we requested more detailed information about the Level 2 pilot, Secure ID, WI suspensions and other types of border check suspensions. We also received a number of additional documents, including documents from the former Head of Border Force.

### **Port locations inspected**

**1.11** The Agency informed us that 28 ports had been involved in the Level 2 pilot<sup>5</sup>. To determine which of these ports we should visit as part of this investigation, we took a number of factors into account, including:

- inspecting the remaining terminals at Heathrow (Terminals 1, 4 and 5) to compare and contrast with our findings at Terminal 3;
- assessing passenger volumes, coupled with the need to cover major regional ports, including juxtaposed ports in Northern France; and
- visiting ports located across the UK, including Scotland, Northern Ireland, Wales and England.

**1.12** We selected 17 port locations to inspect, covering 22 terminals. Figure 2 records details of the UK Border Agency ports we visited in the course of this investigation.

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<sup>5</sup> Aberdeen, Belfast, Birmingham, Bournemouth, Bristol Airport, Calais, Cardiff, Coquelles, East Midlands, Edinburgh, Exeter, Gatwick, Glasgow, Harwich, Heathrow, Leeds Bradford, Liverpool, London City, Luton, Manchester Airport, Newcastle, Newhaven, Norwich, Plymouth, Poole, Portsmouth, Prestwick and Stansted.

**Figure 2: List of UK Border Agency ports visited**

Port location	Passenger volumes 2010*	Date inspected - 2011
Heathrow Terminal 1	29,519,000	11 – 14 November
Heathrow Terminal 3		
Heathrow Terminal 4		
Heathrow Terminal 5		
Gatwick North	13,253,000	25 -26 November
Gatwick South		
Stansted	7,851,000	17 – 18 November
Manchester Terminal 1	7,720,000	9 – 10 December
Manchester Terminal 2		
**Calais	5,153,500 <sup>6</sup>	13 December
**Coquelles	4,739,000 <sup>7</sup>	14 December
Luton	3,634,000	17 November
Birmingham	3,377,000	5 – 6 December
Bristol	2,144,000	28 November
Edinburgh	1,848,000	23 November
Newcastle	1,499,000	5 – 6 December
Glasgow	1,465,000	22 November
Portsmouth	1,097,000	1 December
Belfast International	840,000	22 – 23 November
Cardiff	516,000	28 – 29 November
**Plymouth	456,000	29 November
**Newhaven	128,000	25 November
<b>Total</b>	<b>85,239,500</b>	

Note: \* These figures are rounded to the nearest thousand and exclude arrivals from the Common Travel Area.

\*\* Indicates Secure ID was not in force at these ports.

**1.13** The onsite phase of the investigation took place between 11 November and 16 December 2011. A variety of shifts were covered, including weekends, to ensure we saw a wide range of staff, in addition to conducting observation of the Primary

<sup>6</sup> Figures sourced from published Department of Transport statistics which show Dover – Calais route had 10,307,000 passengers in 2010 – this covers passenger journeys both ways so split equally to arrive at figure shown.

<sup>7</sup> Passenger figures sourced from Eurotunnel and are based on an estimate of the average number of people in each car, coach, lorry etc.

Control Point (also known as immigration control or the immigration arrivals hall). At each port location we arranged sessions where staff could speak to us privately. We interviewed (individually or as part of focus groups) 349 Border Force staff across the ports that we inspected as part of this investigation. Figure 3 provides a breakdown by grade.

<b>Figure 3: UK Border Agency staff interviewed at ports<sup>8</sup></b>	
<b>Grade</b>	<b>Number</b>
Immigration Officer	235
Chief Immigration Officer	70
Her Majesty's Inspectors	31
Assistant Director / Grade 7	12
Deputy Director / Grade 6	1
<b>Total</b>	<b>349</b>

**1.14** We examined local records at each port relating to the management of the Level 2 pilot, Secure ID (where it was in place) and any relaxation of passport scanning against the Home Office Warnings Index (WI). This included obtaining email correspondence, management reports and any form of record keeping relating to these issues.

**1.15** We conducted telephone interviews with a range of staff at two additional ports (Harwich and Leeds Bradford) where the Agency indicated that the Level 2 pilot was in operation. We also contacted one further port (Poole) and asked for a questionnaire to be completed in relation to the Level 2 pilot.

### **Ports not operating Level 2**

**1.16** We contacted a further 14 ports not involved in the Level 2 pilot, in order to determine whether:

- the information provided by the Agency in relation to those ports participating in the pilot scheme was accurate; and
- any other measures had been undertaken at these ports concerning the relaxation of border security checks in relation to either Secure ID or the WI.

**1.17** Figure 4 provides details of these ports.

<sup>8</sup> We interviewed staff at equivalent grades who were former Customs staff. The more senior grades (Assistant Director and above) were interviewed if they had a presence at the port location we visited.

**Figure 4: Ports not involved in the Level 2 pilot**

<b>Brussels</b>	<b>Humberside</b>	<b>Southampton</b>
<b>Cambridge</b>	<b>Newquay</b>	<b>Southampton Docks</b>
<b>Doncaster Robin Hood</b>	<b>North Shields</b>	<b>Southend</b>
<b>Holyhead</b>	<b>Paris</b>	<b>Teesside</b>
<b>Hull</b>	<b>Ramsgate</b>	

## **Interviews**

**1.18** We conducted a number of interviews with senior management grades within the Agency (Grade 7 to Chief Executive) in order to ascertain the effectiveness of policy, planning and management oversight in relation to border security checks. We also interviewed the Home Secretary, the Immigration Minister, the Permanent Secretary, the former Chief Executive of the Agency and the former Head of Border Force to ensure our investigation was able to collect evidence to enable us to report effectively against the terms of reference for this investigation.

**1.19** The Chief Inspector also met representatives of the British Airports Authority, the Public and Commercial Services Union and the Immigration Service Union.

## CHAPTER 2. HOME OFFICE WARNINGS INDEX

### FINDINGS

#### Background to the Home Office Warnings Index

**2.1** The UK Border Agency checks the details of arriving passengers using an electronic system called the 'Home Office Warnings Index' (WI). This system was introduced in 1995, when it replaced a paper-based system. This is the single most important electronic check carried out by the Agency on passengers arriving in the UK. It is used to ascertain whether passengers are of interest to the Agency, the police or other government departments. For example, it will show if the passenger is wanted by the police or has previously been removed from the UK by the Agency. Prior to June 2007, the Agency checked all non-EEA nationals against this system, but only checked a proportion of British and EEA nationals.

**2.2** In June 2007, as part of the then Government's strategy for immigration, asylum and counter terrorism, the Agency implemented a policy to check 100% of passengers arriving in the UK against the WI. To support its approach, the Agency issued the Home Office WI Checking Policy and operational instructions in June 2007.

**2.3** This policy was owned by the Strategic Director of UK Border Control who became the Head of the Agency's Border Force. It required Immigration Officers to:

- *"physically examine a passenger's travel document; and*
- *conduct a check of the passenger's details against the WI"*.

**2.4** Under the policy, Immigration Officers must handle and examine the travel document of every passenger and wherever possible check these against the WI on, or in advance of, arrival. It also requires Immigration Officers to verify the biometric details of all passengers presenting e-passports (i.e. opening the photograph from the biometric chip in the e-passport).

**2.5** The WI checking policy made provision for circumstances in which it would not always be possible to carry out 100% checks of EEA nationals. It described circumstances where the additional time taken by these checks, combined with port infrastructure, had the potential to create health and safety issues at times of high passenger volumes. An extract from the WI Operational Instructions notes that:

*"In the event that application of the WI policy leads to severe congestion of the port or control accommodation with the consequence that, in the opinion of the port authority, the emergency services or the Assistant Director / Duty HMI, the safety and / or security of the port is likely to be compromised to the extent that the health and safety of passengers is put at risk, it will be necessary to take [the following] immediate preventative / immediate action."*<sup>9</sup>

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<sup>9</sup> Border Control: Home Office Warnings Index Checking Operational Instructions

2.6 The operational instructions stated that the first step was to liaise with the port authority and/or emergency services to manage the flow of passengers into immigration control. If this did not resolve the issue, a 'risk-based' approach to checking travel documents should be taken, but only where the "*port authority or emergency services consider that the health and safety risk to passengers cannot be adequately mitigated by other means*".

2.7 The risk-based approach to checks differentiated between passengers from the EEA and Switzerland, and those who were not. It required that Immigration Officers must continue to handle and physically examine the passports or travel documents presented by all passengers, and that the details of:

- all non-EEA nationals must be checked against the WI;
- EEA / Swiss nationals who had arrived on a service (e.g. a specific flight) that had been assessed as being of a medium, high or very high risk must be checked against the WI; and
- EEA / Swiss nationals who had arrived on a service that had been assessed as being of a low or very low risk should be assessed against the WI in line with a '*risk validation process*'<sup>10</sup>.

2.8 The WI policy stated that suspension of 100% checks could only be authorised by an officer of the rank of Her Majesty's Inspector (also known as Inspector) or above, or where this was not possible, a Chief Immigration Officer "*who had been properly briefed*".

2.9 In June 2007, the former Head of Border Force wrote a submission to the then Immigration Minister. The submission informed the Minister of changes that had been introduced by the Agency to maximise the benefits of WI checks and described circumstances when 100% checks would not be possible. The submission went on to say that it (the policy) "*sets out a framework for monitoring occasions when the policy has to be suspended for health and safety reasons...*" This was copied to, amongst others, the then Home Secretary.

2.10 While we note that Ministers were informed of this policy, it was not clear whether there was the expectation that they should approve the policy or receive regular updates about its implementation.

### **Suspension of the 100% checks**

2.11 We asked the Agency for details of the number of occasions on which 100% checks had been suspended. It provided us with data that had been collated centrally by the Agency's headquarters<sup>11</sup> in response to the issues that led to this investigation. The Agency's headquarters obtained this information by asking individual ports for information on the suspension of checks. The data showed that between 1 July 2007 and 27 October 2011, 100% checking had been suspended on a total of 430 occasions. Figure 5 provides a breakdown of these suspensions.

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<sup>10</sup> UK Border Agency's 'Border Control: Home Office Risk Assessment and Action Plan', published in June 2007, stated that "*In broad terms, this is based on a combination of factors such as local intelligence, passenger behaviour and information within travel documents such as travel history.*"

<sup>11</sup> Border Force's National Operations and Performance Directorate (NOPD)

**Figure 5: Warning Index suspensions**

Reason for suspension	Number of occasions
Health and safety	270
Technical <sup>12</sup>	68
Other	92
<b>Total</b>	<b>430</b>

Note: This information was provided by the UK Border Agency

**2.12** However, we found that seven of the entries had been recorded twice. Six of these duplicates were recorded under ‘Health and Safety’, whilst a further one had been recorded under ‘Technical’. It also appeared that in 69 instances, separate records had been created in different categories, for what appeared to be the same incident, as can be seen from the example below:

On 30 May 2011, the records show that checks had been suspended at Calais for six hours because of “*Significant levels of traffic [and a] moderate number of Immigration Officers on desks*”. This had been recorded as a health and safety suspension. However, a separate record shows that checks had been suspended at the same time but recorded this as ‘*Other – Non Policy or Unconfirmed*’.

**2.13** We removed these duplicate and multiple entries which showed that between 1 July 2007 and 27 October 2011 the Agency suspended 100% checking against the WI on 354 occasions. It was not possible to determine with any certainty the number of occasions on which checking had been suspended for each of the three categories. A breakdown of where this occurred most frequently can be seen in Figure 6.

**Figure 6: Suspension of 100% checks by port**

Port	Number of occasions
Calais	89
Paris Gare du Nord	68
Portsmouth	46
Coquelles	45
Other ports combined	106 <sup>13</sup>
<b>Total</b>	<b>354</b>

**2.14** For example, the data shows that on 3 July 2008, 100% checks had been suspended at Paris Gare du Nord for two hours and 15 minutes because “*staff*

<sup>12</sup> ‘Technical’ refers to situations where the WI was unavailable because of an equipment or software failure.

<sup>13</sup> This data provided recorded that three ports (Avignon, Bourg St Maurice and Marne La Ville) had suspended 100% checks on one occasion. However, these suspensions had existed for over four years, this is discussed in more detail in Paragraph 2.14.

*shortages created pressures on control*” - this was recorded as an ‘Other’ reason. An example of a ‘Technical’ reason is that recorded for Portsmouth on 9 September 2011, when 100% checks were suspended because there had been a technical fault. As a result the details of 1,020 EEA nationals were not checked against WI.

**2.15** The Agency’s records indicate that 100% checking was suspended on 66 occasions for technical reasons (after two duplicates were removed). Any suspension of the WI poses a potential risk to border security. At the time the policy was decided, there was no indication of the frequency with which the Agency and Ministers had anticipated health and safety suspensions taking place. This number of suspensions appears high given the importance of this check.

### **Suspension of 100% checks at Calais**

**2.16** The port of Calais is one of the ports from which the Agency operates what are known as ‘juxtaposed controls’. This means that the Agency carries out immigration checks on passengers before they travel to the UK. There are no further immigration checks on passengers when they arrive in the UK. The data provided showed that Calais was the port at which 100% checking had been suspended most frequently and as a result, we inspected the port in order to ascertain the reasons for these suspensions.<sup>14</sup>

**2.17** As we have set out in Figure 6, 100% checking was recorded as having been suspended at Calais on 89 occasions between 1 July 2007 and 27 October 2011. Figure 7 shows the number of suspensions from 2007 to 2011.

<b>Figure 7: Suspension of WI checks at Calais 2007 - 2011</b>	
<b>Year</b>	<b>Number of occasions</b>
<b>2007</b>	0
<b>2008</b>	0
<b>2009</b>	6
<b>2010</b>	33
<b>2011</b>	50
<b>Total</b>	<b>89</b>

**2.18** Although the figure for 2011 only covered nine months to the end of September, this represented a 51% increase over the previous year. The Agency should assess whether this increase can be attributed to changes in port infrastructure, increases in passenger numbers, a reduction in staff or a combination of all three.

<sup>14</sup> We also inspected the port of Coquelles, due to its close proximity to Calais, as the data suggested that a further 46 suspensions had occurred at that port.

**2.19** The shortest period for which 100% checks were suspended was 10 minutes, with the longest being six hours and 30 minutes. From the quality of data we have available, we can approximate that the average suspension period is one hour 40 minutes.

**2.20** Staff working at the port told us that at busy periods, vehicles travelling to the UK through the port regularly backed up onto the busy A16 motorway, which was nearby. They said that at peak times, even when all of the booths from which Immigration Officers carried out checks were open, the volume of traffic was such that congestion invariably occurred. Managers informed us that when this happened, it had the potential to represent a risk to the health and safety of passengers. They cited examples where passengers were queuing on the motorway and would leave their vehicle in order to use the toilet facilities at the side of the motorway. We were told by managers that when such congestion occurred, the French authorities, including the Police au Frontieres (PAF), the local Chamber of Commerce and/or the port operators would, on occasions, raise their concern with local Agency managers.

**2.21** Managers informed us that it was in this context that they had authorised the suspension of 100% checks on health and safety grounds, in order to prevent and/or mitigate the health and safety risks associated with such congestion. Indeed having reviewed the data provided to us by the Agency, we noted that such factors were frequently referred to as the reason for suspending 100% checking. For example, on 15 July 2011, 100% checks were suspended for one hour and 20 minutes and the reason for this was recorded as “*Coaches blocking roundabout*”, whilst on 16 July 2011, the reason recorded was “*Coaches tailed back to motorway*.”

**2.22** Managers and staff informed us that where 100% checking was suspended, passengers who were not EEA or Swiss nationals<sup>15</sup> continued to be checked against the WI, whilst a visual check of the passport or identity document of EEA and Swiss nationals continued to be undertaken. We were told that Immigration Officers continued to have the discretion to conduct checks against the WI if they felt that it was appropriate to do so in relation to EEA and Swiss nationals, in keeping with the WI policy.

**2.23** Staff explanations for suspension were reasonable. However, we cannot confirm whether the Agency had exhausted all alternative options before suspending on health and safety grounds.

### **Data quality where 100% checks were suspended at Calais**

**2.24** Having compared the local records for the suspension of 100% checks with the data provided by the Agency’s headquarters, we found a considerable degree of variation between these two pieces of information.

**2.25** The data provided by the Agency’s headquarters stated that 100% checks had been suspended on 50 occasions in 2011. However, local records indicated that

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<sup>15</sup> Passengers who are not EEA or Swiss nationals

100% checks had been suspended on 64 occasions. In addition, we found two further suspensions at Calais that were not recorded by the Agency's headquarters. This in turn casts further doubt on the accuracy of the data provided.

**2.26** We found significant discrepancies between records kept locally and centrally with only 6 of the 50 suspensions matching in terms of their duration. For example, on 2 July 2011 Calais recorded a suspension lasting four hours 30 minutes, whilst records provided by the Agency's headquarters indicated that only one suspension occurred on that day, which lasted 25 minutes.

### **The suspension of 100% checks under the WI policy at other ports**

**2.27** Although a significant number of suspensions under the WI policy occurred at four ports - Calais, Coquelles, Paris and Portsmouth - the data provided by the Agency showed that checks had been suspended by other ports on 106 occasions between 1 July 2007 and 27 October 2011. Given our findings on the accuracy of record keeping for suspensions at Calais, we examined records for suspensions at two further ports - Birmingham and Luton.

**2.28** Local records showed that in 2011, 100% checks had been suspended seven times at Birmingham and four times at Luton. This matched the data provided by the Agency's headquarters. We also found, unlike records from Calais, that the timings of these suspensions were the same in both sets of records.

**2.29** Discrepancies between local and central records illustrate the need for a clear definition of what constitutes a health and safety risk. For example, of the seven suspensions at Birmingham, local records gave the reasons for two as "*Passenger numbers leading to excessive queues with health and safety concerns with passengers on stairs.*" The reasons for the remaining five were "*Excessive queues*". However when this appeared on the central records collated by the Agency's headquarters they all read "*Excessive queues leading to health and safety concerns*". Whilst we accept that queues may result in health and safety concerns, this does not necessarily follow.

### **The suspension of 100% checks in other situations**

**2.30** In addition to suspensions of 100% checks on grounds of health and safety, we identified other situations where checks against the WI had not taken place; these related to:

- EEA school groups travelling by coach;
- British families travelling by car to the UK through juxtaposed controls; and
- Specific Eurostar trains travelling to the UK.

### **EEA school groups**

**2.31** On 23 June 2008, the former Head of Border Force informed the then Immigration Minister that he intended "*to apply a targeted approach to Warnings Index checks for identified categories of low-risk traffic; school coach parties.*" He

went on to state that this would allow Immigration Officers at the juxtaposed controls to suspend WI checks for children under 16 travelling on coaches carrying school groups, except where travel commenced beyond the EEA , or the group:

- comprised of a number of nationalities;
- had been actively involved in survival skills / personal training; or
- included minors over 16 but under 18 years of age.

**2.32** The former Head of Border Force stated that under this suspension, Immigration Officers would continue to handle and verify passports/identity documents of all passengers, including children and that in addition, any accompanying adults would also be checked against the WI. The former Head of Border Force advised that following the introduction of 100% checks of coach passengers at both Calais and Coquelles, all passengers had to leave coaches and pass through an immigration control. This caused delays, particularly at weekends and during peak holiday periods.

**2.33** The submission to the Minister pointed out that these groups had been assessed as low risk and this measure would reduce congestion, particularly at busy times. It advised that the proposals had been shared with the Office for Security and Counter Terrorism<sup>16</sup> and “*other data owners*” and that there was general consensus that the proposal was sensible and may be effective.

**2.34** On 9 July 2008, the then Immigration Minister’s Private Office emailed to say that he “*is happy for us to exercise the derogation*” Therefore it is clear that this suspension had been seen and authorised by Ministers.

**2.35** On 23 October 2008, the former Head of Border Force provided an update to the new Immigration Minister on the measure and to inform him of his intention to extend it to other seaports. This update advised the Minister that this measure had been successful in the first four months of operation at the juxtaposed controls and that the former Head of Border Force was satisfied that the revised procedures were not compromising security at the border. As such, he advised that extending the measure to other seaports would not increase the risk to the UK. He stated “*We have talked this through with the Office for Security and Counter Terrorism in the light of my current proposal and they are content.*”

**2.36** This submission did not seek Ministerial approval, rather it asked that the Minister “*note*” the “*success*” of this measure at Calais and Coquelles, along with the former Head of Border Force’s intention to extend the suspension to other ports. Although the previous suspension had been authorised by the Immigration Minister, it is not clear why Ministerial authorisation was not specifically requested, or provided on this occasion. We noted, however, that there was no guidance setting out whether extensions required Ministerial authorisation.

**2.37** Records showed that between 1 January 2011 and 31 October 2011 this measure was applied to 4,213 coaches at Calais, while at Coquelles it had been applied to 3,501 coaches between 19 January 2011 and 13 December 2011.

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<sup>16</sup> A Home Office Unit established to give strategic direction to the UK’s work to counter the threat from international terrorism.

**2.38** However, we found that staff were confused about which passengers travelling by coach could be exempt from WI checking under this measure. This was supported by a review of locally held records, which showed examples of WI checks being waived for passengers who were not in this particular category, including elderly passengers, those with special needs, brownie and scout groups and sports teams.

**2.39** This went beyond what Ministers had authorised and we found no evidence of any written instruction allowing the practice to occur.

**2.40** On 17 February 2011, the Agency's Regional Director for Border Force South and Europe wrote to the former Head of Border Force. She proposed that between 26 and 27 February 2011 (inclusive), authority be given to suspend checks against the WI for EEA school groups travelling from the ports of Calais and Coquelles and the UK, irrespective of the age of the students, if the only alternative was suspension on the grounds of health and safety.

**2.41** The Regional Director advised that the February half-term period was one of the busiest weekends of the year for both Eurotunnel and the port of Calais, with people returning from ski holidays and that 26-27 February was the busiest weekend of that year for coach traffic. She advised that 575 coaches were due to sail out of the port of Calais on 26 February carrying a total of 20,000 passengers, most of whom were expected to arrive at the port between 3am and 10am. A further 250 coaches were also expected to travel through the port on 27 February. She went on to say that in 2010 the queues (to clear immigration) were 1.5 miles long, which meant that a suspension on health and safety grounds "*will almost certainly be required*".

**2.42** On 23 February 2011, the former Head of Border Force agreed the proposal. It was agreed with the following provisos:

- that this level of checking was in place only for returning UK school parties;
- all supervisory teaching staff would be checked against WI;
- all members of the school group would be visually checked against their travel documents; and
- a senior responsible teacher would be required to agree and sign a disclaimer that the numbers and membership of the party was correct and there had been no additions or changes to the group.

**2.43** Although this change was intended to only apply for one weekend, we did not see any evidence to suggest that it was seen or approved by Ministers.

**2.44** We also found that on 12 May 2009, the former Head of Border Force wrote to the then Immigration Minister, stating that he intended to extend the suspension of checks for EEA children under the age of 16 to Eurostar service from Paris. He stated that this would be trialled for one month and continued if successful. The trial commenced on 19 May 2009 and on 30 June 2009 the then Director of Border Force's European Operations wrote to the Immigration Minister asking that he note his intention to continue with this measure. Although it is clear from these

submissions that the Minister was aware of the intention to suspend checks, we did not see any evidence that it was either approved by Ministers or whether it was necessary for Ministers to approve it.

## Returning British families

**2.45** Following a visit by the former Head of Border Force to the ports of Calais and Coquelles on 24 and 25 February 2011, staff were informed by email<sup>17</sup> that the former Head of Border Force had authorised a further amendment to the WI policy at those ports. For returning British families travelling in cars, who were considered to be the lowest risk group, children would no longer be checked against the WI, but would have a visual check of their face against the travel document.

**2.46** We found that the former Head of Border Force also authorised the same approach for the weekend of Easter, the royal wedding bank holiday, the end of May bank holiday and the weekend that followed it, which was the end of the UK schools' half-term break. During interview, the former Head of Border Force told us that he had observed "*the waste of time involved in checking returning British families against a criminality and terror watch list*" and that "*it was an alternative to suspending WI checks [more widely].*"

**2.47** He stated that he had raised this with the Acting Chief Executive, who agreed to it, having spoken to the Home Secretary in the margins of a meeting and that she had agreed. We interviewed the former Acting Chief Executive who stated that he had in fact raised this issue with the Immigration Minister, advising him of the likelihood that over the Easter weekend at Calais, checks on British children and family groups would be "*simple visual passport checks*". He continued, adding he had also raised this issue verbally with the Home Secretary, in the margins of another meeting, in which he briefly described to her that this approach would be adopted over Easter at Calais. He stated that there was no written briefing or submission in relation to this matter and there was no record of the discussion.

**2.48** During our interviews with the Home Secretary and Immigration Minister, they both stated that they were unaware of this WI suspension.

**2.49** We did not find any written correspondence between the former Head of Border Force, the Acting Chief Executive or Ministers to show whether this measure had been approved by Ministers. While we recognise that this was potentially the lowest risk group, Ministers have to decide whether this sort of policy change needs their approval in writing or whether it can be delegated to the Agency.

## Eurostar trains

**2.50** The Agency's operational instructions<sup>18</sup> stated that juxtaposed immigration controls (also referred to as "*static controls*") were in place at a number of ports, set out below:

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<sup>17</sup> Dated 25 February 2011

<sup>18</sup> Border Control: Home Office Warnings Index Checking Operational Instructions, June 2007

- Boulougne;
- Brussels;
- Calais;
- Coquelles;
- Dunkerque;
- Lille; and
- Paris.

**2.51** The Agency's policy of checking 100% of passengers applied at these ports. However, for Eurostar trains travelling to the UK from stations that did not have juxtaposed controls, the Agency decided that whilst all non-EEA nationals would be checked against the WI, EEA nationals would not be checked as a matter of course, though Immigration Officers would be able to conduct checks on EEA nationals fitting a "targeted profile".

**2.52** This arrangement was in place for trains travelling from Avignon (a summer seasonal service), Bourg St Maurice (a ski train operating at weekend during the winter) and Marne La Vallee (Disneyland Paris). [REDACTED].

**2.53** Passengers travelling on trains from Avignon and Bourg St Maurice were able to leave the train at Ashford or London St Pancras, whilst those travelling from Marne La Vallee could disembark at Ashford, Ebbsfleet or London St Pancras.

**2.54** As the Agency did not check passengers against the WI when they arrived at these ports, it meant that EEA nationals travelling from Avignon, Bourg St Maurice or Marne Le Vallee services were not routinely checked against the WI.

**2.55** This was common practice and data provided by the Agency showed that each of these three ports had recorded decisions to suspend 100% checks after 1 July 2007. For each of the three ports, the following is recorded:

*"Permanent arrangements for on board controls. WI control of non EEA nationals only."*

**2.56** The number of passengers travelling on these services formed a small percentage of the 4,681,667 passengers who travelled to the UK by Eurostar between January and December 2010. A submission written by the Regional Director of Border Force South and Europe (dated 4 November 2011) stated that passenger numbers on the service from Marne La Vallee ranged between 600 – 750 per train. This service operated five times a week, rising to seven services during the school holidays.

**2.57** The service from Avignon operated for ten weeks over the summer, with one train each week, whilst there was one service per week over the winter from Bourg St Maurice. To place this in context, an Agency manager that we interviewed estimated that there were approximately 105 Eurostar services each week travelling from Paris to the UK.

**2.58** We were told that the suspension of checks of EEA nationals continued until January 2011 for passengers travelling from both Avignon and Bourg St Maurice.

After this time, the WI was checked for all passengers on those trains when they reached a static border control point (specifically set up to meet these services) at Ashford or St Pancras. However, no checks took place travelling on the Marne La Vallee service until after 4 November 2011.

**2.59** After 4 November 2011, the Agency introduced static immigration controls to check the details of all passengers leaving the train at Ashford and Ebbsfleet.

**2.60** We have examined the submission that went to the then Immigration Minister in June 2007 entitled "*Watch lists – current and future capabilities*". This document did not refer to any suspension of WI checks for passengers travelling on Eurostar trains. However, the Agency's operational instructions allowed for the suspension of checks of EEA nationals travelling on these services. In practice, this meant that there were no WI checks on EEA nationals travelling on these services for almost four years in circumstances beyond the health and safety provisions in the WI policy. This represents an unquantifiable gap in the border and is unacceptable.

**2.61** We found no evidence to show that Ministers were aware of this practice, either at the time or subsequently. This further adds to our earlier assertion that it needs to be absolutely clear whether or not Ministers should be involved in decisions to change border checks.

### **Accuracy and consistency of record keeping**

**2.62** To assess the accuracy of record keeping when WI checks were suspended, we examined records at Calais, Coquelles and Portsmouth, Birmingham and Luton airports.

**2.63** Where WI suspensions took place, we found that, in general, ports recorded the date, time and duration of the suspension, the health and safety reason for it and proper authorisation for the suspension. However, we found that Calais only met the policy requirement to record whether the port/emergency services had been consulted prior to suspension of WI checks, in two out of 64 recorded cases. Although managers informed us that discussions with the police and/or port operators sometimes occurred, we found these were rarely recorded, as the operational instruction required.

**2.64** At Birmingham we found that none of the seven WI suspensions recorded referred to the port or emergency services having been consulted. At Luton one suspension had been on health and safety grounds and there was a record that the police had been called due to public order concerns.

**2.65** We also reviewed the records where 100% checks had been suspended for EEA school groups at Calais and Coquelles. We found that these records contained entries for which no reason for the suspension was given. At Portsmouth, staff informed us that although they had suspended checks on this basis, they had not maintained any records of this.

**2.66** We found a variation in the way this information was recorded from port to port. For example, the form used at Calais captured the number of passengers travelling

on the coach, while the form used at Coquelles did not. If this information was needed, we would have expected the Agency to introduce a clear and consistent way of capturing it across ports. No records were kept for EEA nationals arriving on Eurostar trains who were not checked against WI.

### **Effectiveness of management oversight**

**2.67** The submission to the then Immigration Minister in June 2007 stipulated that any suspensions on health and safety grounds should be recorded and monitored so that action could be taken to keep future suspensions to a minimum.

**2.68** While ports kept local records for WI suspensions, these were not reported regularly to more senior managers and staff were unclear as to why they were collecting the information. Consequently the Agency had not undertaken any analysis of the number and circumstances of suspensions. The Agency had not put in place any strategic oversight of the extent of WI suspensions and were therefore unable to develop a plan to reduce the level of those suspensions.

## **SUMMARY**

**2.69** The Agency introduced a Warning Index (WI) policy in 2007 which required all passengers to be checked against the WI. There was a clear and consistent understanding amongst staff of the importance of and the need to carry out these checks on all passengers, except where doing so was likely to result in the health and safety of passengers being put at risk. There was no indication of whether Ministers needed to be consulted, or agree to any changes to this policy.

**2.70** We found that WI checks took place at the majority of ports. However, the Agency's records show these checks had been suspended on 354 occasions, with the majority of these being at juxtaposed controls. We noted that these suspensions were primarily on health and safety grounds. We believe that the frequency of these suspensions was too high and is likely to have been higher than either the Agency or Ministers anticipated when the policy was introduced.

**2.71** We found that WI checks were not applied as a matter of course in three other scenarios beyond those envisaged by the policy. A decision was taken to suspend WI checks on European Economic Area (EEA) school groups, under the age of 16, travelling to the UK by coach through juxtaposed controls. This had been approved by Ministers. A decision was taken to extend this to other seaports and Eurostar services, which Ministers had been informed about. In February 2011, the age restriction for this arrangement was removed for coaches travelling from Calais and Coquelles for a specific weekend. However, we did not find written evidence that this had received Ministerial authorisation.

**2.72** A decision was taken to suspend checks on the children of returning British families for the February half-term weekend, at Calais and Coquelles, which had been approved by the former Head of Border Force. This measure was then applied

for the Easter weekend and had been approved by the Acting Chief Executive. There is evidence that this latter authorisation was raised informally with the Immigration Minister and Home Secretary at the time, but neither had any recollection of this and there is no written record of the discussions.

**2.73** Of considerable concern is that WI checks had not been carried out on EEA nationals travelling to the UK on Eurostar services from Disneyland Paris and other French resorts since 2007. Although the Agency assessed these passengers to have been low risk, this measure is likely to have resulted in approximately 500,000 EEA nationals not being checked against the WI. We did not find evidence that these suspensions had been authorised by Ministers.

**2.74** The Agency's records relating to the suspension of the WI were poor. We found that records relating to some suspensions had not been kept, whilst other records did not capture important information, such as whether the emergency services had been consulted before checks were suspended.

**2.75** There was a lack of effective management oversight of the frequency with which checks had been suspended, the reasons for this and which ports were suspending checks. Had this been in place it would have enabled the Agency to develop a plan to reduce the number of suspensions of this important check.

## CHAPTER 3. SECURE ID

### FINDINGS

#### Background

3.1 In July 2006, the then Government set out a new strategy for establishing the identity of foreign nationals requiring entry clearance to visit the UK. In its report “*Fair, effective, transparent and trusted – Rebuilding confidence in our immigration system,*” it set out five things the Immigration and Nationality Directorate (now the UK Border Agency) needed to deliver to meet public expectations for change. This included:

*“We need an effective approach to managing the identity of foreign nationals, requiring them to have secure, unique identification in order to cross our borders, to help manage migration and cut illegal working”.*

3.2 The report set out that by 2011 “*all visa nationals*<sup>19</sup> *would be required to have unique, secure IDs before they are allowed to travel to Britain, so that entry and exit can be tracked, prior criminal activity in the UK can be identified and permission to travel can be refused*”. A process to capture the photographs and fingerprints of all applicants was introduced worldwide in 2008-09.

3.3 A final Secure ID business case was submitted to the Home Office Investment Board in July 2009. Amongst other operational benefits, the business case set out that Secure ID would:

- *“fix all visa nationals who arrive in the country to a biometric identity which can then be verified on subsequent arrivals;*
- *ensure that only the rightful holder of a visa can enter the country using that visa, closing the loop for International Group’s biometric visas programme; and*
- *create and use a biometric watch list at the border”.*

3.4 The Secure ID business case set out four options with different costs associated with each. The option chosen was to provide a fingerprint verification check for approximately 87% of all expected non-EEA arrivals. The business case set out that funding had already been approved for the first phase of the project which would provide “*the capability to biometrically verify the identity of visa holders at fixed ports in the UK*”. This saw Secure ID being installed at 31 port locations across the UK at a cost of £5,859,700 in 2009-10.

3.5 The Agency informed us that these costs were in addition to the set up costs of £34.9 million in 2008-09 (covering overseas biometric collection) and ongoing costs of approximately £11.5m per year – primarily linked to costs incurred overseas. Although it had been planned to extend this to non-EAA nationals who did not require visas to enter the UK, following the change in government, a decision was taken not to proceed with this proposal. However, fingerprint verification of all visa

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<sup>19</sup> Visa nationals require a visa to come to the UK.

nationals was already installed and was in use across 31 port locations at this point in time.

## Implementation

**3.6** Between November 2009 and March 2010, the Agency installed Secure ID equipment in 31 port locations in two phases. The final evaluation report was issued on 5 July 2010. It identified a number of key issues, the most relevant to this investigation being that Heathrow Terminal 3 had been suspending operation of the Secure ID system because they considered that it had caused “*queue breaches*<sup>20</sup>”. The report went on to state that anecdotal evidence indicated other London airports had taken similar action.

**3.7** The final evaluation report recommended amongst other things “*the establishment of consistent ground rules for the suspension of Secure ID, the circumstances in which this can be done and the level of authority required.*” The report indicated that the Secure ID Project Implementation Team were drafting appropriate instructions in this regard. There was no indication that Ministers would have a role in decisions to suspend Secure ID.

**3.8** Our investigation established that, shortly after the Secure ID Project Implementation Team delivered its final report, it was disbanded. This saw some team members being transferred to the e-Borders team to carry forward the Secure ID work in relation to future phases of the project. We were told that work on the recommendations from the final evaluation report was transferred to a different part of the Agency.

**3.9** Once this team was disbanded, we found no further evaluation of Secure ID took place, despite that recommendation being accepted by Border Force. Furthermore, no work was undertaken in relation to the recommendations made in the final evaluation report by the Agency. This meant that no:

- policy for Secure ID was developed;
- guidance for the suspension of Secure ID was developed; and
- assurance and reporting mechanisms for Secure ID were implemented.

**3.10** During an interview with the former Chief Executive of the Agency, we were told that once the Secure ID project was delivered it would become a mandatory check. She went on to state that operational guidance would be needed as to its use and a provision for exceptional circumstances (i.e. suspension) similar to that in the WI policy.

**3.11** Even before Secure ID had been installed, we found that local managers at Heathrow Terminal 3 were asking for approval to suspend Secure ID “*in the event that it is causing genuine business risks because of extended processing times during the busier periods*”. We noted that the Deputy Director in charge of Border Force technology responded by email in February 2010, stating:

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<sup>20</sup> Customer queuing time targets are set by the Agency in relation to the Primary Arrival Control (also known as immigration arrival halls) and queue breaches refer to those times when queues exceed these targets.

*“A dispensation specifically to turn off Secure ID would only be appropriate if there was a system issue ... Other than that I would not want to apply any dispensation – Secure ID is as much about officer use of the system as it is about the system itself – turning the system off if queues build up would be counter-productive and would be indefensible on border security grounds. If there is a threat to the control on H and S [health and safety] grounds then normal business contingencies around the operation of the control would apply”.*

**3.12** We interviewed a senior manager with overall responsibility for the implementation of Secure ID (phase 1a/b) and asked whether it was supposed to be a mandatory check. They replied that they could not comment on this aspect as it was their responsibility to deliver phase 1a/b of the project, which they achieved. They added it was for Border Force Regional Directors to decide how Secure ID was embedded in the business.

**3.13** We examined correspondence from the former Head of Border Force in June 2010 which showed that he had asked for work to be progressed to determine whether Secure ID should continue to be mandatory or altered to a discretionary check. This further analysis was requested because *“The number of hits have been low (I think, 7 to date) and I am not sure I can continue to justify the additional queuing time and problems at port on this basis”.*

**3.14** We viewed other emails from this time which showed Secure ID was being actively discussed between the Border Force senior management team and the Secure ID Project Implementation Team, in relation to whether the 100% checking requirement should be relaxed to become discretionary. We examined an email dated 5 July 2010, in which a Regional Director informed his port managers that the former Head of Border Force had instructed that 100% checks should continue in relation to Secure ID, pending the further analysis that he had requested in June 2010. We noted that this email communication went on to say *“Lhr<sup>21</sup> were operating differently (may have changed after this morning’s clarification) but that is their call (and for them to answer for their actions)”.*

**3.15** The former Head of Border Force confirmed in interview that he had instructed his Regional Directors that *“Secure ID was a mandatory check at those ports which operated it, just as the delivery of 100% WI checking is a mandatory requirement”.* He told us however that it was mandatory simply by way of its introduction and roll out – there was (unlike WI checks) no policy or Ministerial requirement which expressed that it should be mandatory. He added:

*“At Heathrow particularly, given the potential for substituting the suspension of this check for the suspension of WI checking (on EEA nationals), the practice grew up whereby Secure ID could be suspended under the circumstances (so, within the same framework and under the same conditions as laid out in the HOWI [Home Office Warning Index Policy] where HOWI would require WI checks to be suspended. The decision making remained with the lead managers*

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<sup>21</sup> London Heathrow.

*at Heathrow (as would be the case with HOWI) who would authorise the occasions of suspension (as would be the case with HOWI). In the absence of any other UKBA policy on this subject, I accepted the Heathrow practice as sensible and in the full and clear interests of the UK. I did not believe that I was in breach of any policy or Ministerial imperative or ruling, there was none. I knew that Board colleagues were aware of, and accepted, that Secure ID suspension was an important contingency arrangement”.*

**3.16** Following on from concerns that Secure ID checks might be creating unacceptable queuing, a meeting took place during the week commencing 12 July 2010 with the Senior Responsible Owner of the Secure ID project. A note of the meeting entitled “*Secure ID – Evaluation and Proposed Derogation*” referred to the further analysis work requested by the former Head of Border Force in June 2010. It acknowledged that further work had identified other Secure ID hits and stated that the “*current evaluation finds no clear evidence of an impact on queues, although clearly operational experience says otherwise*”.

**3.17** The Senior Responsible Owner noted that “*constructing any evidence based framework for derogation [suspension of Secure ID] is problematic*” and should not therefore take place at that time. The outcome of this meeting was that a further evaluation of Secure ID should be completed by the Agency once two significant IT system fixes had been delivered. There was no clarity about who had responsibility for taking this work forward.

**3.18** We found that once the final evaluation report had been issued, managers and staff had made a number of assumptions about Secure ID, both good (in tracking identity) and bad (creating longer queues), but there was an absence of any proper analysis to determine whether the assumptions being made were merited or flawed, or indeed would have changed over time.

**3.19** We interviewed four Regional Directors who were members of the Border Force senior management Team. It was clear from their responses that there was an ongoing debate about the nature of this check:

- one confirmed that it was her understanding that it was a mandatory check. She had discussions with her senior management team colleagues about whether Secure ID should in fact be used as a discretionary tool, a view which she supported. However, this was never allowed, so she ensured that all staff at Gatwick understood “*it was a mandatory check*”;
- another described the circumstances surrounding the roll out of Secure ID as “*muddled*” and “*confusing*”. He was aware of discussions at senior management team meetings about the problems Secure ID had created in relation to increased transaction times and had made an assumption that prior to the summer period in 2011, suspension of 100% fingerprint checks had occurred to some extent. He added Secure ID was seen as a mandatory tool by his staff, but said that “*they were perplexed by the requirement to check 100% biometrics of visa nationals*”, because not all ports had this equipment;

- another stated that concerns revolved around how Secure ID was having a significant impact on passenger queuing times at Heathrow. He added that the senior management team had discussed adopting a risk-based approach to fingerprint security checks to help mitigate this problem, but confirmed that “...the former Head of Border Force did not agree as he did not think there was enough intelligence to support a risk approach at that time”. However, he stated it was apparent at Heathrow that queues were unmanageable and fingerprint checks had been reduced, though it was not clear with whose authority; and
- another stated that while every effort was made to use Secure ID, he did not recall seeing a written instruction for 100% checking. He confirmed that in early 2010 Secure ID formed part of the discussion to prepare the Agency to deal with summer passenger flows through ports as the previous summer had been “difficult”. He explained that passenger numbers were greater at Heathrow than at other ports, particularly during peak times. He concluded that on occasions this meant that immigration queues at Heathrow had affected the operation of the whole of the airport. He added that when Secure ID was introduced there was a common understanding that Assistant Directors had authority to instruct staff not to use it. At Heathrow, because Assistant Directors were not always at the terminals, an instruction was given that the senior manager on duty could make that decision (i.e. Inspectors), but it was made clear that such suspensions should be properly recorded, with assurance being provided by Assistant Directors that any such suspensions were appropriate.

**3.20** Despite the ongoing discussions between Border Force senior managers during the summer of 2010, concerning whether or not Secure ID should be relaxed to become a discretionary check, we found no evidence that more senior Agency officials or Ministers were informed to ascertain their views about this check.

**3.21** We assessed the minutes of Agency Board meetings to identify whether the issue of Secure ID suspensions had been discussed at this level. We found a reference to this issue in a slide pack provided for a meeting on 14 December 2010 to discuss the general issue of risk to the border<sup>22</sup>. We reviewed the minutes of this particular meeting and saw there was an item headed “*Risk review – Failure to Maintain Robust Border Controls – Group Level Risk*” under which a number of items were recorded for discussion/action. There was no specific reference to Secure ID in the minutes, although we noted references to border controls in paragraphs 1.3 and 1.6:

- Paragraph 1.3 of the minutes stated “*this situation (a terrorist incident) leaves UKBA with difficult strategic choices around priorities at the border, amount of intervention and the balance between delay and safety and security*”.
- In Paragraph 1.6, the then Chief Executive asked the former Head of Border Force “*to provide the Board with details of prioritisation choices at the border along with a plan for automation which should then be considered against the backdrop of this risk*”.

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<sup>22</sup> Slide no. 8, bullet 2, “Secure ID: The examination of the circumstances surrounding Secure ID suspensions will help reduce the likelihood of further occurrences.”

**3.22** We found no evidence of any other mention of Secure ID suspensions at Agency Board meetings.

### **Policy, Guidance and Operational Instructions**

**3.23** We found that the Agency had failed to develop any operational policy for Secure ID, nor were there any guidance or instructions for suspension. The Agency had also failed to introduce either a management reporting system or assurance processes to support effective oversight of Secure ID suspensions.

**3.24** When we interviewed the Home Secretary and the Immigration Minister, they were both clear that they would have expected to have been informed about suspensions of Secure ID. However, in the absence of any clarity regarding the roles and responsibilities of the Agency and Ministers in relation to Secure ID, we can see how Ministers would not have asked for and the Agency would not have provided this information. After the Home Secretary decided that Secure ID should not be suspended as part of the risk-based approach to border checks then, in our view, the responsibility was clearly on the Agency to have reported any suspension of Secure ID to Ministers.

**3.25** In his evidence to the Home Affairs Select Committee, the former Head of Border Force stated that suspension of Secure ID was a proportionate response to health and safety concerns at Heathrow. He added that this approach ensured that WI checks continued to be maintained, which otherwise might not have been the case. He maintained that such suspensions were not part of the Level 2 pilot, rather they were taken under the provisions of the WI policy. He reiterated this view when we interviewed him.

**3.26** The former Head of Border Force told us that he considered this to be a practical solution to deal with immediate problems at a busy port like Heathrow. However, the Agency had spent a considerable amount of public money introducing this important security check and it was unacceptable that it failed to identify the need for a clear policy and guidance governing Secure ID to ensure that any suspension was appropriate. The failure to do this resulted in significant ongoing problems with the suspensions that then took place, as evidenced later in this chapter.

**3.27** At no time did a submission go to Ministers for them to agree a policy in relation to Secure ID suspensions, similar to the one that was approved for WI.

**3.28** A more strategic approach was required in order to carefully consider how Secure ID fitted into the overall picture of border security checks. We have already said that the WI is the primary border check. However it is clear that the Secure ID check was intended to address identity fraud in relation to visa nationals and was from the outset considered an important check but its relative importance with other border security checks was never defined. This was a major omission in completing what was an expensive programme of biometric capture and verification.

## **Suspension of Secure ID checks at Ports**

**3.29** Secure ID had been introduced at 17 of the 22 port locations that we inspected as part of this investigation. At each port we interviewed a range of Agency staff and also examined records relating to the management and use of Secure ID. Our investigation looked at whether the suspension of Secure ID had been interpreted by front line staff as part of the Level 2 pilot, as well as looking at a number of other issues, including whether:

- decisions to suspend Secure ID were taken regularly;
- authority levels for Secure ID suspensions were clear and understood;
- suspension of Secure ID was supported by clear guidance and/or management instructions; and
- formal recording and assurance mechanisms had been introduced to support effective management oversight of the Secure ID system.

## **Heathrow**

**3.30** Concerns around the suspension of Secure ID came to light during our inspection of Heathrow Terminal 3. For this reason and due to the size of the Heathrow estate, we report our findings separately from the remaining ports that we inspected as part of this investigation. However, before dealing with our investigation findings, we provide some background on Heathrow airport, which is the largest airport in the UK and the third busiest in the world. In 2010, it dealt with approximately 450,000 aircraft movements carrying 65 million passengers (69 million in 2011).

**3.31** Operating as a major hub within Europe, the demographic of passengers at Heathrow is different from any other UK airport, with approximately 58% of passengers being from non-EEA countries. In comparison, London Gatwick, the second busiest airport in the UK, deals with 33 million passengers per year, with approximately 10% of passengers coming from non-EEA countries.

**3.32** As a result, one of Heathrow's challenges is to ensure that this large majority of non-EEA nationals are travelling on the correct documents or have the correct entry clearance to allow them entry into the UK. The outcome is that more passengers are required to have more detailed scrutiny of their documents, impacting on the speed at which a passenger transits through the airport.

**3.33** Heathrow also generates large volumes of immigration casework, with approximately 15,000 IS81s being issued during a 12 month period being. Between April 2010 and March 2011, this resulted in 6,619 passengers being refused entry to the UK. In comparison, Gatwick Airport produced just under 2,000 refusal cases.

**3.34** Our inspection findings identified that all four terminals at Heathrow had suspended Secure ID on various occasions between June 2010 and November 2011 and Figure 8 provides this information in more detail.

**Figure 8: Number of times Secure ID was suspended at Heathrow**

	Secure ID suspended	Recording method for suspension	Number of suspensions	Period
<b>Heathrow T1</b>	Yes	Manual Log	22	July 2010 to November 2011
<b>Heathrow T3</b>	Yes	Manual Log	178	July 2010 to Sept 2011
<b>Heathrow T4</b>	Yes	Incident log (A4 lined book)	245	June 2010 to Sept 2011
<b>Heathrow T5</b>	Yes	Excel Spreadsheet	18	June 2010 to Sept 2011
<b>Total</b>			<b>463</b>	

NOTE: Entries relating to suspension of Secure ID because of technical faults were excluded from this analysis.

**3.35** We found that each terminal was recording different levels of information in a variety of ways. Different recording mechanisms were used although all terminals reported into the same regional command structure. While Terminals 1 and 3 used a manual log, Terminal 4 used an incident log (an A4 lined book that was also used for other purposes, i.e. to record other types of incidents and complaints) and Terminal 5 used an excel spreadsheet. Figure 9 shows the main reasons for suspensions at Heathrow.

**Figure 9: Main reasons for suspension of Secure ID at Heathrow**

	Heathrow T1	Heathrow T3	Heathrow T4	Heathrow T5	Total
Queues	7	96	118	13	<b>234</b>
No reasons provided	-	-	109	-	<b>109</b>
Insufficient staff	8	46	17	4	<b>75</b>
Health and safety	6	36	1	1	<b>44</b>
Other	1	-	-	-	<b>1</b>
<b>Total</b>	<b>22</b>	<b>178</b>	<b>245</b>	<b>18</b>	<b>463</b>

**3.36** This analysis identified further concerns with local record keeping. It included 109 suspensions where the reason for suspension was not given. We also noted that only 44 suspensions made any direct reference to health and safety as being the catalyst for suspension. We appreciate that in those cases where 'queues' are shown as the reason for suspension, some may relate to health and safety issues.

However, in the absence of any written evidence to support this, neither we nor the Agency can be satisfied that the majority of these suspensions were either necessary or appropriate or linked to significant health and safety concerns.

3.37 Figure 10 highlights further concerns we identified when examining these local records.

<b>Figure 10: Secure ID recording issues at Heathrow</b>				
	<b>Heathrow T1</b>	<b>Heathrow T3</b>	<b>Heathrow T4</b>	<b>Heathrow T5</b>
<b>Authorising officer not listed (start of suspension)</b>	0	0	13	0
<b>Authorising officer not listed (re-instatement)</b>	This information was not recorded on manual log	69	157	This information was not recorded on manual log
<b>Start time missing</b>	0	4	6	0
<b>End time missing</b>	4	59	73	0
<b>Missing <u>both</u> start and end time</b>	0	2	4	0

Note: This excludes technical failures as these would not require authorising.

3.38 An inconsistent approach was adopted across all Heathrow terminals in relation to the information recorded when suspending Secure ID. Records did not always include information about the commencement or reinstatement of suspension periods and authorising officers' details were sometimes missing. For example, we found that the time at which Secure ID checks were reinstated at Terminal 4 was missing on 73 occasions. This information is important as it would inform analysis of approximate passenger flows through the immigration arrival halls at the time suspension was in operation. Without this information it is not possible to accurately tell the extent to which Secure ID was being used. It is also unacceptable that authorising officers' details were missing in 13 cases, when suspension commenced.

3.39 The recording errors we identified were completely unacceptable. Even if we accept that the WI policy was being used as a framework for managing Secure ID suspensions, we found that the exception report which should capture suspensions of the WI policy was not being used.

3.40 Although a visual check with the photograph in the passport and a WI check was undertaken, while checks were suspended, visa nationals were not undergoing fingerprint checks to establish their identity. This meant that potential cases of visa swaps, impersonation or forgery may not have been identified.

**3.41** We interviewed 58 Border Force staff across the four Heathrow terminals as part of this investigation.<sup>23</sup> They confirmed Secure ID was regularly suspended prior to the start of the Level 2 pilot at Terminals 3 and 4, sometimes on a daily basis. We established that Secure ID was suspended much less frequently at Terminals 1 and 5. Immigration Officers and Chief Immigration Officers believed these suspensions were triggered by long queues in the immigration arrival halls, while some managers justified the suspensions on health and safety grounds.

**3.42** Staff stated that they were unaware of any policy or guidance relating to the suspension of Secure ID. A small number of staff thought that an instruction governing its suspension was contained in an email from a senior manager at Heathrow dating back to June 2010. We found this email, dated 25 June 2010, which set out that Secure ID could be suspended until its formal review was completed. This email said:

*“There is no doubt that Secure ID is a useful tool and adds to the security of the border. However, there are times when the benefit of using it to provide blanket coverage may be outweighed by the increased threat to security that comes with the increased pressure on front line officers caused by long queues and angry/impatient passengers”.*

**3.43** We found no evidence that this instruction was countermanded, even though the final Secure ID evaluation paper was issued on 5 July 2010. This instruction resulted in Secure ID being suspended on a frequent and sometimes daily basis. We found an inconsistent understanding of who might be able to authorise the suspension of Secure ID – replies ranged from Chief Immigration Officer to Director level.

**3.44** Some Immigration Officers expressed concern that the suspension of Secure ID was sometimes authorised at exactly the time when it was most needed – a busy immigration arrivals hall would often coincide with times when high risk (immigration) flights were being processed. Many staff, at varying grades, also questioned the rationale of installing a biometric system for it only to be bypassed at times of pressure in the immigration arrival hall.

**3.45** When Level 2 was introduced on 29 July 2011, we found that staff were notified of this both by emails to the various terminals and via the Heathrow Intranet. However, both of these communication methods went on to talk specifically about Secure ID. The Heathrow intranet instruction set out the following: *“Please note that we are no longer able to suspend Secure ID, except in the most exceptional circumstances. The Home Secretary has not given us that flexibility. Suspension of Secure ID must therefore stop now”.*

**3.46** A separate email sent to Inspectors at Terminals 4 and 5 by local management set out that *“the quick wins do NOT enable us to suspend Secure ID, the Home Secretary has not given us that flexibility and so we need to stop doing that”.* The email went on to state that if pressures built to such an extent that planes would not

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<sup>23</sup> We also reviewed the evidence we obtained from 65 staff during the Heathrow Terminal 3 inspection.

be able to disembark, or the baggage hall would grind to a halt, or there was a risk of health and safety to staff or passengers, then they should contact the duty Assistant Director (who would in turn liaise with the duty Director) to evidence their cases “*for suspending Secure ID (or taking any other flexibility type measure)*”. The email made clear that queue lengths alone would not be sufficient to justify this.

**3.47** Of concern was the fact that this email then went on to suggest that where staff felt a suspension of Secure ID might be required (despite being outside the scope of the pilot), a request could be made to the duty Assistant Director for referral to the duty Director. We found that such practice had not been mentioned to Ministers in any of the preceding submissions and was not therefore authorised.

**3.48** Furthermore, we saw email correspondence that showed discussions were held between senior Border Force officials discussing ways in which the suspension of Secure ID could continue in extreme circumstances that might arise at Heathrow, even though it went beyond what the Home Secretary had approved. We note this email correspondence took place after the Level 2 pilot had been approved by the Home Secretary on 22 July 2011.

**3.49** After 26 July 2011, much tighter management control was exerted, which led to far fewer suspensions. Figure 11 shows the Secure ID suspensions that occurred and were recorded during the Level 2 pilot.

**Figure 11: Secure ID suspensions at Heathrow during Level 2 pilot**

Terminal	Number of suspensions
1	1
3	3
4	7
5	2
<b>Total</b>	<b>13</b>

**3.50** We found that these suspensions, because of the tighter management grip that had been imposed, were usually in response to significant queues which could have resulted in health and safety issues. However, in addition to these occasions there were other undocumented suspensions of Secure ID resulting from staff confusion about whether suspension of Secure ID was included as part of the Level 2 pilot. We observed this inconsistent practice whilst carrying out our full inspection at Heathrow Terminal 3 – a factor which led to this investigation being commissioned.

**3.51** We found that on 12 October 2011, the new Chief Executive requested information from the former Head of Border Force about the number of times Secure ID had been suspended over the last two years. The former Head of Border Force provided this information on 21 October, in the form of a memo, which set out that Secure ID had been suspended 164 times over the last year and was only triggered when:

- *“port infrastructure (baggage halls) were severely threatened;*
- *flights were held from unloading and schedules were disrupted; and*
- *we recognised the imminence of opening gates for health and safety of control issues in the arrivals hall”.*

**3.52** The former Head of Border Force stated that these suspensions took place predominantly at Heathrow (156 suspensions). He concluded by stating that *“to put this into context, the 156 suspensions at Heathrow represents less than 1.8% of the total checking effort – I therefore believe the risk to be extremely low”*.

**3.53** The new Chief Executive responded on 24 October 2011, setting out his concerns about the high number of biometric suspensions at Heathrow. He stated that he wanted to meet with the former Head of Border Force once he had received more general information on WI suspensions. This information was then provided by the former Head of Border Force on 1 November, when he advised that, over the last two years there had been eight full suspensions of WI (seven due to technical outages) and 101 partial WI suspensions, the majority of which occurred at Calais and Coquelles (86).

**3.54** When we interviewed the new Chief Executive, he stated that he had become concerned about suspensions of checks at the border and this was why he had requested information about them from the former Head of Border Force. He added that he was due to meet with the former Head of Border Force following the meeting with the Chief Inspector on 2 November 2011. He confirmed that up until he met with the Chief Inspector he was unaware Ministers were unsighted on this issue and that they had not been consulted.

## **Other ports**

**3.55** Secure ID had been installed in 16 of the remaining port locations that we either visited (14) or contacted by phone (2). Overall, we found a very different picture from that at Heathrow. Generally we found that Secure ID was not suspended, unless due to an IT fault. However, two airports had suspended Secure ID for non-technical reasons - Luton (prior to the introduction of the Level 2 pilot) and Gatwick South (after the introduction of the Level 2 pilot).

**3.56** At Luton airport we examined the daily brief sheets and incident log which showed that Secure ID had been suspended 19 times between July 2010 and July 2011. Eighteen of these suspensions were recorded in the daily brief sheets, with one entry being noted in the Incident Log. We found a number of inconsistencies in relation to these records:

- on 11 occasions, there was no record of who authorised suspension;
- on 7 occasions, no reason for suspension was provided; and
- on 2 occasions, no finish times were provided<sup>24</sup>.

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<sup>24</sup> Figures do not add up to 19 as one suspension failed against two of the measures used.

**3.57** Luton airport typically deals with EEA nationals who are not subject to Secure ID check. When a suspension occurred, records indicated that this was due to large numbers of non-EEA nationals arriving at the port.

**3.58** There was no clarity as to who was permitted to authorise suspensions. The first time an authorisation was recorded was in early July 2010. This showed that the Regional Director had given approval to suspend Secure ID. A few days later we noted that an Assistant Director had given similar approval and by November 2011 we found the authority level had been reduced to Inspector level.

**3.59** Staff at Luton airport were clear that suspension of Secure ID did not form part of the Level 2 pilot. However at Gatwick South Secure ID was suspended as a number of Immigration Officers and Chief Immigration Officers believed it formed part of the Level 2 pilot. No separate record was maintained regarding the suspension of Secure ID as it was seen to be part of the Level 2 recording procedure. This was despite the fact they had not suspended Secure ID before the Level 2 pilot was introduced.

### **Management oversight**

**3.60** The Agency did not impose a requirement for ports to regularly submit Secure ID suspension reports, for example on a monthly or quarterly basis. Indeed we found no evidence of there being any requirement to inform senior managers of any Secure ID suspensions. We also found that requests for this information were not made by the Border Force senior management team, senior Agency officials or Ministers.

**3.61** In addition, we found that local managers failed to maintain any effective oversight in relation to Secure ID suspensions. Reports were not produced detailing the number of suspensions, the reasons for them or the time periods covered by them. We found no evidence that managers were examining Secure ID suspension records. Such examination would almost certainly have led to significant issues being identified and improvements being made.

**3.62** We found that Secure ID was frequently being suspended at Heathrow to deal with a busy immigration arrival hall, rather than on grounds of health and safety. This view is supported by email correspondence from Heathrow managers to Inspectors and Chief Immigration Officers as early as July 2010 which set out that:

*“...in view of recent busyness, we should be less cautious in suspending Secure ID. We should continue to use it routinely, but the Inspector or night Chief Immigration Officer can suspend it when it gets very busy or, even better, beforehand if we suspect it will. Suspension shouldn't be seen as a last resort for when things are about to fall over. I appreciate this is very unscientific guidance but please follow it broadly and I will certainly back your decisions, coming back with further clarifications if necessary”.*

**3.63** And:

*“When we are breaching queue targets or where a queue breach appears inevitable, we should always fully consider suspending the mandatory Secure ID process. Night Chief Immigration Officers are empowered to make the decision to suspend Secure ID. Where duty Inspector is available, all such cases should be referred”.*

**3.64** We believe that, in the absence of operational guidance, local managers decided to suspend this check in order to cope with demand created by volumes of passengers. In the majority of cases, written records failed to demonstrate that these suspensions were linked to the kind of port infrastructure problems that would result in the suspension of WI checks. We note that, since 4 November 2011, no such suspensions have taken place.

## **SUMMARY**

**3.65** This investigation established that Secure ID was suspended a total of 482 times between June 2010 and November 2011. We noted that 463 of these suspensions occurred at Heathrow. These suspensions ranged from a matter of minutes to several hours and were applied regularly, chiefly at Terminals 3 and 4. Where a start and end time was provided, we identified that the majority of these suspensions were for between one and four hours.

**3.66** Although there was an absence of any policy document or operational instruction in relation to Secure ID, we found there was a general perception amongst senior managers and Ministers that Secure ID was a mandatory check. It was also evident from the evidence we examined that the Border Force senior management team saw Secure ID as a mandatory check from July 2010 onwards, although it was recognised that there might be exceptional circumstances when it would be appropriate for it to be suspended. The absence of a policy and clear Ministerial direction at this time means that it is not possible to say with any certainty whether or not any suspension of Secure ID was authorised.

**3.67** This position changed when the Immigration Minister and Security Minister gave their approval for Secure ID to become part of a risk-based approach to border checks on 27 January and 14 February 2011 respectively. Although we note that the Immigration Minister states that his approval was provisional, we believe it was reasonable for the Agency to interpret the written response and a letter he wrote to the Transport Minister outlining changes to border checks as approval to implement the proposals at Easter 2011. This resulted in the Agency working towards implementing these changes until, on 13 April 2011, the Home Secretary indicated that she did not approve the risk-based proposals, pending further work.

**3.68** After 13 April 2011, we found that while two of the risk-based measures were viewed by Ministers as viable, pending further work by the Agency to support its approach, the inclusion of risk-based Secure ID was not. At a meeting on 19 May

2011 the Home Secretary specifically excluded the implementation of risk-based Secure ID. This was reinforced on 22 July 2011, when the Level 2 pilot was approved.

**3.69** Despite Ministers' views that suspension of Secure ID should be excluded from the risk-based measures, we found that such suspensions continued at Heathrow (106 Secure ID suspensions took place between 19 May and 1 November 2011); this exceeded Ministerial authority. At this point the Agency should have informed Ministers that suspension of Secure ID was taking place regularly, primarily at Heathrow.

**3.70** The former Head of Border Force told us that he allowed the suspension of Secure ID as the separate WI policy already permitted suspension of checks on health and safety grounds. However, we noted that this policy did not apply to visa nationals and no provision existed to extend the policy, whether the approach was practical or not.

**3.71** As a result, we believe the suspension of Secure ID was unauthorised from 19 May 2011 onwards. We also found that four days after the Home Secretary approved the Level 2 pilot on 22 July 2011, senior Border Force officials were discussing ways in which the suspension of Secure ID could apply in extreme circumstances that might arise at Heathrow. Email correspondence suggested that this might happen up to 12 times per week at Terminals 3 and 4. In our view and given the Home Secretary's clear position on this matter, if the Agency believed there was an operational need to suspend Secure ID in emergencies, then specific Ministerial approval should have been obtained at that point.

**3.72** Suspension of Secure ID potentially exposed the border to greater risk. However, we note that this risk would have been mitigated to some extent because passengers continued to be checked against the WI and that, other than the specific instances approved by Ministers, travel documents were examined and biometric chips in travel documents were opened in most cases.

**3.73** However, the more checks that are carried out, the greater the assurance that can be provided to the public and Parliament that only those entitled to enter the UK are doing so. The suspension of fingerprint checks did not occur in individual cases as a result of a risk-based assessment by an Immigration Officer. It occurred primarily at the busiest times of day at the largest airport in the UK. This is unacceptable. There needs to be absolute clarity on whether, in any circumstances, it is appropriate to suspend fingerprint verification. That decision needs to assess the level of risk and needs to take account of the very different passenger volumes and infrastructure at ports across the UK and at the juxtaposed controls. Once the decision is made and communicated it needs to be applied rigorously and consistently.

**3.74** The Agency had failed to put in place any effective management oversight in relation to Secure ID suspensions. It had not undertaken any formal risk analysis to determine whether the suspension of Secure ID exposed the border to an increased

risk, neither had it evaluated the extent to which Secure ID acted as a deterrent against people committing immigration offences.

**3.75** The accuracy and consistency of record keeping in relation to the suspension of Secure ID was particularly poor. Management controls were weak, in that no guidance or suspension templates were provided to help staff record information in a systematic and consistent manner. A consequence of this was that records were incomplete and contained gaps in information. In addition, reasons for suspension were not always recorded and were not always properly authorised.

**3.76** We found no management reporting system in place to support upward reporting of Secure ID suspensions. We also found an absence of any assurance systems to provide confidence to senior managers and Ministers that suspensions were appropriate and necessary.

## CHAPTER 4. LEVEL 2 PILOT

### FINDINGS

#### January 2011 – Risk-based checks submission

4.1 On 13 December 2010, the former Head of Border Force met the Immigration Minister to discuss a proposed future border strategy. We have reviewed the note of this meeting, which covered e-Borders, workforce modernisation, technology and focused on high harm, high risk passengers. Under this last item, the note recorded that a discussion was held but nothing else was mentioned in relation to this issue.

4.2 The former Head of Border Force then met the Security Minister on 10 January 2011. We have reviewed a note of this meeting which indicated that the same subject material was covered. However, the note also recorded that the former Head of Border Force had emphasised the importance of securing Ministerial understanding and support about *“a more refined model of risk-based differentiation for our officers at the border”*.

4.3 The outcome of these two meetings was a submission by the former Head of Border Force to the Immigration Minister and the Security Minister, setting out the Agency’s strategy for future border security comprising a programme of workforce modernisation, wider use of border technologies, and *“greater risk-based decision making by frontline officers, in order to focus more effectively on those who present the greatest harm and threat to the UK”*.

4.4 In the submission, the former Head of Border Force set out three types of checks *“which are currently applied routinely to low risk passenger groups”*. They were recorded as the decisions to:

- *“open the biometric chip on the travel documents of EEA nationals on every occasion;*
- *match fingerprints on visa nationals on every occasion; and*
- *check the documents of accompanied children (under 16) who are part of a family or school group of EEA nationals on every occasion”*.

4.5 The former Head of Border Force set out his view that undertaking these checks on every occasion was *“wasteful, time consuming and for the Officer de-skilling”*. The submission proposed that all three checks should be applied using a targeted, risk-based approach, which would allow:

- staff to focus on higher harm cases;
- the Agency to proceed with further staff reductions in line with spending review commitments; and
- for potential improvements in passenger clearance times.

4.6 In parallel with the proposal to move towards a risk-based approach at the border, the submission also proposed incorporating a *“randomisation”* element to the checking, allowing continued measurement of risk to be made, and also to provide

an ongoing deterrent. There was no further clarification of the meaning of the term “*randomisation*”.

4.7 The former Head of Border Force indicated this measure had been the suggestion of the Security Minister at the meeting on 10 January 2011 – but no further detail was provided describing how “*randomisation*” would work in practice. The former Head of Border Force concluded by stating that the measures he was proposing were designed to “*enhance border security*”, although he recognised in his submission that there was a risk that “*public perception may be that we are reducing checks to cut costs*”.

4.8 This submission was sent to the Immigration Minister on 27 January 2011, but due to an administrative error, it was not sent to the Home Secretary, her Special Advisers or any of the other named copy recipients to review the submission for their comments. Later the same day, the Immigration Minister’s Private Secretary sent a note to the Immigration Minister asking if he was “*content to allow Border Force Officers to only randomly check the following as people arrive at the border*”:

- *Biometric chip on an EEA national’s passport;*
- *Fingerprints on visa nationals; and*
- *All documents for under 16s who are part of an obvious family group or a school party”.*

4.9 The note from the Private Secretary added that the submission had gone to the Security Minister at the same time and that the Office for Security and Counter Terrorism were content with the proposals.

4.10 The Immigration Minister approved the submission with the following comment “*OK with this as long as UK citizens (especially children and family groups) will not find themselves being checked more intensively than others*”. This note was followed by an email from the Assistant Private Secretary on 31 January 2011, which stated “*The Minister has seen the attached submission and is content for the changes to take place as long as the impact on UK citizens (especially children and family groups) is not greater than the impact on other travellers*”.

4.11 The Agency did not respond in writing on this point but we consider that the Minister’s reply did not make it explicit that a response was required. This email, together with the submission, was then circulated to various recipients, including:

- the Home Secretary;
- the Security Minister;
- the Permanent Secretary of the Home Office;
- Special Advisers;
- the Office for Security and Counter Terrorism; and
- the Acting Chief Executive, Board members and various Agency officials.

4.12 This was the first occasion that these recipients would have seen this submission, which at this point in time had been approved by the Immigration Minister.

**4.13** When we interviewed the Immigration Minister we sought his clarification on whether or not he had approved this submission. He stated that he had agreed in principle to the Agency developing these proposals because he believed a risk-based approach going forward was the right way ahead, both to secure the border and keep passenger flows moving. The Immigration Minister added that his expectation was that the former Head of Border Force would develop these proposals further and come back with more detail in due course, which he did in April 2011. To support his view, the Immigration Minister stated he had expected the former Head of Border Force to deal with his comment about any changes not impacting adversely against UK citizens prior to any changes taking place.

**4.14** The Home Secretary and the Permanent Secretary both confirmed that they also considered that the Immigration Minister's approval would have been provisional.

**4.15** The former Head of Border Force stated that the Immigration Minister and the Security Minister had both agreed the submission, adding this was "*not a pilot or trial, rather the full introduction of all three proposals. The Immigration Minister was clear that this did not require Home Secretary sign-off and he had followed up with a note stating that we should progress with the implementation*<sup>25</sup>." We have not seen any written evidence to suggest that the Immigration Minister considered it necessary to consult the Home Secretary.

**4.16** If the Immigration Minister's approval was provisional and subject to any further work by the Agency, this was not clear in the written response from his office, and was not understood by the Agency.

**4.17** In an email communication dated 1 February 2011, between the former Head of Border Force and the Acting Chief Executive, the latter stated "*...now that the Minister has approved the submission on checks, I would like to reinforce my views on how we should implement the proposition*". The Acting Chief Executive went on to set out his concerns that:

- this change be implemented in a disciplined way;
- they should continue to generate sufficient evidence to assess whether the judgements set out in the submission continued to be supported by the evidence; and
- staff should not over-interpret the change.

**4.18** The Immigration Minister's approval of the submission also appears to be supported by a letter that he sent to the Minister of State for Transport on 16 March 2011. This letter referred to an upcoming meeting of the South East Airports Taskforce on 21 March 2011, which the former Head of Border Force would be attending. In the letter, the Immigration Minister set out that the former Head of Border Force would present how the Agency was planning to handle the challenges of balancing rising passenger volumes at airports while maintaining a secure border. The Immigration Minister then added:

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<sup>25</sup> Email from the Immigration Minister's Assistant Private Secretary dated 31 January 2011.

*“We are introducing a more risk-based process to our checking of people at the border which will allow for more effective deployment of staff and a sharper focus on those people who intend harm to the UK. We believe this approach will also help us meet our passenger clearance targets (particularly for lower risk groups such as British citizens and other EEA citizens). UKBA has an enormously skilled set of front line staff and these changes reflect our confidence in their ability. We will introduce this approach in a phased way from the beginning of April.”*

**4.19** On 7 February 2011 the former Head of Border Force responded to questions raised by the Security Minister in relation to the submission. These centred around:

- how the targeted approach he proposed would identify specific groups of passengers suitable for risk-based rather than routine application of checks;
- how randomisation would complement and strengthen border security (but still with no proposals for how it would work); and
- confirmation that WI checks would still be carried out on EEA nationals, even though the biometric chip would not be opened.

**4.20** An email reply from the Security Minister’s Private Secretary, dated 14 February 2011, subsequently stated that the Security Minister had agreed the submission.

**4.21** However, prior to the Security Minister agreeing the submission on 14 February 2011, a meeting took place between the Acting Chief Executive of the Agency and the former Head of Border Force on 9 February 2011. The email note of this meeting refers to the Immigration Minister being *“okay with the submission – need to check with Special Advisers”*. It is clear from the meeting note that the latter point was an action for the former Head of Border Force to check whether Special Advisers had received the submission dated 27 January 2011<sup>26</sup>. When we interviewed the former Acting Chief Executive he told us that as there had been no response from the Special Adviser or the Home Secretary, it would be sensible to *“double check”* whether or not they had a view.

**4.22** The note goes on to indicate an intention to commence the targeted approach to risk-based checks at Easter and other emails show that Border Force was progressing work to implement these three risk-based proposals. This included the development of staff guidance – with a first draft being available on 4 March 2011. We also reviewed an email dated 6 April 2011 that showed considerable work had taken place to develop a communications package for Border Force staff. This included:

- a Border Force narrative – *“Proud of our past, building our future”*;
- a supporting slide pack – *“to support cascade of the priorities and story to your own reporting teams”*; and
- border development scripts – *“to support your briefing to staff on the changes coming in the next week.”*

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<sup>26</sup> Special Advisers were copied into this submission, but due to an administrative error the submission was not sent to them on 27 January 2011.

**4.23** In addition, the note said that a staff publication would publicise the “*quick wins* [around opening chips for EEA nationals, WI checks for children and Secure ID] *this week*”. When we interviewed the former Head of Border Force, he told us that he had “...*spent some time with my management team in the preparation for implementation, including the development of briefings, guidance, instructions and a full Border Force conference presentation – as we took forward the risk-based agenda. I was determined that the implementation was properly and effectively delivered and not rushed*”.

**4.24** It is clear from the evidence we have examined that all relevant parties in the Agency shared a common view that the risk-based proposals had been agreed by the Immigration Minister and were to be implemented.

**4.25** On the same date (6 April 2011), an email was sent from the former Head of Border Force’s office to the Private Secretary for the Special Advisers, requesting them to examine the three risk-based proposals set out in the January submission. This email indicated that the approach “*had been previously signed off by Ministers*”, but that the Acting Chief Executive wanted to ensure that Special Advisers were content with the approach outlined. Later the same day the Private Secretary to the Special Advisers informed the former Head of Border Force that there would be “*substantive comments that will need to be addressed*”. Despite the progress that the Agency had already made towards implementing these proposals, this was the first indication that the Home Secretary was not content with the risk-based proposals.

**4.26** A further email from the office of the former Head of Border Force to his Regional Directors, dated 8 April 2011, put a halt to the risk-based proposals, noting that “*You will be aware that we had hoped to roll out the ‘quick wins’<sup>27</sup>, ... by close today. However we have now been asked to clarify some points for the Home Secretary which will temporarily delay the roll out*”.

#### **April 2011 – Border Strategy submission**

**4.27** On 8 April 2011, the former Head of Border Force submitted proposals for a four year Border Strategy. This was sent to the Home Secretary and copied to the Immigration Minister and various other recipients. It set out that an early reply would be helpful as the former Head of Border Force wanted to apply the first phase of risk-based checks at Easter (week commencing 11 April 2011) to deal with increased passenger numbers at the busiest ports. The submission therefore recommended that the Home Secretary:

- “*note our strategy for modernising border controls over the next four years, including the introduction of risk-based passenger controls;*
- *note the reassurances we are proving in relation to this approach; and*
- *agree the implementation of the first phase of risk-based controls during the week commencing 11 April 2011.*”

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<sup>27</sup> A term used by Agency officials to describe the three risk-based measures it wanted to introduce.

**4.28** This submission built on the earlier one to the Immigration Minister and the Security Minister and repeated the proposals for implementing risk-based checks at the border, i.e. a targeted approach to:

- opening biometric chips in EEA nationals' travel documents;
- verifying the fingerprints of visa nationals (Secure ID); and
- scanning the travel documents of EEA children against WI.

**4.29** The former Head of Border Force set out the challenges facing the organisation in support of his proposals, in particular highlighting increasing passenger and freight volumes against a background of staff reductions to meet spending review commitments. He also set out the increasing role the Agency would play in counter terrorism and serious crime at the border.

**4.30** In the submission the former Head of Border Force advised that the Immigration Minister and the Security Minister had already agreed the proposals relating to risk-based controls. However, on 13 April 2011, the Home Secretary and Immigration Minister stated they were not content to agree the changes suggested, primarily because they considered that the four year Border Strategy did not set out sufficient detail on wider border security initiatives, such as e-borders, rail liberalisation, maritime challenges and the Olympics. In addition they were not satisfied that the risks/benefits associated with the risk-based proposals had been sufficiently set out.

**4.31** We interviewed the Home Secretary on 11 January 2012. She confirmed that she had rejected the proposals because they *"did not provide enough detail about the implication of any such relaxations in border security checks"*.

**4.32** On 18 April 2011, the Acting Chief Executive of the Agency met the former Head of Border Force to discuss the Border Strategy with particular emphasis on the proposals around risk-based checks. It is clear from reading the record of this meeting that adopting risk-based controls in advance of the summer peak period was considered a strong factor to avoid immigration queues at UK ports, otherwise it was recognised that there might be a need for more Border Force staff.

**4.33** This meeting note also referred to an ongoing trial at Calais introduced in February 2011. This saw WI checks being suspended in relation to the children of British families travelling in cars, who were only subjected to a visual passport check, rather than being scanned against WI.

**4.34** The purpose of the meeting was for the former Head of Border Force to prepare a revised paper for the Home Secretary in early May.

**4.35** The next meeting with the Home Secretary relating to the Border Strategy was on 19 May 2011. A written note of that meeting shows that at this time there was no agreement to make any changes to border security checks, with the Home Secretary commenting *"...Secure ID checks must be useful for people coming in on [certain] flights"*. In our interview with the Home Secretary, she made it clear that it was at this point she decided not to relax use of Secure ID. This was supported by the former Head of Border Force when we interviewed him and he told us *"at a meeting*

on the 19 May, the Home Secretary had made clear she would not like to see a suspension of Secure ID, so it was dropped from the proposals”.

#### **June 2011 – Industrial Action submission**

**4.36** In advance of the July submission relating to risk-based checks, a submission was sent to the Home Secretary, the Immigration Minister and the Permanent Secretary of the Home Office, on 16 June 2011, relating to the industrial action planned for 30 June 2011. This submission was sponsored by the former Head of Border Force, and approved by the Acting Chief Executive of the Agency.

**4.37** In this submission, Ministers were asked to note the Agency’s progress in drawing up plans to mitigate against the expected industrial action. It added that the Agency believed there was strong support for the industrial action and considered it would have most impact against Agency operations at Heathrow, Gatwick, and juxtaposed control ports (i.e. those ports with the greatest traffic volumes). As such the submission set out the Agency’s aim to increase flexibility and maintain border security. Significantly, the submission set out five scenarios of operational activity which the Agency may need to move to in the event of a critical incident.

**4.38** Scenario 1 was described as “*near business as usual*” where the majority of staff (900+) are available for duty to operate the immigration controls, with some impact on secondary activity (i.e. customs related work). Scenario 2 proposed a number of changes to border security checks, including ceasing to open the chips within EEA passports routinely, and ceasing WI checks routinely on EEA nationals under 18 travelling in school or family groups. Significantly, Scenario 2 measures also included the suspension of routine biometrics within visas through Secure ID (i.e. stopping routine fingerprint checking), and the suspension of questioning visa nationals unless there was perceived to be a risk. This submission was subsequently approved by the Home Secretary on 23 June 2011.

**4.39** A further three scenarios were defined for the purposes of responding to the day of industrial action. Scenario 3 further removed routine WI checks on all EEA nationals, with Scenarios 4 and 5 further reducing border security checks. We consider that the similarity in terminology, and the proposed changes to security checks between Scenario 2 as defined for this purpose and Level 2 as subsequently agreed by Ministers in the risk-based pilot was a significant contributing factor to the confusion that we found at some ports. The main confusion was around the suspension of Secure ID checks. These were suspended under Scenario 2 of the industrial action approved proposals, but were explicitly not to be suspended under the risk-based Level 2 pilot.

#### **July 2011 – “Summer pressures” submission**

**4.40** On 12 July 2011, the former Head of Border Force made a further submission to the Home Secretary and Immigration Minister entitled: *Passenger clearance pressures*. We noted that this submission made no reference to other border security initiatives, such as e-borders, rail liberalisation, maritime challenges or the Olympics, even though these had been asked for by Ministers following the April submission.

Rather this submission concentrated solely on the impact of heightened passenger volumes through UK ports during the peak summer period and beyond. While we recognise the need to deal with increased passenger volumes during the summer period, we consider the submission should have linked how the proposals described here fitted into the wider border security strategy.

**4.41** The former Head of Border Force provided background information to support this submission, also known as the “Summer pressures” submission. This included the fact that most UK ports experienced large increases in passenger volumes during the summer period between July and October and linked this to a workforce reduction of approximately 600 staff in 2011.

**4.42** The submission set out the challenge that the Agency faced in:

- *“maintaining the integrity of the border;*
- *ensuring the welfare and safety of passengers; and*
- *taking account of the pressures on port operators to clear queues and the risk that this may manifest into reputational damage for the Agency”.*

**4.43** We found that the submission did not clearly quantify the benefits that would result from adopting this approach, such as how it would work to alleviate passenger queuing times or improve the security of the border through improved performance in relation to high risk passengers.

**4.44** The former Head of Border Force set out the Agency’s aim to plan and deliver a proportionate balance of activity between managing passenger clearance times and the detection of high priority goods. It also set out the management actions already undertaken by the Agency to manage the peak summer period, including restrictions on staff taking leave, maximising the use of automated gates and effective deployment of staff to address passenger flows. However, we found that there was a lack of detail regarding how immigration risks would be managed.

**4.45** The submission referred to the success of the measures that the Agency had taken during the strike action on 30 June 2011, particularly in relation to deployment of other Agency and Home Office volunteers to staff immigration controls during the strike.

**4.46** The former Head of Border Force then went on to set out the need to talk to Ministers about *“how we balance the need to draw on two further measures to ease queues. As our response to the strike action showed, carefully managed periods of more limited checks on specifically targeted low risk individuals and groups can have a big impact in managing queues”.*

**4.47** He therefore requested permission to authorise local managers to *“move to Level 2 as necessary and as carefully judged”.* Under Level 2, the two risk-based measures set out that Immigration Officers would routinely cease :

- *“opening the chip within EEA passports; and*
- *checking all EEA nationals under 18 years against the Warnings Index where they are travelling in clear family units or as part of a school party”.*

**4.48** This submission only proposed suspending routine opening of biometric chips in EEA passports and suspending WI checks on EEA nationals under 18 in obvious family units or as part of a school group (measures used on strike day). We found this added to the confusion as the earlier submissions, relating to risk-based controls, always referred to EEA nationals being under the age of 16. The “Summer pressures” submission set out no rationale for the increase in age, although we note that the higher age limit had been used as one of the strike day measures.

**4.49** In addition, the annex to the submission set out a further set of measures that would apply as part of the risk-based approach. This included a reference that Immigration Officers would “*only endorse the document and not question visa holders, unless there is perceived to be a risk*”. Paragraph 2 of Schedule 2 of the Immigration Act 1971 states that Immigration Officers “*may examine a person who has arrived in the UK*”. It is unclear to us therefore how much of a change this was intended to make in practice. During the course of our interview with the Home Secretary, she stated that she thought this statement was simply a reflection of what Immigration Officers already did.

#### **July 2011 – Follow up to “Summer pressures” submission**

**4.50** On 13 July 2011, in response to the “*Summer pressures*” submission, the Home Secretary requested further information, including details about the function and use of biometric chips, and information about what was done at Heathrow in 2010 to ease pressures. This further information was submitted by the former Head of Border Force on 15 July 2011, who stated that he had chosen to focus on Heathrow because it represented the greatest risk, from both passenger volumes and reputational risk to the Agency. The former Head of Border Force set out that the Agency had only just managed to contain the queues at Heathrow in 2010, and that since then:

- “*passenger traffic at Heathrow had increased by 9.1% - this is a dramatic rise and clearly has an impact;*
- *staff numbers have been reduced by 150 (8%) in line with our cost reduction requirement;*
- *a number of carriers are moving terminals and the match of the arrival halls to the passenger typology is not ideal (Terminal 4)*

[REDACTED]

**4.51** [REDACTED].

**4.52** On 20 July 2011, the Agency was advised by the Home Secretary’s Private Secretary that, although the Home Secretary was minded to agree to the proposals, the Home Secretary wanted “*to talk it through*” before responding. This response came on 22 July when the Home Secretary’s Private Secretary advised “*Ministers are content to move to a risk-based approach to the biometric checks, subject to it only being a temporary measure*”. The Private Secretary went on to say “*the change in checks should not be a routine measure but only used when the queues get beyond a reasonable length*”.

**4.53** Further correspondence between the former Head of Border Force's office and the Home Secretary's Private Office took place to clarify whether the Home Secretary's approval included not opening chips in EEA passports and not scanning EEA children's passports against WI. The Private Office confirmed this was the case but using a risk-based approach as agreed, adding "*so you can move to Scenario 2 when you need to but not all the time*".

**4.54** We found that the language used in both the submission and the response provided to it, was not clear and as a result was open to misinterpretation. For example in the quote above, the reference to 'Scenario 2' was incorrect. This was the term used for the day of the industrial action and was not the terminology used for the risk-based proposals which were referred to as 'Level 2'.

**4.55** In addition there were various key terms in both documents where the meaning was not clear, for example:

- *Pinch periods;*
- *Not be a routine measure;*
- *Only be used when the queues get beyond a reasonable length;*
- *Temporary;* and
- *Not all the time.*

**4.56** Given the importance of decisions to suspend border security checks, we consider it is imperative that the language used is absolutely clear and unambiguous.

## **HOW EFFECTIVE WAS IMPLEMENTATION?**

### **Guidance to staff on the Level 2 pilot**

**4.57** On 28 July 2011, the Agency issued Interim Operational Instruction number BF 01 29 11, entitled *Trial of risk-based processes at the border*. The instructions stated that, as a trial, new procedures would operate from 29 July 2011 until mid September 2011.

**4.58** We found that the Interim Operational Instruction accurately reflected two of the changes that had been agreed by the Home Secretary (not opening biometric chips in EEA nationals' travel documents and not scanning the travel documents of EEA accompanied children who were part of a family or school group).

**4.59** However, we found two areas of concern. Firstly, we reviewed the Interim Operational Instruction in relation to the paragraph that read: "*...if, for whatever reason, it is considered necessary to take further measures, beyond those listed above, local managers must escalate to the Border Force Duty Director to seek authority for their proposed action.*" We found that managers at the ports we inspected, who were familiar with the WI policy, interpreted these "*further measures*" to mean suspensions of WI checks on EEA nationals, initiated because of health and safety concerns. However, at Heathrow, we found that the interpretation of "*further measures*" also included the suspension of Secure ID.

**4.60** We consider this was another example of unclear and ambiguous language. We believe that the Instruction should have clearly defined what was meant by “*further measures*” to ensure absolute clarity, at a local level, about what could and could not be done. Neither was there any explicit reference in the submission to Ministers about the possibility of introducing “*further measures*” either on health and safety or other grounds.

**4.61** Secondly, we found that the Instruction did not accurately reflect what had been approved in the submission, which said “...*only endorse the document and **not** question visa holders, **unless** there is perceived to be a risk*”.

**4.62** By the time this sentence appeared in the Interim Operational Instruction on 28 July 2011, the wording had changed to “...*only endorse the document and question visa holders, where there is perceived to be a risk*.” The omission of the word “*not*” and the substitution of the word “*where*” for “*unless*” resulted in an instruction that was different to what was approved by the Immigration Minister and the Home Secretary in July 2011.

**4.63** Accompanying guidance for staff was issued to support the Interim Operational Instruction. It did not contain any clarification as to how this instruction should be implemented. The combination of these factors resulted in confusion and the potential for different interpretations about the need for examination and questioning of visa nationals.

**4.64** During interviews and focus groups, staff told us that not questioning visa nationals went against their training and experience. For this reason, a substantial number of staff at Heathrow told us that they chose not to implement this part of the Level 2 pilot and carried on as usual.

**4.65** In another region, we found Chief Immigration Officers at one port had questioned their Inspector about this Instruction during a Level 2 pilot briefing. The Inspector was unable to clarify what it meant and as a result it was left to frontline staff to interpret it themselves. We also saw emails sent by staff of varying grades to their managers questioning its validity.

**4.66** However, we found that officers at three ports covering seven terminals did comply with this Instruction and stopped questioning visa nationals as part of the Level 2 pilot. At two of these ports, officers went onto suspend Secure ID as well.

#### **How the instruction was cascaded to staff**

**4.67** On 28 July 2011, the former Head of Border Force issued a message to all Border Force management staff at Grade 7 and above giving the date of the trial as being from 29 July to 19 September 2011. It described two levels of operation: Level 1 being “*business as usual*”, and Level 2, while still performing essential checks, relying on the judgement of staff as to whether “*additional assurance is necessary on each particular case*”. It also emphasised that:

- decisions to move to Level 2 operation should be made by local Border Force management at the port;

- Level 2 should be entirely dependent on the risk and balance of activity; and
- records should be maintained at a local level to support decisions to move to Level 2 on each occasion.

**4.68** We asked the Agency for copies of the risk-based assessments that were undertaken in order to proceed with implementation of Level 2. We were informed that no central risk-based assessments were made prior to implementation. During our port inspections we found that Level 2 was used primarily at particular times of the day when the volume of passengers was high. We did not see evidence that an individual assessment of risk was carried out prior to each of these occasions.

**4.69** Following the issue of the Interim Operational Instruction on 28 July 2011, Agency staff within ports received further information about the risk-based approach. This was typically in the form of emails/notes from their Regional Directors and local port-based management teams. We found these were inconsistent and did not convey an accurate interpretation of what was intended by the Ministerial authorisation. We believe that this lack of consistent interpretation across UK ports contributed, at least in part, to some of the confusion surrounding the implementation of the Level 2 pilot and its inconsistent application.

**4.70** Local correspondence in one region was accurate in that it made it clear to staff that the pilot was time limited and that they must adhere to the Border Force guidance, which was attached. The correspondence stated that decisions to move to Level 2 measures had to be clearly justified and recorded.

**4.71** In another region, the Level 2 pilot was actively promoted by managers in order to ensure that they could evidence its effectiveness. We encountered the phrase “*use it or lose it*” in a number of instructions to staff, particularly at ports where there was no need to suspend the full range of border security measures (referring to Level 2).

**4.72** On 5 August 2011, the Director of Heathrow sent a message to all Border Force staff entitled “*Risk-based checks: Making the most of our resources*”. This note referred to the introduction of the Level 2 pilot and went on to describe what this meant for the operation at Heathrow. It reminded staff that this was a trial to test a more risk-based approach (as evidenced by intelligence analysis) at the immigration controls in order to reduce the requirements to pull resources away from higher risk activity. It specified that the three key activities being trialled were a discretionary (rather than mandatory) approach to:

- “*opening chips in EEA passports;*
- *checking children against WI who form part of family or school groups; and*
- *stamping and questioning visa holders who already have leave to enter.*”

**4.73** The note told staff that work with the British Airports Authority had identified that the major pressure points in relation to passenger volumes at the immigration controls were between 6-9am and 6-9pm, with weekends notably being more intense. It added that resources from other parts of the business were consistently used to support the immigration controls at these times and for this reason Level 2

should be activated at these times across all four terminals<sup>28</sup> at Heathrow as a minimum. As we have already mentioned, the language used in the submission and subsequent authorisation was not clearly defined, therefore it is arguable whether this decision was in line with the original Ministerial authority, which stated: “*Ministers are content to move to a risk-based approach to the biometric checks, subject to it only being a temporary measure... the change in checks should not be a routine measure but only used when the queues get beyond a reasonable length*”.

**4.74** During interview, the former Head of Border Force told us that he became aware, at an early stage, that Heathrow had allegedly built in a regular daily procedure for invoking Level 2 activity without, apparently, a clear basis for doing so. He had raised this issue with the Director at Heathrow, who confirmed that he would “*immediately change the arrangements to fit the trial. I believe he did so.*” He added, however, that he did not believe it unreasonable that there would be regular parts of the day or week where a predictable and recurring risk would result in the use of Level 2.

**4.75** We also noted that, in his first weekly update to Ministers, dated 15 August 2011, the former Head of Border Force reported that Level 2 measures had been used across all Heathrow terminals during peak periods (6-9am and 6-9pm). However, he added that he was wary of managers coming to regard this as routine activity and so had reminded them that a real time assessment of the risk should be made on each occasion the measures were deployed. This was the point then that Ministers were made aware of this issue.

**4.76** The Acting Chief Executive confirmed to us that he had raised the issue of routine use of Level 2 at Heathrow with the former Head of Border Force upon receipt of this report, when he became concerned that in applying Level 2 routinely at the same times every day, Heathrow was out of step with what Ministers had agreed.

**4.77** On 18 August 2011, a Deputy Director at Heathrow issued a note to all Heathrow managers stating that she had received feedback from them about periods within the peak times (6-9am and 6-9pm periods) when Level 2 may not be necessary. She added that Inspectors and Chief Immigration Officers should therefore use their judgement to determine when to switch back to full checks within these periods. This was an attempt to ensure that Level 2 was only used when necessary in order to focus attention on higher risk passengers. However, during our inspection of Terminal 3, which took place between 26 September and 19 October 2011, we observed that this latest instruction was not being followed as staff continued using Level 2 every day between 6-9am, even when queue lengths were not unreasonable. Conversely this investigation established that the remaining terminals (1, 4 and 5) had stopped using this daily practice.

## **WHAT DID WE FIND DURING OUR INSPECTION OF PORTS?**

### **Heathrow and the implementation of the Level 2 pilot**

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<sup>28</sup> At the time of reporting Heathrow Terminal 2 was closed.

**4.78** We found that staff across all four terminals at Heathrow had used Level 2 measures during the summer period. Staff at one terminal said they had used Level 2 at the same times each day, while staff at the remaining three terminals stated that although they had initially applied it at the same times every day, they later changed their approach to use it only when necessary. This was supported by records that we examined. Staff at all four terminals confirmed that Level 2 measures were invoked on the authority of either the Chief Immigration Officer or duty Inspector.

**4.79** We found that staff across all four Heathrow terminals clearly understood that Level 2 measures allowed them to stop opening the biometric chip in passports for EEA adults and stop scanning passports against WI for EEA children, when they were in family groups or as part of school parties. Staff told us that they welcomed the return of some discretion and saw this approach as beneficial. They knew that they could still open biometric chips for EEA adults and scan children's passports against the WI if they considered it appropriate to do so.

**4.80** However, we also found that some staff thought that suspending Secure ID was included as part of Level 2, as was not opening biometric chips in passports for non-EEA nationals. We observed clear differences in the way passengers were treated during the operation of Level 2 measures whilst inspecting Heathrow Terminal 3, and this included Secure ID not being used for visa nationals.

**4.81** We also found a significant number of Immigration Officers were not able to define Level 2 measures correctly. As a result they were implementing Level 2 measures inconsistently and not in accordance with the Interim Operational Instruction.

**4.82** While the Interim Operational Instruction had been circulated to all Heathrow staff on 28 July 2011, many staff told us they had not seen it nor read it, citing pressure of work for not keeping up-to-date with their emails. We found a heavy reliance was placed on emails and the Heathrow intranet, with less focus on face-to-face team briefings. We also note that during the strike day on 30 June 2011, Scenario 2 included the suspension of Secure ID, a matter which we heard staff refer to a number of times during our investigation and which was another contributing factor to staff confusion.

**4.83** We reviewed the supporting correspondence issued by the senior management chain at Heathrow in relation to the Level 2 pilot. We were satisfied that they were broadly in line with the Interim Operational Instruction, but we were concerned about how some of the key messages were re-interpreted as part of this approach. For example, at Heathrow we were concerned with the language that was used in relation to the issue of not questioning visa nationals which outlined the default position as not to question visa nationals, as set out below:

*“Visa holders have been given leave to enter by a UKBA officer already; any perceived shortfalls in the process must be a question for International Group to address, rather than a buck to be passed to us, requiring us to revisit in depth their every decision. The default position therefore under Level 2 is not to*

*question visa holders, but you should still ask them questions whenever something from your experience raises your concerns, perhaps while you are checking the WI or the passport or performing the Secure ID check, e.g. behavioural indicators or a student with insufficient English to understand how to have fingerprints”.*

**4.84** The use of the phrase “*The default position...under Level 2 is not to question visa holders...*” in our view goes beyond what was approved by Ministers in the Level 2 pilot submission, although the email went on to remind staff that they did have discretion if they had concerns in individual cases.

**4.85** We also found further correspondence issued by managers to staff at Heathrow dated 14 September 2011. This expressed frustration at Immigration Officers who were ignoring the instruction not to ask questions of visa nationals. It stated that “*staff shouldn’t just keep working the way they want, that also doesn’t help tackle the pressures they (rightly) complain about...it would be great to get assurance that Immigration Officers are not asking most visa holders questions when Level 2 is invoked*”. The email added that if Immigration Officers were not following guidance, then it could become a performance issue adversely affecting their performance appraisal.

**4.86** When we interviewed the Immigration Minister on this issue, he told us that he believed a discretionary approach to questioning visa nationals was sensible, because passengers had different profiles, adding “... *passengers such as frequent business travellers would be coming in and out of the UK all the time, so it was sensible to direct questions at those passengers where additional scrutiny was necessary*”.

**4.87** The Home Secretary informed us that she believed that the Level 2 submission sent to her in July 2011, implied a discretionary approach was already part of standard practice, adding “*Immigration staff would use their discretion to decide when they would need to probe passengers further about their intentions in the UK.*”

**4.88** It is clearly important for Immigration Officers to retain their discretion to question visa nationals. Probably the most effective border check is having a well-trained Immigration Officer question passengers and form a view as to whether they should be granted entry to the UK or be subject to further examination. Therefore we are concerned that the evidence of this investigation is that, under Level 2, staff were being discouraged from using their discretion in circumstances where they wished to.

**4.89** We consider effective questioning by Immigration Officers in this respect is particularly important, because the visa application process overseas is now almost entirely paper-based. This means that the first time visa nationals are seen by a UK immigration official is when they arrive at an immigration control at a UK port.

**4.90** The case study at Figure 12 refers to one such case.

## Figure 12: Case study – Visa passenger

### The passenger:

- arrived at the immigration control (non-EEA desks) when Level 2 was in operation;
- was in possession of a valid UK entry clearance visa;
- did not display any other negative behavioural indicators that would have given the Immigration Officer reason to question them further.

### The Immigration Officer:

- stated that the passenger appeared perfectly genuine and exhibited no signs of nervousness;
- stated that under Level 2 procedures he should not have asked any further questions and simply granted them entry to the UK;
- ignored the Level 2 instructions;
- asked further significant questions which raised doubts about the intentions of the passenger;
- subsequently arranged for the passenger to be detained following which point he was found to have swallowed 93 packages containing cocaine.

### Chief Inspector's comments:

- This case study reinforces the important role played by Immigration Officers in using their discretion effectively to determine when it is right to subject passengers to further questioning.

## Level 2 implementation at remaining ports

**4.91** The remaining 19 port locations inspected all confirmed that they had used the Level 2 pilot during the summer. Two ports said they had used Level 2 at pre-set times each day, while a further port stated that although it had used Level 2 at pre-set times initially, it subsequently changed its approach to use it only when there was particular pressure at immigration control. The remaining 16 ports confirmed that they only used Level 2 when necessary.

**4.92** We generally found a good understanding amongst frontline staff about both of the risk-based measures under Level 2 that could be used by them in relation to EEA. At the remaining ports, we found a consistent understanding (in line with the Interim Operational Instruction) of Level 2 amongst Chief Immigration Officers, Inspectors and the Assistant Director. However, we found differing views amongst Immigration Officers as, although some thought that disabling the chip only related to EEA nationals, others thought that it applied to all passengers.

**4.93** Our investigation established that only two out of these 19 ports had suspended Secure ID: Luton before the commencement of the Level 2 Pilot and Gatwick South after the implementation of the pilot. The remaining 17 ports all confirmed that Secure ID had never been suspended, either prior to or after implementation of the Level 2 pilot. The Secure ID suspensions are covered in greater detail in Chapter 3.

## RECORD KEEPING AND MANAGEMENT INFORMATION

### Audit requirements

**4.94** Upon implementation of the Level 2 pilot, all ports received a *Briefing for Managers* document. This described the audit requirements for the Level 2 pilot. It required ports to provide the following information to the National Operations and Performance Directorate (NOPD):

- port location;
- the date and time Level 2 procedures commenced and terminated;
- the name and grade of the manager authorising commencement and termination; and
- a brief reason for commencement.

**4.95** Agency records showed that Level 2 measures were used on 2,081 occasions between 28 July and 4 November 2011<sup>29</sup>. Generally we found that ports had captured the information required. However, we identified some discrepancies between the records maintained by ports and those maintained by NOPD. This included differences relating to the number of times that Level 2 had been used. Level 2 templates maintained by NOPD also varied from those submitted by ports, in that while the central records contained details of outcomes, the records held by ports, for the same period, did not.

**4.96** The same briefing document issued to ports identified eight performance measures that would be used to assess the effectiveness of the Level 2 pilot, using data held centrally to compare performance with the same period in 2010. These measures included the number of:

- IS81s issued;
- people refused entry;
- forgeries detected;
- Class A drug seizures;
- counter-proliferation seizures;
- Cyclamen alarms;
- staff deployed to primary and secondary controls; and
- targets and alerts received relating to passengers/cargo arriving during the period and the operational response.

**4.97** Initially, the intention was to analyse this data centrally and ports were not asked to collate any information under the eight criteria. This position changed on 26 August 2011, when ports were required to link the use of Level 2 to notable outcomes, for example, illicit commodity seizures, and were provided with generic examples to provide some guidance about the type of information that was required. These examples excluded details related to immigration activity.

### **Weekly update reports**

**4.98** The weekly update reports submitted to the Chief Executive and Ministers did not refer to all eight performance measures, neither did they provide a comparison of performance in relation to the corresponding period in 2010. We were told this was because the recording of commodity seizure outcomes used an IT system that was

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<sup>29</sup> At the ports we inspected, Level 2 measures were used at Heathrow 331 times. They were used at the remaining ports 1,750 times.

owned and operated by HM Revenue and Customs, which did not easily lend itself to producing the type of management information reports required by the Agency. This meant that the data could not be easily analysed. So, on a monthly basis, the NOPD received “*data dumps*” which were manually manipulated into “*commodities*” to enable analysis. But even then, this required more work to collect information that was either missing or entered incorrectly when originally entered.

**4.99** Our observations in relation to reporting on risk-based controls to the Chief Executive and Ministers are that the weekly update reports:

- were not balanced, in that they did not reflect sufficiently on the impact of Level 2 in relation to immigration work;
- presented an inaccurate picture of performance in relation to Level 2; and
- could not be relied upon to determine the success or otherwise of Level 2.

**4.100** We appreciate the difficulties presented by the commodity seizure IT system, particularly in relation to weekly comparison of performance. However, as the pilot proceeded, we would have expected to see more comparative performance information being provided in the weekly update reports, particularly in relation to immigration statistics which are drawn from a separate IT system<sup>30</sup>.

**4.101** We were told by staff that the reporting mechanism put in place was seen within Border Force as a tool to provide a “*snapshot*” of activity during the Level 2 pilot, rather than providing a detailed picture of performance.

**4.102** Secondly we noted that the Level 2 weekly update reports were heavily focussed on notable commodity seizures – but significantly we found there was no system in place to identify a correlation between seizure outcomes and the use of Level 2. Instead the Agency was reporting more generally on notable seizures that had occurred during the reporting period. We found this fact was not clearly communicated in either the weekly update reports that were prepared by the NOPD or in the operational assessment report submitted by Border Force that subsequently led to Ministers agreeing to extend the pilot.

**4.103** We found examples of seizures of illicit commodities that were attributed to Level 2 but which would have required Agency action in any case. A good example of this was a seizure of cocaine on a coal ship, which was uncovered by a dockworker. In this case, the Agency claimed that using Level 2 measures allowed it to deploy staff for a Class A operation resulting in the seizure of 10kgs of cocaine. While it could perhaps be argued that using Level 2 enabled the Agency to release resources from the immigration controls to deal with the discovery of these drugs, we did not consider that the seizure was made as a result of the use of Level 2 measures.

**4.104** We believe that the systems put in place by the Agency to evaluate the effectiveness of the Level 2 pilot were inadequate. The difficulty in separating out results that could be directly attributable to the pilot made the reporting to Ministers less reliable.

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<sup>30</sup> Case Information Database – commonly referred to in the Agency as CID.

## Ministerial updates

**4.105** At the outset of the pilot, the Agency agreed to send weekly update reports to the Home Secretary and Immigration Minister. Thirteen of these updates were subsequently produced, covering 31 July to 31 October 2011. However, we noted that the seventh weekly update report, covering the period 12 – 18 September 2011, stated that future weekly update reports on the pilot would be incorporated into the weekly highlight reports. These were routinely sent from the Agency to Ministers. We found that the Level 2 pilot was referred to in three of these reports (week 8, week 11 and week 13).

**4.106** We established that Ministers only received the first three (of seven) weekly update reports, whilst the Acting Chief Executive received the first four. We have been unable to establish why they did not receive the others, as there was no clear explanation for this omission.

**4.107** The Home Secretary and the Immigration Minister confirmed that the first three weekly update reports suggested the pilot was effective and as a result, when they received the evaluation report seeking authority to extend the pilot, they agreed to extend it for a further six weeks. Both Ministers added that they then decided to wait for the final evaluation paper, as the Home Secretary had requested a meeting to review this pilot when it concluded.

**4.108** In some later weekly update reports, which Ministers and the Chief Executive did not receive, we found that there were references to additional measures that had gone beyond what they had authorised as part of the Level 2 pilot. For example, in the:

- sixth weekly update report, reference was made to Secure ID being suspended on five occasions; and
- seventh weekly update report, reference was made to the Heathrow Director authorising extra measures on several occasions but did not specify what these measures were.

**4.109** In our view, it would have been beneficial for Ministers to continue receiving the weekly update reports given the fact that these reports highlighted further border security checks that were suspended.

## Extension of the Level 2 pilot

**4.110** On 12 September 2011, the former Head of Border Force sent a submission to the Home Secretary and Immigration Minister requesting an extension to the pilot until early November 2011. The submission asked Ministers to note the improvements in commodity seizures and customer service levels against the corresponding period in 2010 and requested Ministers to extend the trial for a further six-week period. The former Head of Border Force stated he favoured such an extension in order to *“build a more robust evidence base which would enable the Agency to assess the operational benefits of a risk-based approach”*.

4.111 We noted that although the submission did provide a comparative picture of performance across both August 2010 and August 2011, it did not report against all eight criteria specified by the Agency at the start of the Level 2 pilot. It commented on increases in the number of:

- commodity seizures (based on initial analysis);
- immigration offenders identified (through embarkation checks);
- clandestines<sup>31</sup> identified; and
- forgeries detected.

4.112 The submission recorded a number of improvements in performance. However, we noted that the submission did not refer to performance in relation to IS81s and decisions to refuse entry to the UK. In relation to these two issues, we examined performance statistics for Heathrow which showed that while forgery detection increased by 9% over the three month period in 2011, passengers refused leave to enter the UK over the same period dropped by 21%, while the number of passengers held for further examination (IS81s) also dropped by 21%. Figure 13 refers.

<b>Figure 13: Heathrow – Immigration performance statistics</b>								
	Aug 2010	Aug 2011	Sept 2010	Sept 2011	Oct 2010	Oct 2011	Totals	
							2010	2011
<b>Forgeries detected</b>	31	23	29	30	36	53	<b>96</b>	<b>106</b>
<b>Passengers refused leave to enter the UK</b>	643	518	745	579	650	513	<b>2038</b>	<b>1610</b>
<b>IS81s issued</b>	1243	1003	1363	1089	1237	954	<b>3843</b>	<b>3046</b>

Note: Figures provided by the UK Border Agency

4.113 The reduction in the issue of IS81s and subsequent refusals was significant at Heathrow (21% respectively) and while we accept other factors may have contributed to these changes, we consider it possible that Level 2 may have had an impact on them. The Agency was unable to tell us why these figures were not included in either the weekly updates or the evaluation of the Level 2 pilot.

4.114 We would have expected this sort of information to be analysed and form part of any evaluation of the effectiveness of a risk-based approach to border checks particularly as the Agency itself had identified these issues as part of the performance criteria to measure the effectiveness of the Level 2 pilot.

4.115 We noted that when the Agency prepared its submission to Ministers (dated 12 September 2011) requesting approval to extend the Level 2 pilot for a further six weeks, it indicated that it “*had not identified any disbenefits*” in connection with the Level 2 pilot. The evidence we collected at Heathrow at the very least required analysis to discover whether this represented a disadvantage of the Level 2 pilot.

<sup>31</sup> A person who hides in or on a vehicle travelling to the UK.

**4.116** It is evident from the correspondence we have reviewed that Ministers approved a six week extension to the Level 2 pilot following which it would conclude.

### **Smaller Ports – Findings in relation to the Level 2 pilot**

**4.117** A questionnaire was sent to 14 locations where Border Force has a presence (permanently or intermittently staffed) but which the Agency had not included on their list of ports where Level 2 measures had been invoked. The purpose of this questionnaire was to establish whether:

- Level 2 had been invoked;
- Secure ID was present and, if so, if it had been suspended;
- swiping passports against WI had been stopped at any time; and
- any other reduction in border security checks had taken place.

**4.118** These 14 locations, with the exceptions of Paris and Brussels, have comparatively low numbers of passenger arrivals. In many locations, the arrivals are intermittent and each passenger can be seen individually rather than a continuous stream of arriving passengers as happens at some of the larger airports.

**4.119** Responses were received from all 14 locations and the results are outlined below.

### **Level 2**

**4.120** Only one port, North Shields, stated that they had invoked Level 2 measures. North Shields is staffed intermittently by staff who are based at Newcastle Airport. Level 2 returns for North Shields were included within Newcastle Airport's returns and were not provided in a way that distinguished between the two ports. This may be why the Agency failed to include North Shields on the list of ports that had used Level 2 measures which was provided to the Inspectorate. The remaining 13 ports stated that it would have been unnecessary to invoke Level 2 measures because the frequency and/or volume of arriving passengers did not justify moving to this mode of working.

### **Secure ID**

**4.121** Secure ID equipment was in place at four of the 14 locations questioned. At all four of these locations staff confirmed that its use had never been suspended other than for periods of unavailability due to technical reasons.

### **WI scanning**

**4.122** All 14 ports stated that WI scanning had never been suspended for any passenger.

### **Other measures**

**4.123** All 14 ports stated that no other measures had been invoked that had reduced the level of border security checks against arriving passengers.

## SUMMARY

**4.124** The Level 2 pilot, authorised by the Home Secretary in July 2011, introduced a risk-based approach to border checks and ran from 29 July 2011 to 4 November 2011. The Level 2 pilot consisted of ceasing the routine opening of the biometric chip within European Economic Area (EEA) passports and ceasing WI checks of EEA children where they are travelling in obvious family units or school groups. In relation to the ports we inspected as part of this investigation, records show that Level 2 measures were operated a total of 2,081 times.

**4.125** We found that the language used in both the “Summer pressures” submission and the response provided, was not clear and as a result was open to misinterpretation. Given the importance of decisions to suspend border security checks, we consider it is imperative that the language used is absolutely clear and unambiguous. For example, the written response from the Home Secretary’s office said that “*the change in checks should not be a routine measure but only used when the queues get beyond a reasonable length.*” As the key terms were not clearly defined, we found this had been interpreted and operated in different ways at different ports.

**4.126** There was a further lack of clarity in the Interim Operational Instruction as it failed to define what was meant by “*further measures.*” We found that there was no explicit reference in the submission to Ministers about the possibility of introducing “*further measures*” either on health and safety or other grounds.

**4.127** The Instruction also failed to accurately reflect what had been approved in the submission in relation to the issue of endorsing travel documents and questioning visa holders. This led to further confusion and different interpretations of what should be done in this regard. An example of this was at Heathrow, where managers discouraged staff from asking questions of visa nationals.

**4.128** We established that there was confusion amongst staff, particularly at Heathrow and Gatwick South about whether Level 2 measures included the suspension of Secure ID. We believe this was caused in part by the similar terminology used during the contingency plans for the industrial action on 30 June 2011.

**4.129** In considering the accuracy and consistency of record keeping, we generally found that ports captured the information that was required. However, we identified discrepancies between local and central records.

**4.130** We found that the weekly reports submitted to the Chief Executive and Ministers did not contain information about key immigration activities, such as the number of IS81s issued and refusals of leave to enter. This was despite the fact that such activities were included in the Agency’s own performance measures for the Level 2 pilot. In addition, we found results related to commodity seizures were not directly linked to the application of Level 2 measures. We found that the systems put in place by the Agency to evaluate the effectiveness of the Level 2 pilot were

inadequate. The difficulty in separating out results that could be directly attributable to the pilot made the reporting to Ministers less reliable.

**4.131** In terms of border security, it is not possible to quantify the extent of the risk that these measures presented to the border. Clearly, the more occasions that such checks are not carried out the less assurance that can be provided. In relation to EEA nationals we found there was no evidence that WI checks were suspended at the same time as Level 2 measures were in operation, so the risk was mitigated to some extent. However, of more concern was the confusion over whether Secure ID formed part of the pilot and whether visa nationals should be questioned. The benefits and risks of this latter approach had not been articulated clearly or implemented consistently. Failing to exercise appropriate discretion regarding the questioning of visa nationals does, in our view, expose the border to greater risk.

## CHAPTER 5: RELAXATION OF CHECKS: OTHER MEASURES

### Operation Savant

5.1 We found that during the period of the Level 2 pilot a briefing note was issued to staff at Heathrow entitled "*Managing the peak period: Operation Savant*", relating to what were termed "*low risk students*". This briefing note was emailed to managers on 9 September 2011 to coincide with the forthcoming peak in the numbers of students arriving.

5.2 In this briefing note, the Director of Heathrow set out the purpose of the Operation: "*we aim to get low risk students into the country much quicker and with a minimum of fuss, whilst spending time getting the decisions right for higher risk students*". Decisions on whether to admit or refuse students under Operation Savant were to be informed by a risk assessment that had been carried out by researchers in the Agency. The risk assessment was based on the number and nationality of students who had been refused entry or subjected to further questioning between April and July 2011.

5.3 The briefing note set out the particular measures that should be used to manage the arrival of students. These were:

- "*the provision of dedicated lanes for students at Terminals 3 and 4;*
- *self-declaration procedures for health screening*<sup>32</sup>;
- *operational freedom to clear low-risk students with no or very limited questioning (including flexibility to manage pragmatically low risk students without entry clearance); and*
- *making full use of the new student rules to reduce the time it takes to refuse (and if necessary detain) students who don't qualify*".

5.4 The briefing note was supported by an "*operational order*" which noted that students from one particular nationality "*appear as 'high risk' simply because they fail to obtain the required visa. We should deal with this issue pragmatically given the constraints on our operation during this period*". No further guidance was offered on how "*pragmatically*" was defined. There were a number of measures set out in the order and the most relevant to this investigation was:

- "*Students from low risk countries without the necessary entry clearance but who otherwise appear to qualify as students should be granted leave or Temporary Admission without delay. Officers should use their judgement about the appropriate period, but will want to consider what natural opportunities individuals will have to return to their own country to resolve documentation issues (e.g. half-term).*"

5.5 Chief Immigration Officers at one terminal raised concerns about this approach because "*they would normally refuse these cases as mandatory lack of entry clearance refusals*". This concern was raised in an email which continued,

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<sup>32</sup> This relates to Tuberculosis screening.

stating “*They [Chief Immigration Officers] have asked whether BFPI<sup>33</sup>/Ministers are aware of this instruction*”.

**5.6** In effect, this “*operational order*,” meant that students who did not have an entry clearance could be granted entry if the Immigration Officer considered them to be low risk. We were concerned about this initiative on two counts. Firstly, whether it was in accordance with immigration legislation and secondly, whether it potentially discriminated against certain nationalities.

### **Was Operation Savant in accordance with the Immigration Acts and Rules?**

**5.7** The Immigration Rules set out the requirements that people must meet if they wish to enter the UK. In respect of students, paragraph 245ZU of the Rules sets out that:

*“All migrants arriving in the UK and wishing to enter as a Tier 4 (General) Student must have a valid entry clearance for entry under this route. If they do not have a valid entry clearance, entry will be refused.”*

**5.8** However, Operation Savant instructed Immigration Officers to admit students without an entry clearance if they otherwise appeared to be genuine students. Although Immigration Officers do have the power to admit individuals even where the rules are not met, the Agency’s published policy sets out that entry should be refused “*unless there are **exceptional and strong** grounds for acting otherwise*”. It then suggests such grounds might be where:

- *“a person otherwise qualifies for admission and it is considered that there are compelling, compassionate circumstances (e.g. the **serious** illness or death of a close relative);*
- *a person can clearly show that he has been misinformed by a United Kingdom official; or*
- *the journey is of **extreme** urgency”.*

**5.9** We also found it would be potentially unlawful to temporarily admit a student in these circumstances. Temporary admission is a particular provision which allows Immigration Officers to admit someone to the UK for a short period and subject to particular restrictions, such as living at a particular address or reporting to an Immigration Officer on a weekly basis. However, temporary admission may only be granted in certain circumstances and pending the:

- completion of examination;
- implementation of removal directions; and
- resolution of any outstanding appeal.

**5.10** None of the above applied in the circumstances of Operation Savant and, as a result, it would have been potentially unlawful to grant temporary admission.

**5.11** In interview, the former Director of Heathrow indicated that the Immigration Rules allowed for people to be admitted as student visitors. These rules do not require passengers to have an entry clearance and mean they can be admitted to

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<sup>33</sup> Border Force Policy Implementation Team.

the UK for three months to enrol on their courses, return to their country of origin to obtain the necessary documentation and then come back to the UK to complete their courses.

**5.12** The instructions made no reference to this part of the Immigration Rules and there was no evidence that passengers would have qualified on this basis.

### **Was there potential discrimination?**

**5.13** Under the Equality Act 2010 discrimination is not unlawful on grounds of nationality where it is so permitted in legislation or subject to Ministerial authorisation. The Equality (Transit Visa, Entry Clearance, Leave to Enter, Examination of Passengers and Removal Directions) Authorisation 2011 came into force on 10 February 2011. It provides that persons of a particular nationality may be subject to a more rigorous examination than other persons in the same circumstances, where that nationality is included on a list personally approved by the Minister for the purposes of the Authorisation.

**5.14** We do not believe that the terms of this Authorisation apply to Operation Savant because it did not instruct Immigration Officers to subject particular nationalities to more rigorous scrutiny. Instead, it instructed Immigration Officers to, at their discretion, admit people who did not have the necessary documentation required under the Immigration Rules. As a result, Operation Savant could have resulted in unlawful discrimination. This was compounded by the fact that the Operation applied only to one airport. There was no evidence that a student arriving without an entry clearance at a different airport would have received the same treatment.

## **SUMMARY**

**5.15** While we recognise the arrival of large numbers of students at particular times of the year presents challenges to particular ports, the response in this case was potentially unlawful. When changes of this nature are being considered it is essential that the Agency obtains legal advice and, where appropriate, obtains Ministerial approval. The former Head of Border Force and the Chief Executive had been notified that Operation Savant was taking place however they had not been provided with any details of what it entailed. No specific authorisation had been requested from them and neither had asked for further details of what was involved.

**5.16** There were no records maintained by the Agency to set out whether any students were allowed into the UK without an entry clearance under Operation Savant. Consequently, we cannot say whether any student was admitted to the UK unlawfully under this initiative and any potential risks to security cannot be quantified. We note, however, that Immigration Officers were instructed to admit passengers without an entry clearance only where they appeared to meet all other requirements for admission as a student.

## Failure to open biometric chips in passports

**5.17** As we have already discussed, one of the measures under the Level 2 pilot allowed for Immigration Officers to routinely not open the biometric chip in e-passports. This meant that Immigration Officers would not compare the photograph in the chip with the photo in the e-passport.

**5.18** We found that between January and June 2011 (inclusive), which was prior to the introduction of the Level 2 pilot, a number of ports across the UK had deactivated the chip reading facility. We looked at the ten ports that had used this facility most frequently and established they<sup>34</sup> had deactivated the chip reading facility on 14,812 occasions.

**5.19** This suggested a reduction in checks had taken place. We asked the Agency for the reasons why. They informed us that there had been no routine monitoring of how many times reading of the biometric chip had been disabled. The Agency was unable to explain definitively why these deactivations occurred, though suggested that it could have been due to reasons including:

- Immigration Officers unintentionally deactivating the facility;
- deactivation of chip reading whilst training took place; and
- technical faults.

**5.20** It was, therefore, not clear to us why these deactivations occurred in advance of the Level 2 pilot being authorised. We note that this risk would have been mitigated to some extent because passengers continued to be checked against the WI and that their travel documents were examined.

**5.21** However, it is clearly a matter of concern that such a high number of checks were not carried out in accordance with the WI checking policy. The Agency needs to take action to identify why this occurred and take steps to ensure that checks take place in accordance with policy.

## Portsmouth

**5.22** We also found that in August 2010 new WI scanners capable of opening the biometric chips in e-passports had been installed at the immigration controls for cars at Portsmouth. Despite this facility being introduced, we found that managers had limited its use to enable the opening of the biometric chip contained within French ID cards and non-EEA nationals' travel documents only.

**5.23** We note that the WI checking policy sets out that Immigration Officers must open the biometric chip in all e-passports, regardless of nationality. At Portsmouth, this instruction was not followed and we found that EEA nationals (other than French) and British nationals presenting e-passports did not have their biometric chips opened. This is unacceptable and not in accordance with the policy.

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<sup>34</sup> Belfast, Birmingham, Calais, Edinburgh, Gatwick, Glasgow, Heathrow, Luton, Manchester and Newhaven.

**5.24** However, we were assured that this practice ceased on 7 November 2011, when senior managers were made aware of the practice. No records of this practice were kept so it is difficult to quantify the numbers of passengers who did not have their biometric chip opened or the level of risk posed to the border, although we note that this risk would have been mitigated to some extent because passengers continued to be checked against the WI and their travel documents examined.

## CHAPTER 6: THE SITUATION POST 4 NOVEMBER 2011

**6.1** On 3 November 2011, the Chief Executive sent a message to all Regional Directors stipulating that the Level 2 pilot should cease with immediate effect. It also set out that:

- full and complete WI checks should be carried out on all arriving passengers without exception; and
- biometric verification of all arriving visa nationals must be conducted fully at all ports where this system was in place.

**6.2** Accompanying this message was an Interim Operational Instruction (BF 01 40 11), which reinforced the immediate cessation of the Level 2 pilot across the Agency. It also instructed staff to carry out full WI checks on all arriving passengers and to verify the fingerprints of all visa nationals.

**6.3** We examined both this instruction and the Chief Executive's communication and consider they were both clear and concise. At the ports we inspected, staff told us that Level 2 measures and other derogations, such as the on-board clearance of coach school groups in Calais and Coquelles, were stopped immediately following publication of this instruction.

**6.4** Regional Directors followed up the instruction with phone calls and/or emails to their individual commands to ensure full compliance. We examined this correspondence and considered it was clear in reinforcing the message from the Chief Executive. During our port inspections we observed that all passengers were subject to full examination.

**6.5** On 7 November 2011, the Chief Executive issued a further communication to all staff in which he reiterated the importance of conducting full WI checks. Additionally, he laid out his expectation for all ports to ensure peak periods were effectively managed so as to reduce the risk of health and safety and security issues. If, however, after liaison with the police and port operator, local managers judged it likely that a serious critical incident could occur, then any deviation from full checks would require personal authorisation from the Chief Executive.

**6.6** We established that since 4 November 2011 up until 31 January 2012, the Chief Executive had not received any requests from ports to suspend Secure ID or WI in relation to health and safety issues at ports.

**6.7** We were informed however, that during the industrial action on 30 November 2011, Heathrow applied some differential treatment of 5CC<sup>35</sup> and Japanese nationals between 4am and 12pm. The Chief Executive authorised this differentiation, which resulted in these passengers only being questioned about their reasons for entering the UK if the member of staff operating the immigration controls had concerns about their intentions in the UK. We were told that all of these passengers were still subjected to WI and Secure ID checks.

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<sup>35</sup> Canada, New Zealand, Australia, the United States of America and the United Kingdom make up the Five Country Conference, a group of countries working together to heighten security protocols by sharing biometric information with one another.

**6.8** In the subsequent weeks, several reminders about the necessity of carrying out WI checks on all arriving passengers, in accordance with the 2007 WI instructions were issued. Furthermore, ports were required to provide six hourly (four daily) situation reports to the Chief Executive's Office as the Agency closely monitored the day-to-day running of the ports across the UK (still ongoing as at 31 January 2011). These updates included information on queuing targets and assurance on the use of Secure ID. We consider this approach was robust and ensured that border security checks were maintained across all UK ports.

**6.9** The Chief Executive informed us that a Border Control Improvement Plan was being developed in direct response to the events which lead to this investigation. He added that this plan described the actions the Agency was taking to put in place a thorough audit of the Agency's instructions, checks, processes and procedures. We were told that the aim of the Border Control Improvement Plan was to transform the Agency into a smart, efficient and intelligence-led law enforcement agency by 2015.

**6.10** The Chief Executive also advised us that a wholesale review of guidance was being undertaken to address consistency issues at ports. In addition, all operational procedures were being reviewed as part of this work to ensure there was a standard set of Agency approved guidance. He added that the Plan sought to make the border more secure by delivering improvements for Heathrow and Calais, exploring the possibility of joint border and in country teams, ensuring effective resource deployment and the building of a contingency force amongst other measures.

**6.11** During our investigation, we found a perception from some staff at some of the ports we visited that this high-level of examination impacted negatively against their ability to use their discretion when deciding who merited closer examination. Some more senior managers also considered that the current state was unsustainable, particularly during times when traffic volumes would significantly increase.

**6.12** In the period following 4 November 2011, no requests for any suspension of checks were made to the Chief Executive. This demonstrates a much stronger awareness at senior levels of the checks that are in operation on a daily basis and provides confidence that any suspensions will take place only with the authority of the most senior manager in the Agency.

**6.13** On the basis of the evidence provided to this investigation, it is apparent that the Agency does now have a much stronger grip in respect of border checks than was previously the case. However, there remains a question about whether this approach can continue during periods of greater passenger volume, including during the Olympic and Paralympic Games in the summer of 2012.

## APPENDIX 1: KEY TERMS

KEY TERM	DEFINITION
Agency	Refers to the UK Border Agency.
Assistant Director	Senior manager, equivalent to Grade 7 (subordinate to Grade 6, superior to a Senior Executive Officer).
Biometric passport chip	The chip inside biometric passports which contains information about the holder's face – such as the distances between eyes, nose, mouth and ears – which are taken from the passport photograph. It also holds the information that is printed on the personal details page of the passport. The chip contains an antenna which means it can be read electronically on the passport reader.
Border Force	Part of the UK Border Agency, responsible for immigration and customs operations at UK air, sea and rail ports.
Chief Immigration Officer	Senior grade above Immigration Officer, management grade (equivalent to Higher Executive Officer)
Class A drugs	Drugs which are designated as 'Class A' under the Misuse of Drugs Act. The most common Class A drugs are cocaine, ecstasy, heroin, LSD and magic mushrooms.
Commodity seizures	Seizures of drugs, cigarettes, money.
Cyclamen	Cyclamen is the government programme to install fixed and mobile portals at UK ports to screen traffic (people, vehicles and goods) entering the UK to identify radiological or nuclear material.
Deputy Director	Senior manager (subordinate to the Senior Civil Service, superior to Grade 7).
Derogation	To move away from the standard checking processes for passengers.
Embarkation Controls	Immigration controls which monitor boarding passengers at airports and seaports to determine citizenship, identity, lawful entry to UK, compliance with conditions of entry to UK or whether return to the UK is restricted or prohibited.
Entry Clearance Officer	Processes visa applications making the decision whether to grant or refuse entry clearance.
European Economic Area (EEA) nationals	Also known as European Economic Area (EEA) citizens. A full list of EEA countries is given on the UK Border Agency website. All EEA nationals enjoy free movement rights within the EEA. They may come to the United Kingdom and reside here in accordance with the Immigration (European Economic Area) Regulations 2006. This means that they are not subject to the Immigration Rules. This is also extended to nationals of Switzerland which is not part of the EEA.

Her Majesty's Inspector	Senior manager primarily responsible for immigration staff.
Home Office Warnings Index (WI)	A database of names available to the UK Border Agency of those with a previous history of immigration offences and those of interest to detection staff, police or other government agencies.
Immigration Officer	Immigration Officers are based at ports of entry and examine documents and interview people to establish their eligibility for entry to the UK.
Interim Operational Instruction	A UK Border Agency operational guidance document which is circulated to staff, informing them of a change to their working practices.
IS81	A UK Border Agency form which is issued to passengers if Immigration Officers wish to conduct further examinations.
Juxtaposed Controls	UK immigration controls located in France and Belgium where immigration checks on passengers are conducted before they travel to the UK. There are no further immigration checks once they arrive in the UK.
Level 2 pilot	A pilot scheme which allowed Immigration Officers to routinely cease opening the chip within EEA passports and checking all EEA nationals under 18 years against the Warnings Index where they are travelling in clear family units or as part of a school party. Level 2 did not include the suspension of Secure ID.
Ministerial Authorisation	An authorisation, approved by ministers, which allows Immigration Officers to give greater scrutiny to certain nationalities.
National Operations and Performance Directorate (NOPD)	A UK Border Agency directorate that oversees Border Force performance, operational policy etc.
Non-EEA nationals	A national or a citizen from a country that is not part of the EEA. They are all subject to the Immigration Rules. See also Visa nationals.
Opening the biometric chip	An additional check which may take place when a passport containing a biometric chip is swiped over the reader at immigration control. The passenger's biometric details (such as their fingerprints and data from the personal details page) will appear on the Immigration Officer's computer screen for verification.
Operation Savant	An operational order introduced in September 2011 to help Immigration Officers differentiate between high and low risk students arriving at Heathrow during the busy student season.
Primary Control Point	Point at immigration control where passengers present their travel documents (typically passports) to Immigration Officers, for determination as to whether entry should be granted to the UK. Also known as immigration control or the immigration arrivals hall.

Quick wins	Term used by UK Border Agency officials to describe the three risk-based checks that it wanted to introduce at the Primary Control Point.
Randomisation	Making random checks on passengers to allow for a continued measurement of risk, but also to provide an ongoing deterrent.
Risk-based approach	UK Border Agency proposal to Identify high risk passenger groups and then use this information to apply a more targeted, proportionate approach to low risk passenger groups.
Scanning passports	On arrival at immigration control, passports are scanned over the passport reader by the Immigration Officer. This basic check will notify the Immigration Officer if the passport holder has been registered on the Home Office Warnings Index.
Scenario 2	Part of a set of measures introduced to manage the border on a day of industrial action which specifically included in part a risk-based approach to the suspension of Secure ID.
Secondary goods examination	Also known as detection or customs work.
Secure ID	The biometric verification of passengers' fingerprints at the Primary Control Point which are then matched against prints they have previously provided as part of the immigration process, either overseas or in the UK.
Special Advisers	Advisers who work in a supporting role to the British government. Their duty is to assist and advise government ministers. Unlike civil servants, they are political appointees whose loyalties are claimed by the governing party.
Submission	Document used to provide updates, information or warnings about specific matters to Ministers or senior managers. They are also used to seek decisions or agreements to a course of action.
Visa nationals	A national or citizen of any country that is listed in Appendix 1 of the Immigration Rules on the UK Border Agency website must obtain a UK visa prior to travelling to the UK for any reason. A non-EEA national from a country that is not on the list in Appendix 1 of the Immigration Rules on the UK Border Agency website may require a UK visa (or entry clearance) prior to travelling to the UK depending on the duration and the purpose of their intended stay.
Warnings Index	Also known as the 'Home Office Warnings Index (WI)'.
Warnings Index Control Unit (WICU)	The unit within the UK Border Agency responsible for updating and maintaining the Home Office Warnings Index (WI) system.

## APPENDIX 2: CHRONOLOGY OF SIGNIFICANT EVENTS

**1 July 2007:** The UK Border Agency implements a policy to check 100% of passengers arriving in the UK against the Warnings Index.

**November 2009 – March 2010:** Secure ID equipment is installed at 31 port locations.

**5 July 2010:** The final Secure ID evaluation report is issued.

**27 January 2011:** The former Head of Border Force sends a submission to the Immigration Minister proposing a move towards a risk-based approach to border security.

**31 January 2011:** The Immigration Minister approves the 27 January submission.

**9 February 2011:** The Acting Chief Executive of the UK Border Agency instructs the former Head of Border Force to check that Special Advisers have received the 27 January submission.

**14 February 2011:** The Security Minister approves the 27 January submission.

**6 April 2011:** The former Head of Border Force contacts Special Advisers, requesting that they examine the 27 January submission.

**8 April 2011:** The former Head of Border Force submits proposals for a four year border strategy to the Home Secretary.

**13 April 2011:** The Home Secretary and Immigration Minister state that they are not content to agree the changes suggested in the 8 April submission.

**19 May 2011:** The former Head of Border Force meets with the Home Secretary to discuss the UK Border Agency's continued development of its border strategy.

**16 June 2011:** A submission relating to planned industrial action is sent to the Home Secretary, Immigration Minister and Permanent Secretary.

**23 June 2011:** The Home Secretary approves the 16 June submission.

**12 July 2011:** The former Head of Border Force sends a further submission entitled "*UKBA: Passenger clearance pressures*" (also known as the Summer pressures submission) to the Home Secretary and Immigration Minister.

**22 July 2011:** The Home Secretary approves the 12 July submission.

**28 July 2011:** The UK Border Agency issues instructions to staff stating that a pilot of risk-based processes (also known as the Level 2 pilot) will operate between 29 July and 19 September 2011.

**12 September 2011:** The former Head of Border requests an extension to the risk-based pilot, which the Home Secretary had approved on 22 July.

**13 September 2011:** The Home Secretary agrees that the risk-based pilot can be extended until early November 2011.

**29 September 2011:** The Chief Inspector and his inspection team commence the onsite inspection phase at Heathrow Terminal 3.

**19 October 2011:** Heathrow Terminal 3 onsite inspection phase concludes.

**2 November 2011:** The Independent Chief Inspector informs the Chief Executive of the UK Border Agency of his concerns about the effectiveness of border security checks at Heathrow Terminal 3.

**3 November 2011:** The UK Border Agency instructs its staff at ports to stop the risk-based measures immediately, full WI checks must take place for all arriving passengers and the biometric verification of all visa nationals arriving in the UK must be conducted at ports where systems to do so are in place.



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