



Inspection of Gatwick Airport North Terminal

April - September 2011



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Independent Chief Inspector of Borders and Immigration



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Foreword from John Vine CBE QPM



I am pleased to present the findings of my inspection of UK Border Agency operations at the North Terminal of Gatwick Airport. Gatwick is the UK's second largest airport dealing with over 30 million passenger journeys a year and the efficiency and effectiveness of UK Border Agency operations at each terminal affect large numbers of individuals entering the UK on a daily basis.

The inspection covered a number of operational areas across immigration and detection functions with a particular focus on the quality of decision making in granting or refusing entry to the UK and the activities of Border Force officers in identifying passengers in possession of illicit goods.

There are a number of things working well. In particular, I found that decisions to refuse entry to the UK were soundly based and in accordance with the Immigration Rules in 98% of cases reviewed. This gives confidence that people were being refused entry to the UK with sufficient justification. Importantly, officers also complied with 100% passport swiping against the Home Office Warnings Index. Stakeholders were also largely positive about joint working with the Agency and effective close working arrangements were in place with the port operator Gatwick Airport Limited.

I am, however, concerned about the use of search of person powers in detecting illicit goods. A review of 108 search of person cases found that searches were neither proportionate nor justified in a high percentage of the sample (71%), including the majority of strip searches undertaken. I also found that passengers were arrested even though person searches had not revealed any illicit goods and some person searches were conducted without authorisation. Less than 4% of the reviewed cases resulted in the detection of any illicit goods.

I was also very concerned to learn of discriminatory practice in the conduct of detection activity. Some officers demonstrated poor understanding of appropriate selection indicators and risk profiles in determining which passengers to challenge and in some cases were making judgements based on stereotypes. The extent of any discriminatory practices should be investigated and action taken to ensure officers both understand and comply with the Agency's duties under the Equality Act 2010.

Finally, the Agency should find out why one in seven cases where temporary admission had been granted for a person to enter the UK resulted in non-compliance with conditions imposed by the Agency or in absconding altogether. I have made 13 recommendations for improvement to strengthen the efficiency and effectiveness of border control operations at Gatwick North Terminal.

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

John Vine CBE QPM
Independent Chief Inspector of Borders and Immigration

1. Executive Summary

1. The inspection of UK Border Agency operations at Gatwick North Terminal explored the efficiency and effectiveness of the UK Border Agency across immigration and detection functions using the Independent Chief Inspector's published criteria (Appendix 1). The key themes for inspection were operational delivery, safeguarding individuals and continuous improvement. The primary areas for investigation were:
 - the quality of decision making in granting or refusing leave to enter the UK;
 - the basis for challenging or searching passengers in the detection of illicit goods; and
 - the consistency of approach and treatment of passengers at the primary control¹ and in detection channels.
2. Observation of immigration staff at the primary control demonstrated that staff complied with the requirement for 100% passport swiping against the Home Office Warnings Index. However, a few isolated instances were observed where officers did not wait for the full opening of biometric chips.

Observation of immigration staff at the primary control demonstrated that staff complied with the requirement for 100% passport swiping against the Home Office Warnings Index.

3. A new teamworking model was implemented one week prior to the onsite phase of the inspection reflecting a significant change to working practices for immigration staff. The new operational model was still bedding-in during the inspection leading to difficulties in maintaining resourcing levels for some shifts, particularly night shifts. These initial problems were acknowledged by local managers and were actively being addressed. The new team structures also had a number of other impacts across Agency operations including a reduced emphasis on cash detection work.
4. Fourteen casework interviews were witnessed and revealed mixed effectiveness in interviewing. Guidance was not followed in six of the cases and the interviewing approach was not considered to be robust in four cases. Passengers were not given the opportunity to formally confirm the accuracy of the interview notes taken. Moreover, referrals to the Chief Immigration Officer were not always balanced.
5. Casefile analysis of passengers refused leave to enter the UK during the period 1 Dec 2010 – March 18 2011 revealed 162 out of 166 (98%) decisions to be soundly based and in line with Immigration Rules. This provides confidence that refusal decisions were justified and appropriately informed by the evidence. However, it was noted that a number of refused cases were granted temporary admission to the UK without clear, compelling or compassionate reasons.
6. Examination of 103 casefiles of passengers granted leave to enter during the same period also found 14% (one in seven) of the decisions to allow entry were not supported by the casefile evidence. These included cases with clear attempted deception and admitted breaches of the Immigration Rules. Improvements are needed in the consistency of casefiles to provide an effective audit trail including the details of risk assessments concerning decisions to grant temporary admission or detain passengers and the completion of detention reviews.

¹ The primary control or primary check point (PCP) refers to the immigration control area where passengers present documentation and may be questioned by immigration officers in deciding whether to allow entry to the UK.

7. Observation of detection functions revealed a number of concerns about operational effectiveness and use of powers. Detection officers were absent from the green channel for significant periods of the day² and arrests clearly impacted the capacity to maintain detection activity. Some officers gave insufficient justification for stopping particular individuals, including examples of negative stereotyping, which revealed a lack of understanding of the pre-arrival and visual selection criteria outlined in the Agency's own Enforcement Handbook.
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- Observation of detection functions revealed a number of concerns about operational effectiveness and use of powers.*
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8. Border Force staff working in detection were also found to be operating individual discretion in relation to passengers travelling from non-EU destinations with undeclared excess goods. While some officers enforced the law in seizing the goods, others allowed passengers to retain excess amounts or even the total amounts carried. Use of this individual discretion resulted in very different passenger outcomes for similar transgressions. Officers acknowledged that such discretion was not "officially allowed" and also that the demeanour of passengers could influence the outcome.
9. Equalities considerations were given insufficient attention across immigration and detection functions. Investigation of approaches to race monitoring in detection operations revealed perceived ethnicity was only recorded in search of person forms and this information was not analysed. The Agency had no way of knowing if people of a particular race / ethnicity were targeted for interception more than others or whether particular officers / teams were targeting people from particular groups more than other detection staff. We could not therefore be confident that the Agency was fulfilling its duties in line with the Equality Act 2010. A number of detection staff also informed members of the inspection team that they sometimes delay white passengers if they wish to question a black passenger purely to avoid potential claims of race discrimination. The Ministerial Authorisation allowing closer scrutiny of particular nationals at the border for immigration purposes was not informing frontline practice.
10. Clear improvements need to be made to complaints processes at Gatwick North Terminal. Complaints posters were absent in the arrivals hall and detection channels and leaflets were only available in the detection channels for a limited period during the inspection. The log of formal written complaints was poorly maintained and did not include all of the complaints received by the Customer Service Unit about Gatwick operations. Only a proportion of the complaints received at the frontline were recorded and the Agency had no way of knowing if overall complaints volumes were increasing or decreasing. There were also no local mechanisms for learning from complaints and a lack of staff awareness of any lessons drawn from complaints on a regional or national basis.
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- Only a proportion of the complaints received at the frontline were recorded and the Agency had no way of knowing if overall complaints volumes were increasing or decreasing.*
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11. Approximately one in seven people granted temporary admission to the UK from Gatwick North during 2010/11 did not comply with the conditions imposed and absconded. The majority of these cases did not appear to be accounted for by a lack of detention space.

² Passengers from non-EU flights who do not wish to make a declaration regarding goods for customs purposes pass through this area in exiting the airport.

12. Documentary review of 108 search of person cases from April-June 2011 found searches were not justified by the grounds listed in a high proportion (71%) of cases - including the majority of the strip searches undertaken. In several cases, there was also no clear distinction between the reasons identified for persons subject to strip searches compared with those involving rub down³ searches. Individuals were also found to have been arrested following a person search which did not reveal any illicit goods without apparent basis for this action.
13. Some person searches were undertaken without the appropriate level of authorisation and officer notebook records did not include the legislation used by the officers in either stopping passengers or conducting person searches. Gender and race disparities were identified in the reviewed cases with women accounting for a higher proportion of strip searches and people of African / Afro-Caribbean origin subjected to the highest proportion of searches. Less than 4% of the reviewed person search cases resulted in the detection of illicit goods.
14. Mixed practice was observed in safeguarding children and discharging the duty of care to children at the primary control. Many instances were observed where care was taken in considering the welfare of accompanied children. However, there were a few witnessed instances of unaccompanied children being allowed to proceed without sponsor checks taking place. Review of unaccompanied child casefiles revealed appropriate reception arrangements and sponsor checks were made in removal cases.
15. There were evident weaknesses in corporate governance arrangements. Records of senior management team meetings had not been maintained since January 2011 and the risk register was only formally reviewed once in a period of approximately six months, despite the risks associated with the lead-in period to the new operating model. Additionally, no evidence was provided of assessment of the border risks associated with deprioritisation of cash detection. Active managerial oversight of the work of some specialist teams was also found to be an issue.
16. Stakeholders were broadly positive about joint working arrangements with the Agency. Particularly close working relationships have developed with the airport operator including the development of joint initiatives to improve passenger experience in the arrivals hall. Agreement had also been reached for the port operator to assume responsibility for the arrivals queue measurement process from July 2011, providing greater independence to the recordings made. West Sussex County Council were also positive about joint working arrangements in regard to the welfare and safeguarding of children.

Particularly close working relationships have developed with the airport operator including the development of joint initiatives to improve passenger experience in the arrivals hall.

³ A rub down search does not involve the removal of clothing whereas a strip search involves the removal of clothing items. Person searches are undertaken and witnessed by officers of the same gender to the passenger.

2. Summary of Recommendations

We recommend that the UK Border Agency:

1. Improves the quality and consistency of decision making in granting leave to enter the UK and in granting temporary admission to the UK.
2. Improves consistency of practice in immigration casework ensuring that the conduct of case interviews is in line with guidance and casefile documentation provides a robust audit trail of all decision stages.
3. Ensures all detection staff are selecting passengers for challenge with sufficient basis and in line with guidance; and enforce the law in relation to goods in excess of non-EU allowances.
4. Implements port-specific commodity targets for detection operations based on local seizure patterns.
5. Ensures passengers are advised about complaints procedures at the point of contact with the Agency and the level of complaints is accurately recorded.
6. Ensures there are effective local mechanisms to analyse and learn from complaints and that complaints analysis at regional and national levels is widely disseminated including to frontline staff.
7. Implements robust monitoring mechanisms so that data is routinely captured and analysed to determine if there are any differential race impacts across the spectrum of detection operations including in relation to initial passenger stops and searches of person.
8. Investigates the extent of discriminatory practice in relation to detection operations and takes urgent action to address any inappropriate activity.
9. Ensures all searches of person are justified, proportionate and conducted in accordance with the law and guidance with proper documentary records maintained.
10. Ensures that all arrests associated with person searches are undertaken in accordance with the law.
11. Ensures the duty of care to unaccompanied children is discharged effectively at the primary control and that sponsors and reception arrangements are checked in each case with records kept of the checks made.
12. Ensures that ports receive specific information about goods seizures appealed by passengers to support local learning.
13. Strengthens corporate governance procedures including formal risk management processes to ensure that key operational risks are regularly evaluated and actively managed.

3. The Inspection

- 3.1. The role of the Independent Chief Inspector of the UK Border Agency was established by the UK Borders Act 2007 to examine and report on the efficiency and effectiveness of the UK Border Agency. The Independent Chief Inspector's remit was extended in 2009 to include customs functions and the work of UK Border Agency contractors.
- 3.2. On 20 February 2012, the Home Secretary announced that the Agency and its Border Force directorate would separate from 1 March 2012, with the Border Force becoming an operational command within the Home Office. The Home Secretary confirmed this change would not affect the Chief Inspector's statutory responsibilities and that he would continue to be responsible for inspecting the operations of both the Agency and the Border Force. As this inspection took place prior to this change, we refer to the UK Border Agency (including the Border Force) throughout the report. It was also at this point that the Independent Chief Inspector of the UK Border Agency changed his title to Independent Chief Inspector of Borders and Immigration.
- 3.3. This inspection focused on UK Border Agency operations at Gatwick North Terminal which involve a significant level of passenger interactions on a daily basis. The primary areas of focus for the inspection were:
 - the quality of decision making in granting or refusing leave to enter the UK;
 - the basis for challenging or searching passengers in the detection of illicit goods; and
 - the consistency of approach and treatment of passengers at the primary control and in detection channels.

Methodology

- 3.4. The efficiency and effectiveness of border control operations at Gatwick North Terminal were assessed against the Independent Chief Inspector's ten inspection criteria listed in Appendix 1 under the key themes of operational delivery, safeguarding individuals and continuous improvement.
- 3.5. Pre-inspection activities included:
 - review of the latest relevant policy and guidance;
 - review of management and performance information; and
 - review of a range of casefiles including those concerning decisions to allow entry to the UK.
- 3.6. The onsite investigations took place between 23 May and 29 June 2011 and included:
 - a wide range of interviews and focus groups involving frontline staff, team leaders and senior managers involved in immigration and detection operations;
 - interviews with staff from a number of specialist units / teams including the Airport Crime Team and Criminal and Financial Investigation Unit;

- interviews with the Deputy Director and Regional Director of Border Force South and Europe;
- observation of a range of staff in performing frontline duties: approximately 40 hours of observation were undertaken at the primary control and also in the green channel involving different days, different times of the day and known busy periods; and
- observation of 14 detailed passenger case interviews involved in the decision to grant or refuse entry to the UK.

- 3.7. Interviews were also held with a wide variety of stakeholders including the port operator Gatwick Airport Limited, Special Branch / Sussex Police, West Sussex County Council Children's Services and union representatives. The full list of stakeholders contributing to the inspection process is provided in Appendix 2.
- 3.8. Two open staff drop-in sessions were also included in the inspection programme affording staff the opportunity to directly raise issues with the Independent Chief Inspector.
- 3.9. Documentary records of person searches conducted during April – June 2011 in the detection of illicit goods were supplied and reviewed following the onsite inspection period.
- 3.10. The UK Border Agency was advised of high-level, emerging findings of the inspection on 25 July 2011.

4. Background

- 4.1. Gatwick Airport is the world's busiest single runway airport and is the UK's second largest airport. Over 31 million passenger journeys were undertaken in 2010 and passenger totals during 1 January 2011 –30 June 2011 showed a 7% increase in traffic compared with the same period in 2010. Approximately six million arriving passengers were cleared at Gatwick North Terminal during 2010/11.
- 4.2. The airport receives international flights from all over Europe, North America, South Africa and the Middle East and is a significant UK entry point for Caribbean and West African flights. EU arrivals accounted for 91-92% of international passenger arrivals at both Gatwick terminals during 2009/10 and 2010/11.

Border Force Operations

- 4.3. The UK Border Agency was formed in 2008 with the amalgamation of the Border and Immigration Agency, UK Visas and border operations from Her Majesty's Revenue and Customs (HMRC). Over 4000 staff were permanently transferred from HMRC on 5 August 2009 to Border Force, which is the area of the Agency responsible for operations at UK borders. Integrating working practices from the legacy organisations has been a significant focus for Border Force since the transfer of HMRC staff to provide consistency of approach and support operational effectiveness. This has involved some cross-training of significant numbers of staff and also the implementation of a teamworking model during 2010 and 2011.
- 4.4. UK Border Agency Gatwick operations are within the Border Force South and Europe Region⁴. This includes a number of significant airports and sea ports, the cutter fleet and border operations in juxtaposed controls.
- 4.5. The ambition and strategic priorities of the South and Europe Region are outlined in the Border Force South and Europe Region Business Plan 2011/12. This states '*our ambition remains to change the way that we work in South and Europe Region, to deliver a highly flexible and linked up organisation that is focussed on performance and on meeting the UK Border Agency's core objectives:*'
 - secure border
 - control illegal migration
 - reduce costs and improve customer service.'
- 4.6. Operational priorities across Border Force were set by the Border Force Control Strategy in April 2011 to provide a structured approach to the prioritisation of responsibilities following assessment of risk and harm ratings for key areas of operational activity. Border Force operations at all ports were expected to align to these priorities. Key areas identified for priority focus included counter terrorism, the detection of class A drugs and human trafficking.

⁴ There are 4 Border Force regions: North; Central; South and Europe; and Heathrow.

UK Border Agency operations at Gatwick Airport

- 4.7. The 2011/12 budget for the UK Border Agency operations at the airport was approximately £24.6 million (excluding income of £280 000). There were approximately 550 UK Border Agency staff working across Gatwick at the time of the inspection including eight senior managers at Senior Officer/Her Majesty's Inspector grade and two Assistant Directors. The staff breakdown is provided in Figure 1. The Gatwick Assistant Directors both joined the airport from other commands within the Region towards the end of 2010.

Figure 1: Agency staff breakdown across Gatwick during June 2011

| Grade ⁵ | Number (FTE) |
|-------------------------------|--------------|
| Assistant Director | 2 |
| Senior Officer (SO / HMI) | 8 |
| Higher Officer (HO / CIO) | 54 |
| Officer (O / IO) | 350.6 |
| Assistant Officer (AO / AIO) | 122.8 |
| Administrative Assistant (AA) | 10.6 |
| Total | 548 |

- 4.8. Gatwick implemented a teamworking operational model and new rostering arrangements on 15 May 2011 in line with the national approach. This reflected a significant change to the organisation of immigration operations with officers scheduled to work the same shifts as team members and expected to build closer links with both colleagues and line managers as a result. The new operating arrangements were still bedding-in at the time of the inspection.

Key Figures

- 4.9 Key figures concerning Agency operations at the North Terminal during 2010 and 2011 are presented below:
- 837 passengers were refused leave to enter the UK and 106 passengers claimed asylum at the North Terminal in 2010/11; and
 - the highest proportion of port refusals in 2010/11 were for the following categories: not satisfied genuine visitor (47.2%); cancellation of entry clearance (17.6%); cancellation of continuing leave (7.4%) and transit passengers (5.2%).
- 4.10. Gatwick makes a significant contribution to class A regional targets for cocaine seizures and is a key air route for cocaine entry into the UK. Conversely, heroin has only very rarely been seized at the airport in recent years despite a number of exercises to target flights from likely destinations including connector flights. Figure 2 shows Gatwick performance in relation to key commodity seizures for 2010/11.

Gatwick makes a significant contribution to class A regional targets for cocaine seizures and is a key air route for cocaine entry into the UK.

⁵ HMI; CIO, IO and AIO refer to titles used in the legacy immigration operations of Her Majesty's Inspector; Chief Immigration Officer, Immigration Officer and Assistant Immigration Officer. These titles were still in active use during the inspection and are used for ease of reference in this report. Similarly, Border Force staff working in immigration operations are referred to as immigration staff and those involved in detection operations are referred to as detection staff in this report. FTE is an abbreviation for full-time equivalent.

Figure 2: Gatwick commodity seizure performance for 2010/11

| Commodity | Amount |
|--------------------------------|---------------|
| Heroin (kg) | 0 |
| Cocaine (kg) | 459 |
| Cigarettes (sticks) | 10,034,501 |
| Tobacco (kg) | 5,846 |
| Cash Seizures (£) | 999,579 |
| Products of Animal Origin (kg) | 7,973 |

5. Inspection Findings – Operational Delivery

Decisions on the entry, stay and removal of people should be taken in accordance with the law and the principles of good administration

- 5.1. This inspection considered a number of issues concerning the efficiency and effectiveness of immigration operations. Key areas of investigation were:
- how duties were performed at the primary control;
 - casework progression including detaining passengers, undertaking case interviews and referral to Chief Immigration Officers (CIOs); and
 - quality of decision making (whether to refuse or allow entry to the UK) based on analysis of casefiles from 1 December 2010 – 18 March 2011.

Primary control duties.

- 5.2. Immigration officers perform a critical role in ensuring border security at the primary control, determining who should be allowed into the UK without further consideration and who merits closer attention. Passenger response to questioning and behaviour are key to this decision in addition to prior adverse immigration or criminal history, authenticity of travel documentation and possession of appropriate entry clearances where required. Prior history is checked against the Home Office Warnings Index⁶ (WI) and passengers are detained for further questioning where database matches require this action. At the time of the inspection all passengers were required to be checked against the WI through passport swiping or manual input if necessary.
- 5.3. Non-EEA⁷ passengers are asked standard questions about intentions for their stay and details of circumstances in their home country. Immigration officers need to be satisfied that the passenger's intentions accord with the entry clearance issued for visa holders or with permitted entry reasons for non-visa holders and that the requirements of the relevant Immigration Rules are fulfilled. EEA passengers are not generally subject to similar levels of questioning but will be paid closer attention if the officer's suspicions are aroused by their behaviour, the validity of travel documentation, or to check whether children are being safely accompanied.
- 5.4. Immigration officers are required to process information from a range of sources efficiently and may be dealing with significant passenger volumes in a short space of time (this can be over 2000 passengers per hour during peak periods at Gatwick North Terminal). Decisions on allowing entry to the UK are being taken quickly and it is important to consider the level of rigour that is being applied.

⁶ This also provides information about individuals of interest in relation to national security or counter terrorism.

⁷ EEA refers to the European Economic Area- persons from EEA nationalities have free movement within the Area; a more detailed definition is provided in the glossary.

Consistency of practice

- 5.5. Observation of officers performing duties at the primary control revealed a general consistency of practice in the following areas:
- all passports were swiped against the WI;
 - care was taken with passports / EU identity cards which could not be automatically read by the system – manual entries were made until passenger details were correctly displayed;
 - officers were taking time to consider the potential matches listed on the WI screen and acted on positive matches; and
 - non-EEA passengers were asked about intentions for their stay and their circumstances even when queues were growing. Officers were not observed circumventing this fundamental questioning to alleviate queue pressures.
- 5.6 A few isolated instances of inconsistent practice were observed at the primary control. For example, Immigration Officers did not always wait for biometric chips to fully open in swiping EEA passports. This meant that they did not wait for photographs of the person to whom the passport was issued to appear on their WI screens. However, this was in single figures during a total of 40 hours observation.
- 5.7 We also witnessed a passenger exchange where more stringent checks should have been undertaken in allowing entry to the UK. A person claimed to be a British national who had lost their passport on the flight and did not have any other identification. A WI check was undertaken on the name but standard procedures were not followed including: recording the incident, informing the CIO, undertaking an Omnibase check or completing the appropriate documentation.
- 5.8 Variable approaches to using assistant immigration officers to undertake background checks were also noted. Effective utilisation of assistant officers in undertaking checks on WI hits can enable officers to remain at the desks and clear passengers for a greater proportion of the time.
- 5.9 An officer was also observed leaving their primary control desk without logging out of the WI system.
- 5.10 Staff were generally professional in their dealings with passengers during observation sessions, although concerns were raised about the professionalism of passenger interactions on a number of occasions. For example:
- an officer commented that the lack of staff on desks was due to ‘government cuts’ when questioned by a passenger about the resourcing level;
 - an officer stated that ‘Heathrow were an entity to themselves’ when asked whether a family of mixed EEA and non-EEA nationals could be jointly processed at the EEA desk at Heathrow; and
 - an officer was observed being openly critical to passengers with chipped passports who had not used the eGates⁸.
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- Staff were generally professional in their dealings with passengers during observation sessions, although concerns were raised about the professionalism of passenger interactions on a number of occasions.*
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⁸ eGates (also known as automated clearance system gates) allow EU passengers with chipped passports to enter the UK through automated clearance technology involving facial recognition and matching.

Resourcing the primary control

- 5.11 Chief Immigration Officers (CIOs) oversee the overall efficiency and effectiveness of the primary control in line with available resources on shift. This includes the allocation of immigration officers to fixed points (such as the eGates), distribution across EEA and non-EEA desks, and co-ordination of staff breaks to optimise passenger clearance. This involves constant review of the volumes and mix of passengers in the hall and those due to arrive to determine the most appropriate allocation of officers to desks. During the inspection we observed staff being used flexibly according to relative non-EEA and EEA passenger volumes and there was generally a clear focus on allocating resources in line with the passenger mix in the hall.
- 5.12 Chief Immigration Officers monitor officer performance in clearing passengers at the primary control through floorwalking (walking behind the desks). This allows consideration of officer interactions with passengers and the efficiency of the clearance process. The lack of floorwalking was noted on a number of occasions during observations. The inspection findings indicate the need for a stronger focus on identifying and addressing officer inconsistencies at the primary control in relation to passport checks and officer conduct.
- 5.13 At busy times CIOs can draw on additional resources from other operational areas including the Multifunctional Team⁹ cross-trained detection staff and immigration staff from the other terminal. Some difficulties in resourcing the primary control were observed during the inspection following the recent implementation of the teamworking model and new rostering arrangements, including particular difficulties in resourcing the nightshifts. Local managers were aware of these initial difficulties and were actively taking steps to ensure a closer fit between resourcing levels and passenger arrivals.
- 5.14 At the time of the inspection we noted that the number of rostered staff actually presenting for duties was very low on occasions and could be less than half of those expected on shift. For example only three or four staff attended night shift duties a number of times (compared to a minima level of 12 staff in the previous working model). These difficulties were partly caused by the approach taken in introducing the new working arrangements in addition to inaccuracies in the database identifying shift resourcing levels. The low shift attendances led to visible difficulties for CIOs in maintaining adequate resourcing levels at the desks. This situation was expected to improve with the introduction of an improved rostering information database system.
- 5.15 A number of concerns were raised about the new operational model by immigration staff at different levels including members of the senior management team. Some concerns related to reduced flexibility in the new system to swap shifts and work around longstanding / ad hoc personal arrangements or involved difficulties presented by particular shift patterns and rostering arrangements. The availability of specialist officers including those with forgery training and time allowed for additional duties away from the primary control were also raised as issues.

Passenger interviews

- 5.16 Fourteen case interviews were observed as part of the inspection process including an asylum screening interview. Detailed interviews are conducted by immigration officers to help inform landing¹⁰ / refusal decisions where queries cannot readily be resolved with simple checks and where passengers need to provide further information to satisfy immigration officers about their intentions. The interview gives passengers the chance to:
- explain their circumstances;
 - address inconsistencies raised in questioning of sponsors / travelling companions; and

⁹ Multifunctional Teams were established in the new operating model with the intention of providing flexible multi-skilled resources which can be deployed across airport operations.

¹⁰ Landing decisions refer to decisions to allow entry to the UK.

- respond to any queries about items found in their possession.

5.17 Interviews are conducted in a secure area away from the primary control once the passenger has been registered into the holding room. Case interviews are not recorded, but officers are required to take thorough notes of the proceedings covering both the questions posed and answers provided. There should also be verbatim notes of responses to all key questions. Other requirements in relation to the structure and conduct of interviews set out in guidance include:

- interviewees must be asked if they are fit and well enough to proceed with the interview at the outset (particularly important since passengers may have travelled for a considerable length of time prior to the interview); the interviewee's response must be recorded;
- all key inconsistencies need to be put to the interviewee such as inconsistent statements made by the interviewee and sponsor;
- interviewees should be asked if they need a break at regular intervals; and
- interviewees should be asked if they have anything further to add at the end of the interview and to confirm that they have understood everything; their response to these questions should be recorded.

5.18 The following positive practice was noted in the conduct of the witnessed interviews:

- officers asked if passengers were fit enough to undertake the interview at the outset in all but one case and all officers showed appropriate concern for passenger welfare during the interviews;
- careful notes were taken in all but one case;
- questions were repeated if the passenger wished to be reminded of the question;
- a number of officers demonstrated skill in handling sensitive situations. In one case an officer was able to put a passenger, who had become agitated in the holding room, at ease. In another case particular care and sensitivity was shown to a passenger who was visibly shaken and distressed at being detained; and
- appropriate balance was observed in referring the case and discussing the interview outcomes with the CIO in the majority of cases.

5.19 However, guidance was not fully adhered to in six cases and we observed some unprofessional conduct by interviewing officers. For example, one officer checked messages on their mobile phone a number of times during an interview and another officer told a sponsor they did not see the point of the questions they had been advised to ask by the CIO. An officer in one case also advised the passenger they could be removed to a particular European country¹¹ *'if they behaved themselves'* or would otherwise be returned to the country from which they had arrived. One passenger was not asked if they felt well enough to be interviewed at the start of the interview in a clear breach of guidance. Additionally, no notes were taken for the majority of one of the interviews including during key questions; there was therefore no accurate verbatim record of the interviewee's response to the questions posed¹². Moreover, four passengers were not given the opportunity to confirm they had understood everything or given the chance to add anything further.

5.20 It is particularly important that passengers have understood the proceedings given that the interview is such a fundamental part of the decision process. Affording passengers the opportunity to review notes and formally confirm accuracy at the time (for example in a signed statement of confirmation) would be beneficial in helping to ensure that all the key information has been captured.

¹¹ In addition to concerns regarding the approach of linking the country of removal to good behaviour it was also noted that the European destination was offered without checking with the appropriate authorities that the passenger would be acceptable for entry there.

¹² The officer was later questioned about the lack of notes and commented they 'initially thought the case would be a landing and notes would not be required'; this case was in fact ultimately refused.

- 5.21 Referrals to the CIO were not considered to be balanced in four of the observed cases. This means the presentation of the case did not provide a rounded picture of the evidence covering the key positive and negative aspects of the case; facts were presented more selectively to support the officer's viewpoint. Chief Immigration Officers predominantly rely on the verbal updates from officers in deciding a case, underscoring the need for a balanced presentation at this stage of the process in supporting appropriate decisions on refusal or entry to the UK.
- 5.22 The observed interviews also raised a concern about the provision of interpreting facilities. Official interpreters are provided for passengers needing language assistance during interviews although immigration officers with language skills are sometimes used instead to save time and public money¹³. However, there can be risks associated with the use of Agency staff if language skills are not of a sufficient standard or in relation to impartiality during the conduct of interviews. The impact of poor interpretation was witnessed in one of the interviews as outlined in Figure 3.

Figure 3: Poor quality interpretation

Two immigration officers were involved in interviews with a Brazilian passenger; one of whom was acting as a Portuguese interpreter. However, it was clear the interpreting officer did not fully understand the passenger at times, making a number of comments such as: *'I don't know what he means'* and *'he doesn't seem to understand what I am saying'*. The interviewing officer also discussed points of the case with their colleague; the passenger could potentially have understood some of these discussions.

At the end of the first interview the passenger was asked if he had anything to add (in line with guidance) but declined to do so. However, at the end of a second interview the interpreting officer chose not to ask the passenger if they had understood everything or wished to add anything and said they believed the passenger had nothing to add.

On referring the case to the Chief Immigration Officer, it became apparent that there were weaknesses in the interview. The CIO twice asked if the passenger had understood all the questions posed. The officer replied the passenger had been asked if they had understood everything in both interviews and confirmed their understanding. This was in fact untrue in the case of the second interview.

Chief Inspector's comments

The quality of the interpreting was poor in this case having the evident potential to materially affect the decision. It is disappointing that the difficulties in translation and impact of this were not presented to the CIO. This example highlights the potential difficulties of using staff as interpreters and underscores the need to ensure the provision of appropriate interpreting facilities. The passenger, who was refused entry, was not well-served by the conduct of the interview.

- 5.23. Case interviews were not observed by team leaders at Gatwick and there is clear potential for inconsistent interview practice to develop. Observation of interviews by managers would help ensure guidance is followed in the conduct of interviews. The need for skilled interviewing in line with guidance is crucial given the significant impact of refusal and landing decisions on people's lives. We found that in four of the 14¹⁴ observed cases interviews were not robust enough in order to probe passengers thoroughly. Concerns about interview proceedings were raised in six cases including failure to ask key questions at the start and end of interviews, officer conduct and the balance of the referral to the CIO. Greater attention needs to be paid to ensuring consistency of practice and effectiveness in this area.

¹³ Staff with proven language skills are identified in an official list.

¹⁴ Five of the 14 observed interviews required interpretation; Home Office interpreters were used in the other four cases and did not raise any concerns.

- 5.24. The conduct of interviews at Gatwick North Terminal was also disrupted by contractor staff talking loudly amongst themselves at the holding room reception desk situated next to the interview rooms. This occurred during four of the interviews witnessed making it difficult for questions to be heard. Assistant immigration officers also mentioned that noise from contractor staff sometimes affected interviews. The Agency must ensure that passenger interviews are held in a suitably quiet environment to maintain the dignity of the interview process and allow for the proper, uninterrupted consideration of the questions posed.
- 5.25. Chief Immigration Officer authorisation is required for all refusal decisions. Particular refusal decisions at Gatwick also require SO/HMI authorisation such as those involving challenge to visas, minors, vulnerable individuals and any other cases considered to merit particular attention. We found that CIOs were clear about the cases which needed to be raised with the duty manager. The additional oversight in these cases can help ensure the strength of any refusal decision made.

Casework analysis

Casefile analysis of persons refused leave to enter (refused cases)

- 5.26. 166 casefiles of persons refused leave to enter the UK at Gatwick North Terminal in the period 1 December 2010 – 18 March 2011 were reviewed to consider the quality and consistency of both decision making and file management approaches. 162 (98%) of the refusals decisions were found to be soundly based and in line with the Immigration Rules. Only four of the cases raised questions about the case outcome. This gives confidence that decisions to refuse entry to passengers at port were undertaken with sufficient rigour.
-
- 162 (98%) of the refusals decisions were found to be soundly based and in line with the Immigration Rules.*
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- 5.27. Several of these cases demonstrated clear skill by officers in:
- detecting forged documentation such as passports / ID cards;
 - uncovering inconsistencies in passenger accounts;
 - uncovering deception – for example concerning intentions to work or the true nature of relationships ((in a number of cases passengers initially claimed relatives or partners were only friends); and
 - determining changes in circumstances for entry clearances issued.
- 5.28. It was also clear from the cases considered that passengers arriving with Tier 4 entry clearances demonstrating poor English at the primary control were being detained and subject to further examination. This resulted in a number of passengers admitting to deception in obtaining the visa by using others to undertake English proficiency tests or using false documentation. This active approach to challenging language ability resulted in a number of colleges withdrawing sponsorship and to visas being overturned.
- 5.29. Temporary admission to the UK was granted in approximately a quarter of the refusal cases examined. This included temporary admission in five cases where further enquires needed to be made before a decision was reached and 36 cases where persons were refused leave to enter but granted temporary admission for a variety of reasons. It was noted that temporary admission was granted in cases:

- where there did not appear to be compassionate, compelling or clear reasons for the decision;
- where passengers did not have the required entry clearance (mandatory refusal cases) without compassionate circumstances;
- for the full period passengers had intended to visit including periods of a week or more;
- where passengers had used deception or overstayed on previous visits;
- where the passengers subsequently absconded - detention bed space was refused in two of these cases; three cases involved non-compliance once an in-country appeal was lodged or dismissed and one passenger absconded prior to a refusal decision being made pending further enquiries; and
- where there was no clear record in the file of the basis for granting temporary admission.

Casefile analysis of persons granted leave to enter (landed cases)

5.30. 103 casefiles of persons granted leave to enter the UK during 1 December 2010 – 18 March 2011 were reviewed to consider decision quality and approaches to file management. Case analysis demonstrated 85 (83%) of the decisions were soundly based. However in fourteen cases (14%) the evidence did not support the decision to allow entry to the UK. These included cases involving:

- deception (such as manipulation of a visa / deliberately omitting to mention material facts);
- acknowledged previous breaches of the Immigration Rules;
- evident disparity with the visit purpose stated at the time of obtaining a visa; and
- cases with clear discrepancies between the passenger's and sponsor's accounts.

An example of a case where the decision to grant entry to the UK did not accord with the casefile evidence is set out in Figure 4.

- 5.31. Insufficient case records were kept in a further four cases where the decision raised queries (4%¹⁵) to allow any judgement to be made of the robustness of the decision in allowing entry to the UK.
- 5.32. Further checks should have informed the decision in a number of cases including checks with employers or colleges, forgery checks, baggage search or checks with overseas immigration authorities. For example, in one case a Tier 4 student admitted extensive previous breaches of the working restrictions but was given leave to enter based on confirmation of a good attendance record at their present college. Leave to enter was granted without checking with the current employer about their working hours and whether working restrictions were being observed.

¹⁵ Percentage figures do not exactly add up to 100% due to rounding of numbers.

Figure 4: Leave to enter case study

The passenger was granted entry to the UK in February 2011:

Case circumstances:

- The passenger sought leave to enter for up to 6 months as a general visitor.
- The passenger, recently graduated from high school in the USA, was unemployed, single and lived with their mother.
- The passenger indicated they would like to study bartending and would apply for a study visa while in the UK.
- Paperwork included in the casefile refers to ‘congratulations’, ‘good luck’ and ‘bon voyage’ messages from the passenger’s cousin and others in the USA.
- The passenger held \$2400 in funds but no credit cards and wished to travel around Europe in addition to staying in the UK; his sponsor intended to charge £35 per week for accommodation while in the UK.
- Documents found in a baggage search revealed the UK sponsor was prepared to give the passenger some paid work at the rate of £7 per hour.

Chief Inspector’s comments:

- The Immigration Officer was aware of unequivocal evidence that the sponsor had offered the possibility of the passenger undertaking paid work while staying in the UK as a visitor.
- The passenger had openly declared an intention to study while in the UK.
- Interview notes raised queries about the effectiveness of the interview; several irrelevant questions were asked but the passenger was not probed on key issues – for example, the passenger was not questioned about the congratulatory messages from friends and family.
- Given the above, it is unclear how the Immigration Officer was satisfied the passenger had met the Immigration Rules for entry into the UK as a general visitor.

5.33. The casefile analysis also highlighted instances where passengers in similar circumstances experienced different case outcomes. An example of this is provided in Figure 5.

Figure 5: Example of different case outcomes based on similar circumstances

Case 1

- The passenger arrived as a returning student in possession of a valid (in-date) entry clearance.
- The college of study where the passenger was registered had closed due to its licence being revoked by the Home Office.
- The passenger had breached the conditions of their entry clearance by working in excess of permitted hours.
- They had been out of the country for 11 months and had not sought to obtain a replacement visa to continue studies at another college.
- They were refused leave to enter due to a change in circumstances and evidence of the passenger having worked beyond permitted hours.

Case 2

- The passenger arrived as a returning student in possession of a valid entry clearance.
- The college of study's licence had been revoked by the Home Office.
- The passenger had not applied to study at an alternative college; they had emailed the Home Office with some queries about switching.
- The passenger subsequently left the country to attend a family funeral and had not sought to obtain a replacement visa to continue studies at another college.
- They were granted leave as a returning student.

Chief Inspector's comments:

It is unclear why the passenger in the second case was granted leave to enter. They did not have permission from the Home Office nor a new entry clearance to attend another course.

File completeness and audit trail

5.34. Both the refusal and landed casefiles examined raised a number of questions concerning file management and the completeness of records. The following key issues were noted from the files reviewed:

- baggage search forms were partially completed or missing in some files, although the baggage search was mentioned in file notes. In other cases it was unclear if a baggage search had been undertaken;
- visa concern forms were generally not completed in cases where there were evident reservations about the entry clearance issued (there was only one completed form in the cases considered);
- there was no evidence that passengers had been fingerprinted or photographed in a number of cases although passengers had been detained in the holding room;
- less comprehensive interview notes were taken in some of the landing cases; and
- a number of forms¹⁶ were not fully completed and were not clearly signed and dated by the officers involved as set out in guidance - IS83 forms were signed by immigration officers but were not countersigned by the CIOs. IS91 and IS91R forms were often stored as blank file copies and IS93 forms were also sometimes missing. Temporary admission / detention risk assessment forms were blank or partially completed in several cases and evidence of detention review records

¹⁶ IS83 forms are removal directions served on airlines with departure details; IS91 forms are issued to the holding room contractors in transferring the passenger to the holding room while IS 91R forms are provided to the passenger during the transfer process; IS 93 forms set out the detention record including reviews.

were also sometimes missing. Details about the transfer of passengers to Immigration Removal Centres were also unclear in a number of files. The lack of a clear audit trail in regard to temporary admission decisions, completion of detention reviews and transfer of passengers from Gatwick is of particular concern.

Casework statistics

- 5.35. Inconsistency in decision making was noted in our review of casefiles as highlighted above and this issue was explored with immigration staff at different levels during the inspection. Some assistant immigration officers (who are involved in initiating casefiles) considered it was often the same officers generating casework. A number of immigration officers also considered particular colleagues were more likely to either refuse or land passengers than others and differences of approach amongst CIOs were also raised.
- 5.36. Information on officer casework statistics (such as the number of IS81s issued or conversion of 1S81 cases to refusals) was requested to explore these issues further. However, the Agency advised that overall officer statistics were not compiled and it was left to team leaders to extract information from the case database if they wished. A more systematic analysis of casework statistics would help to assess the extent of any varied practice and help identify consistency issues.
- 5.37. CIOs stated they sometimes considered officer casework statistics during formal Performance Development Review meetings but there was no formal requirement to do so. Emphasis placed on casework statistics varied according to team leader preference and some officers were unable to recall ever discussing statistics with their line managers.
- 5.38. Analysis of overall casework statistics can also provide useful information about levels of casework and help identify potential areas of concern. For example, overall figures for IS81 issues show a successive decline for each year since 2007 at the North Terminal which cannot be explained by changes in passenger volumes. Approximately half the number of IS81s (reflecting the numbers of passengers detained for further questioning or checks) were issued in recent years compared with the period 2005-2008. Documents referred for forgery assessments have also declined in recent years. The average monthly number of documents referred for forgery assessment was 251 in 08/09; 183 in 2009/10, 139 for 2010/11¹⁷ and 107 for Q1 2011/12.
- 5.39. Referrals for prosecutions from Gatwick North Terminal reduced in 2010 compared with 2009 and were raised as a concern by the Criminal and Financial Investigation Team. Forty-five individuals were prosecuted from Gatwick North arrivals during 2010/11 compared with 98 cases in 2009/10. Prosecution referrals from the South Terminal remained relatively static over this period.
- 5.40. The Agency should actively evaluate the basis for the variations in case workloads reflected by these statistics including the extent to which these headline figures can be accounted for by factors such as changing flight patterns or may indicate concerns about frontline practice.

Use of technology

- 5.41. Technology is increasingly being used to support immigration clearance and both eGates (automated clearance gates) and the Iris Recognition Immigration System (IRIS) were in use at Gatwick North Terminal at the time of the inspection. Passengers with new chipped passports are able to use eGates and pre-registered passengers can use the IRIS facility for efficient clearance. These clearance mechanisms are designed to allow entry to the UK without the need for interaction with an immigration officer.

¹⁷ Excludes figures for January 2011 which were not provided.

- 5.42. At the time of the inspection the eGates at Gatwick North Terminal were generally open between 12pm - 1am with a host provided through an arrangement with the airport operator. The host promoted gates usage amongst passengers with newer passports and supported people in using the technology. Two immigration officers were also utilised in attending the eGates. One officer considers the match between passengers and their passport photographs in cases where the technology has not immediately accepted the likeness. The other officer deals with passengers who have not been automatically cleared by the gates and therefore require direct interaction with an immigration officer. The later fallback role was often not particularly busy. It was left to the discretion of the officers covering the gates whether they also processed accompanying travellers whose passports were not suitable for automated clearance.
- 5.43. We noted that on two occasions (25 January 2011 and 21 February 2011), passengers were cleared by the eGates system when mistakenly using their partner's passport¹⁸. In the first instance, an officer realised the error while on the second occasion, the issue came to light when one of the passengers was subsequently not accepted by the system.
- 5.44. During our observations, all five eGates were not always operational at the same time due to technological issues. The gates were also sometimes closed during particularly busy periods to release staff to work on other desks, meaning that passengers with biometric passports were not able to use the facility when it could have saved them the most time.
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- During our observations, all five eGates were not always operational at the same time due to technological issues.*
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- 5.45. New users were still being registered for IRIS usage at Gatwick North Terminal despite uncertainty over the continued existence of the technology and withdrawal from other ports. The IRIS enrolment facility was situated landside away from the arrivals hall at the terminal and was only open for limited periods (7.30am-1.30pm). One immigration officer and an assistant immigration officer attended the enrolment facilities during this period. A number of immigration staff queried the efficiency of this resource allocation with few passengers enrolling during the allocated timeslots - less than 300 passengers registered in May 2011 and under 200 in June 2011 with an average daily enrolment of eight passengers per day during these months.
- 5.46. The IRIS facility was non-operational on several occasions during the inspection period. There had also been a couple of recent incidents whereby both IRIS barriers (entrance and exit barriers) had opened at the same time meaning that passengers could have proceeded without having their IRIS checked. An immigration officer spotted the malfunction on each occasion.
- 5.47. During the inspection a number of stakeholders commented on the lack of advance notice about the removal of the IRIS facility at the South Terminal earlier in the year and felt that communication by the Agency should have been better on this issue.
- 5.48. There was no local technology strategy in place at the time of the inspection setting out the intentions for technology usage and means to achieving the national eGates target of 50% usage by eligible passengers. Year-to-date performance at Gatwick North was 21% for the first quarter of 2011/12. No evidence was provided of local analysis of technology usage to determine whether uptake levels matched expectations according to the flights and passenger mix in the hall. However, it is understood that agreement was reached with the port operator to keep the eGates facility open for almost 24 hours a day subsequent to the onsite phase of the inspection.

¹⁸ A similar occurrence at Manchester Airport in February 2011 led to the closure of the eGates system for technological assessment.

Queue management and measurement

- 5.49. Queue management and passenger clearance are the overall responsibility of the CIOs on duty and the allocation of resources across EEA and non-EEA desks is a significant factor in the efficient processing of passengers. However, G4S presenters employed by the Gatwick Airline Operators Committee can also perform an important role in passenger co-ordination in guiding passengers to appropriate queues, helping to ensure the completion of landing cards by non-EEA arrivals and in directing passengers to available desks at the front of the queue during busy periods.
- 5.50. Ports are assessed on queuing performance against the following national targets:
- 95% of EEA passengers are cleared within 25 minutes;
 - 95% of non-EEA passengers are cleared within 45 minutes.
- 5.51. A more stringent local target agreed with the port operator was also in place at Gatwick:
- 95% of EEA passengers are cleared within 15 minutes; and
 - 95% of non-EEA passengers are cleared within 30 minutes.
- 5.52. We found mixed awareness of these local targets amongst frontline staff but greater awareness of the national requirements. Queuing performance met the Border Force targets for EEA and non-EEA passengers for each month during 2010 and in the period January – June 2011. However, we have some concerns about the measurement and national reporting process.
- 5.53. We observed queuing times being measured by CIOs for both EEA and non-EEA passengers for national performance reporting. A measurement was taken on the hour and involved choosing a distinctive passenger (based on appearance or dress) arriving at the back of the queue and timing the journey to the point of seeing an immigration officer at a desk. On occasions we saw that the hourly measurement had not been taken and recorded at the expected time. There are a number of difficulties with this measurement approach:
- measuring a single passenger journey at the start of the hour is unlikely to reflect queuing experience during the hour and overall passenger experience;
 - the selected passenger is likely to wish to join the smallest queue and could move between queues meaning that the queuing time measurement would not necessarily be reflective of the general experience of passengers in the hall;
 - CIOs can potentially alter the measurement timing until queues have improved or indeed may be busy with other duties at the prescribed measurement time; and
 - averaging the individual hourly measurements for daily, weekly or, monthly reporting can have the effect of masking periods of poorer performance. Publicly reporting the number of queue breaches could be more informative.
- 5.54. The hourly reporting approach is also not necessarily passenger focused. Chief Immigration Officers confirmed they were not required to take measurements beyond the hourly recording process regardless of the length of the queues and did not go above this requirement. The point of recording on the hour can easily coincide with a relatively quiet period according to flight arrival patterns. Not recording queuing times at particularly busy periods in the hall which fall outside of the hourly measurement slot suggests a lack of real customer focus. Taking measurements at the busiest times could help to inform decisions on resourcing levels and would provide a clearer picture of passenger experience and pressure points in the system.

- 5.55. During the inspection an agreement was reached with Gatwick Airport Limited to take over the queue measurement process at both terminals. The port operator will pay for a member of staff to undertake arrivals queue measurement every 15 minutes, again by determining the wait for particular individuals. This arrangement is clearly beneficial for the Agency in relieving CIOs from this duty to focus on other work, providing greater independence to the measurement process and in assessing the queue more frequently. The new arrangements were to be implemented at the beginning of July with an average of the four queue readings taken per hour to be used for the national Border Force hourly reporting requirements. This is a positive example of the close working relationship between the port operator and the Agency which should lead to an improved picture of passenger experience.
- 5.56. During the inspection local stakeholders commented they would like the Agency to provide queuing performance statistics in the arrivals hall and had suggested that improved information about anticipated queuing time in the hall (for example through regularly updated notice boards to reflect the live situation) would help manage passenger expectations. This suggestion had not been adopted at the time of the inspection. Airline representatives were also interested in the availability of more detailed breakdowns of queuing times.
- 5.57. The absence of anyone guiding passengers to the front of the queue was observed on a number of occasions during the inspection. This can slow the queue clearance process since passengers take longer in deciding which desk to attend. Chief Immigration Officers themselves were sometimes observed guiding passengers at the front of the queue rather than undertaking other duties.
- 5.58. At the time of the inspection, the Agency and Gatwick Airport Limited were working closely together to jointly consider a range of issues impacting passenger experience in the arrivals hall including opportunities to help reduce queuing times.

We recommend that the UK Border Agency:

- Improves the quality and consistency of decision making in granting leave to enter the UK and in granting temporary admission to the UK.
- Improves consistency of practice in immigration casework ensuring that the conduct of case interviews is in line with guidance and casefile documentation provides a robust audit trail of all decision stages.

Customs and immigration offences should be prevented, detected and investigated and, where appropriate, prosecuted to ensure the law is upheld.

- 5.59. There are a number of different detection teams operating across Gatwick focused on the seizure of illicit goods carried by passengers; this includes prohibited drugs, offensive weapons, obscene material and products of animal origin in addition to cigarettes and alcohol beyond permitted allowances or for undeclared commercial purposes. This inspection primarily focused on the work of the terminal detection teams, which are based within the detection channels at each terminal. However, the activity of other teams with a detection remit was also considered to place the Agency's overall approach in providing detection coverage across the airport in context. The focus of other detection teams and their operational approach is outlined in Appendix 3. The key legislation governing detection operational activity is set out in Appendix 4.

Terminal detection teams

- 5.60. The ten terminal detection teams undertake duties according to an early, day and night shift pattern providing 24 hour operational coverage. There are always two terminal detection teams operating across Gatwick during each shift, one at each terminal. Their prime responsibility is to detect passengers carrying illicit goods and to both seize goods and effect arrests as appropriate. Each team is comprised of a number of assistant officers, officers and a team leader operating according to the Customs and Excise Management Act 1979 (CEMA).
- 5.61. A number of key issues impacting the operational effectiveness of these teams were explored during the inspection including the impetus provided by regional targets, the range of duties undertaken and the basis for passenger selection.

Priorities and targets

- 5.62. Airport detection teams are not assigned specific targets at port, team or individual levels. Regional commodity seizure targets are in place for each Border Force region and ports are expected to contribute to these overall targets.
- 5.63. A number of staff considered that the regional targets did not provide a strong motivating factor for local seizures and caused some confusion regarding priorities. Staff confirmed that Class A drugs were the overriding priority in line with the Border Force Control Strategy, and showed a strong commitment to ensuring these drugs were detected and seized. They also considered that Gatwick makes a key contribution to the regional class A targets, particularly in respect of seizing cocaine¹⁹. However, there was a mixed picture regarding the perceived value of other commodity seizures to the regional totals.
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- Staff confirmed that Class A drugs were the overriding priority in line with the Border Force Control Strategy, and showed a strong commitment to ensuring these drugs were detected and seized.*
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- 5.64. Some staff stated that they particularly emphasised cigarette seizures to ensure that their overall number of seizures did not reflect poorly on them (since the detection of class A drugs is relatively rare) even though they were aware that bulk cigarette seizures obtained at sea ports within the region were significantly more important than airport seizures in achieving the regional target. Regional managers confirmed they did not rely on airport seizures in meeting targets for commodities such as alcohol and cigarettes.
- 5.65. Detection staff also commented that they did not always feel able to respond to regional directives to prioritise particular goods such as products of animal origin to help achieve regional targets, if they considered the detection of class A drugs would be compromised by following such direction.
- 5.66. There was a lack of shared understanding and clarity about what constitutes good individual performance. Many of the detection officers were unclear about what they should be aiming to achieve overall across the range of commodities and wanted clearer direction on this issue.
- 5.67. Individual and team seizure statistics were circulated on a monthly basis and showed significant variation in seizure performance. However, it is unclear how this information was analysed and used by team leaders and senior managers in considering individual and team performance. There did not appear to be any local formal comparison by senior managers of monthly or quarterly commodity performance across teams, nor indeed like-for-like comparisons made of team performance in the current and previous year.

¹⁹ Cocaine seizures at Gatwick contributed to over 40% of the regional seizures during 2010/11.

- 5.68. The focus on reporting seizures at the regional level encompassing a wide range of ports can potentially mask underperformance at particular ports and does not support local accountability. The development of realistic port targets based on local seizure patterns could help drive performance at the local level and provide greater clarity for individual members of staff.

Visibility of terminal detection staff

- 5.69. During the inspection we noted the frequent absence of any terminal detection staff in the green channel (see Figure 6) including during busy periods with significant passenger throughput and when flights had arrived from key European hubs. Terminal detection staff are tasked with meeting a number of high risk flights²⁰ identified in a daily deployment plan (directed by regional and local tasking & co-ordination) and were generally visible in the channels to cover these arrivals. While the focus on priority flights is acknowledged, we witnessed an almost total lack of visible detection presence in the terminals for significant parts of the day. If passengers in the green channel develop a view that there is little chance of being challenged by a detection officer, they may be encouraged to take risks with illicit goods in future. The physical presence of at least some detection officers in the terminals can act as a deterrent and would help support the perception of a secure border.

Figure 6: Detection channels

Green Channel –used by passengers travelling from a country outside the EU with goods that are within allowances and are not banned or restricted. Passengers have passed the declaration point on entering the channel and will incur penalties if they are subsequently found to be carrying prohibited or restricted goods.

Blue Channel – there is a separate blue channel exit at Gatwick North Terminal for EU passengers stating that they have nothing to declare. However, if detection staff wish to challenge a passenger arriving from within the EU they will take the individual into the green channel since there are no examination benches in the blue channel.

Red Channel – or red point phone is used by passengers who wish to declare goods or cash, commercial goods, merchandise in baggage (where it is intended to sell or accept payment for goods brought into the country) or are unsure about what they need to declare. The phone is used when the desk is not manned.

- 5.70. Members of the Dog Unit also raised the lack of detection officer presence in the channels as a constraint to the effective deployment of dogs including those trained in the detection of drugs. Dog Unit members have found there is sometimes little value in utilising dogs in the channels since officers are not there to investigate any positive indications (passengers arousing the interest of the dog).
- 5.71. A number of duties can occupy detection staff away from the channels, affecting both the availability of resource to scrutinise passengers in the terminals and the visibility of detection staff to arrivals including:
- arrest-related duties;
 - attendance at the primary control in response to intelligence alerts;
 - supporting the primary control at times of pressure; and
 - baggage search operations at the back of the baggage belts.

²⁰ High risks flights refers to flights which are considered to have a greater potential for the transportation of illicit goods in line with prior seizure patterns.

- 5.72. A minimum of three officers are occupied with arrest-related duties in the immediate hours following an arrest. This can include writing notebook records, preparing witness statements, escorting the prisoner to custody and supporting custody procedures. A single arrest can significantly impact frontline detection operations for several hours occupying a core element of the team for a large part of the shift. This low level of resilience in frontline operations is a particular concern where a number of high risk drugs flights arrive close together (as in the case for one of the Gatwick North Terminal daily shifts). We directly witnessed the impact of arrests on the resilience of detection operations during the inspection, leading to a reduced presence and visibility of staff within the terminals for some hours afterwards.
- 5.73. Despite there being a cluster of high risk flights during one of the daily shift periods at Gatwick North Terminal, we noted the same fixed shift resource (one team per terminal) was allocated throughout the day and night irrespective of the likelihood of demand during a particular shift and potential for stops and arrests in accordance with the risk profile of arriving flights. Closer alignment of resources to flight risk patterns would support greater resilience of detection operations.
- 5.74. Detection staff may also be occupied away from the terminals in covering intelligence alerts which are received on a regular basis. Alerts are provided by national or regional intelligence units and local profilers specifying that an individual of interest may be travelling on a particular flight. A number of officers will attend the primary control to identify the passenger at the earliest opportunity. Responding to such alerts can be time consuming and often may not result in seizures. Robust analysis of seizure outcomes by intelligence source and information provided (for example whether the intelligence relates to a relatively old offence) would help inform future deployment decisions.
- 5.75. Each of the terminal detection teams include a few trained officers who can be called upon if the primary control is under pressure. Detection staff commented requests were sometimes received at times that conflicted with priority detection operations (such as covering flights of interest or preparing witness statements). There was a general perception amongst detection staff that managing queues at the primary control was considered to be the overarching priority. This issue was explored with senior managers who advised that the primary control takes precedence unless there are immediate detection resource requirements in respect of class A seizures. However, the occasional removal of detection staff from the terminal duties to assist at the primary control can contribute to a lack of presence of detection staff in the terminal²¹.
- 5.76. Terminal detection staff also undertake baggage search operations away from the terminals for specifically authorised flights (termed section 159 flights) to detect illicit importation of cigarettes. This work can also add to a low visibility and presence within the terminals. Moreover, as covered below, the outcomes from such detection activity and returns regarding the particular flights targeted were not actively evaluated. It is therefore unclear if the deployment to such work reflects the optimal use of resource.
- 5.77. The risks associated with low visibility / absence of detection staff in the channels for significant parts of the day should be evaluated by the Agency.

Tasking and co-ordination

- 5.78. Decisions regarding the regional deployment of resources are taken on a monthly basis by the regional Tasking and Co-ordination Group. This meeting is attended by senior management from across the region to consider the risk level of flights and agree the tasking and co-ordination approach taking account of port seizures and recent trends. Decisions regarding deployment within Gatwick, including the flights which need to be attended by detection staff, are made by the Gatwick Local Planning Group and set out in the daily deployment plan in line with regional tasking and co-ordination priorities.

²¹ Detection staff across Gatwick were assigned to duties at the primary control for 3,260 hours during 2010/11 and 349 hours during Q1 2011/12.

- 5.79. It was clear that high risk flights were generally attended by detection staff although we witnessed two occasions where this did not happen when the flights were delayed by approximately an hour. In one instance, detection staff were observed in the back office rather than in the detection channels when the passengers passed through the green channel. In the second case officers were present in the channels to observe some of the passengers but departed long before all the arrivals from this flight had passed through immigration control.
- 5.80. We identified deficiencies in the approach to authorisation of flights for section 159 baggage search (focused on the detection of illicit cigarettes). The same flights were specified in the daily deployment plan over a period of months without apparent analysis of the seizures made from repeatedly targeting the same flights. It was unclear why analysis of the outcomes from particular flights was not being actively used to inform resource deployment. A number of senior managers acknowledged that the approach to section 159 flights needed to be urgently addressed and a more evidence-based approach adopted.

Justification for passenger challenges

- 5.81. A number of detection officers and detection teams were observed in the green channel to consider interactions with passengers and how staff identified passengers for interception. We witnessed numerous professional and courteous interactions, and noted that staff remained calm when passengers became agitated during stops and baggage searches. However, we also observed exchanges with passengers which were less positive including one case where an officer seized goods and issued seizure documentation without any explanation to the passenger about the seizure or purpose of the documentation. The officer did not communicate with the passenger except in the initial questioning about route and baggage. On several occasions the inspection team also witnessed detection staff chatting amongst themselves at the entrance to the channels and paying little attention to passengers.
- 5.82. Observation across shifts also revealed differences in approach between teams and individuals. Some teams and individuals were clearly more proactive in challenging passengers while others questioned persons less frequently. Indeed, a member of staff in one team did not select any passengers for questioning during a two hour observation period while colleagues were active in intercepting passengers.

- 5.83. We asked staff why they had selected a particular individual for questioning to examine the basis for passenger selection and recorded the answers provided. While some answers were in line with guidance relating to the visual selection of passengers, others caused concern revealing little profiling skill and poor understanding of passenger risk profiles and the pre-arrival and visual selection criteria set out in the Enforcement Handbook. They included comments referring to individuals 'looking like a smuggler', to a frequent traveller 'always being stopped' even though no illicit goods had ever previously been found on the person and prejudiced views based on appearance and stereotyping of particular nationalities²². A number of officers also stated that they had stopped individuals simply because 'they had to stop someone'. One of the passenger interactions observed of most concern is outlined in Figure 7 below. Effective passenger challenge is at the very heart of the detection process and team leaders need to maintain stronger oversight of individual officer's activities in undertaking stops and searches to ensure staff are using appropriate selection methods and challenging passengers with sufficient basis.

Effective passenger challenge is at the very heart of the detection process and team leaders need to maintain stronger oversight of individual officer's activities in undertaking stops and searches to ensure staff are using appropriate selection methods and challenging passengers with sufficient basis.

²² Officers stating that they had stopped individuals because they thought they looked like they were from particular nationalities inappropriately considered they could judge nationality from passenger appearance.

- 5.84. In other cases officers gave more appropriate grounds for selecting passengers in accordance with risk profiles such as passengers in transit from routes of interest identified through baggage tags or travellers matching profiles from flights known for the illicit importation of cigarettes.

Figure 7: Passenger interaction of serious concern

The passenger was stopped and asked routine questions about their trip. When the officer indicated they wished to search the baggage, the passenger requested that this be done in a more private place. This request and a further request on this issue were refused. The contents of the passenger's bag were then openly displayed including photographic equipment. The officer subsequently left the passenger to undertake background checks and later emerged signalling that the passenger could continue on their way. The officer then commented to another officer that the passenger was HIV positive; the colleague then advised that the searching officer should use stronger hand gel. These comments were made within earshot of the passenger and indeed other passengers in the channel.

When subsequently asked why this passenger had been stopped immediately after this interaction, the officer commented that the passenger *'looked like he might be involved in paedophilia'* and then went on to say that *'the presence of the camera and the fact he had a boyfriend confirmed this'* (no photos were examined).

Notebook records of this exchange were not kept although the passenger was delayed by almost 30 minutes.

Chief Inspector's comments

The selection of the passenger on the stated grounds was inappropriate and the observed behaviour of staff was unprofessional.

- 5.85. It was evident that visual rather than behavioural indicators were the primary considerations according to the answers provided. During observation sessions detection staff did not attend the carousel areas to consider passenger behaviour in waiting to reclaim baggage which can inform passenger challenge decisions. There also appeared to be little communication between officers to discuss tactics in covering flights or passenger profiling including the behaviour of arrivals at the baggage carousel. The seeming lack of emphasis on behavioural indicators suggests that officers may not be using the full range of tools and information in determining passengers for further questioning. Waiting to consider passengers only as they enter the channel leaves less scope for examining behaviour and means that decisions on selecting individuals for further questioning need to be taken quickly.
- 5.86. The Agency should be reviewing the visual and pre-arrival selection criteria specified in the Enforcement Handbook and publishing updated criteria following its acceptance of a previous recommendation made in my May 2011 report on *Preventing and detecting immigration and customs offences: a thematic inspection of how the UK Border Agency receives and uses intelligence*²³. The criteria had been in place for a number of years and there is a pressing need to ensure that the profiles are periodically refreshed to direct selection activity based upon an updated analysis of risk.

Inconsistent practice in regard to non-EU allowances

- 5.87. Inconsistent practice was observed in the green channel concerning passengers with undeclared excess goods. Strict duty free legal limits are imposed for passengers travelling on non-EU flights in relation to bringing cigarettes and alcohol into the country. Passengers who declare they are carrying excess goods can pay the extra duty in the red channel and keep their purchases. However, passengers

²³ <http://icinspector.independent.gov.uk/wp-content/uploads/2011/02/Preventing-and-detecting-immigration-and-customs-offences.pdf>

found to be carrying excess goods in the green channel (past the declaration point) forfeit the right to retain the allowance amount; all goods are required to be seized by detection staff. We were therefore surprised to find that some officers were using discretion on this issue, delivering very different passenger outcomes for those carrying undeclared excess amounts.

- 5.88. Indeed on one occasion the following outcomes were witnessed concurrently for passengers carrying similar levels of excess goods while observing the activity of a particular team in the green channel:
- one passenger was allowed to continue with a verbal caution and retained all of their goods;
 - another passenger had all the goods seized and was issued with appropriate documentation; and
 - a third passenger had their excess goods seized but was allowed to retain the duty-free allowance amount.
- 5.89. Officers confirmed that discretion was ‘not officially allowed’ but stated that it was common practice. Team leaders were also clearly aware this was taking place. A number of staff indicated they took a *‘pragmatic approach’* and did not always penalise passengers carrying goods over the allowance quantity (one member of staff felt that 400 or 600 cigarettes were too few to be seized – double and treble the legal amount). Passenger behaviour was also indicated to be a factor in the leniency or stringency shown.
- 5.90. Inconsistent practice in enforcing the law for non-EU commodity allowances and the clear inequitable treatment of passengers needs to be actively addressed.

Notebook records

- 5.91. Detection officers are issued with individual notebooks and must follow set procedures in maintaining them and in recording passenger interceptions. Basic passenger details such as nationality, flight, gender and route are captured in the notebooks following passenger stops and searches in addition to responses to questions.
- 5.92. At the time of the inspection, negative interceptions (which do not result in seizures) were not routinely recorded in line with revised guidance. Nevertheless, officers were still required to record negative interceptions in particular circumstances: if the passenger is delayed for further checks such as database checks, where possessions have or could be damaged and where it is perceived that the interaction may result in a formal complaint. Focus group discussions revealed mixed understanding of the new guidance with most detection staff stating that they no longer needed to record details of any negative stops. Only a minority of officers confirmed that records still needed to be kept in the circumstances outlined above.
- 5.93. Information about the reasons for negative stops can support assurance mechanisms in regard to passenger selection. As covered earlier, some detection officers were not using appropriate selection criteria for intercepting passengers. The reduced level of records required for negative passenger challenges can make it harder to maintain effective oversight of the criteria being applied and in assessing the justification for challenges.
- 5.94. While team leaders generally confirmed they looked at a sample of notebook records each month as part of quality assurance, one Higher Officer stated that they had not undertaken any assurance of notebooks for over a year. Maintaining oversight of the quality of notebook records is important, not only in considering the justifications for stops and searches but also in ensuring standards are maintained in supporting effective prosecutions.

Seizure records

- 5.95. Estimated drug volumes are entered into the Centaur²⁴ database at the time of seizure where drugs are mixed with other materials for the purposes of transportation and concealment. At the time of the inspection the Forensic Science Service subsequently derived accurate figures for the purity, volume and street value once the drugs were extracted from extraneous materials. Estimated figures can then be updated to ensure accurate reporting of the volume of drugs seized.
- 5.96. Members of the Criminal and Financial Investigation (CFI) Team advised the inspection team that estimated drug seizure figures had not been routinely updated with the accurate amounts at Gatwick through an oversight and confusion regarding responsibility for updating records and that this issue only came to light as a result of enquiries made during the inspection. It is unclear if there is a more stringent approach to maintaining accurate drug seizure records elsewhere. Where statistical reporting at national and regional levels includes estimated drug seizure levels, this should be explicitly stated to provide greater transparency regarding the drug volumes seized.
- 5.97. Similarly, we were told that while cash seized from passengers at the border is reported in performance statistics, the figures do not appear to take account of the cash returned to passengers who are later able to provide legitimate grounds for carrying the cash. We were unable to fully verify this issue during the inspection but will consider this matter in future inspections.

Training and expertise

- 5.98. Virtually all of the SO/HMI grades overseeing operational activity across Gatwick at the time of the inspection were from an immigration rather than detection background. These officers had received only two days training in detection operations and a number of the senior managers stated they were not confident about their responsibilities in overseeing detection activities. Additionally, eight detection team leaders (Higher Officers) had left duties since October 2010 through voluntary exit schemes leading to a loss of expertise at this level.
- 5.99. At the time of inspection, only five officers from an immigration background across Gatwick had undertaken the Secondary Examination Area Training (SEAT) course due in large part to limited access to this centrally delivered training. Three of the terminal detection team leaders from an immigration background had not yet undertaken SEAT training and were unable to perform the full range of detection team leader duties (such as authorising search of person under section 164 of CEMA). Enhanced provision of SEAT training would support more integrated operational activity at Gatwick and could enable greater support of detection teams at times of particular pressure.

Multifunctional Teams

- 5.100. Five Multifunctional Teams were established in the new teamworking model with the intention that team members are fully multi-skilled in immigration and detection operations and can be flexibly deployed across Gatwick terminals. Team members were drawn from a mix of immigration and detection backgrounds. The core focus of the teams was to support the primary control, detect criminal cash which can be seized under the Proceeds of Crime Act (2002), support detection activity and provide cover²⁵ at Biggin Hill Airfield. One Multifunctional Team was in operation per shift across Gatwick. However, few of the staff from an immigration background were fully cross-trained with SEAT accreditation at the time of the inspection.

²⁴ The Centaur database is a legacy customs IT system used by the Agency to record details of all goods seizures.

²⁵ Biggin Hill Airfield falls within the remit of Gatwick UK Border Agency operations; the approach to covering flights at the Airfield was being revised at the time of the inspection.

- 5.101. Multifunctional Teams were assigned to support the primary control during nights in the new operational model. Liaison was undertaken with team leaders at the primary control and in detection terminals across Gatwick to deploy resources where they could be of most value at other times. However, there were often competing demands for the support of the teams and evident confusion about the deployment priorities of the teams amongst immigration and detection team leaders.
- 5.102. Two dedicated Cash²⁶ Teams operated at Gatwick prior to the new teamworking structures. However, cash detection was incorporated within the remit of the Multifunctional Teams alongside other duties in the new operational approach. At the time of the inspection, Multifunctional Team staff were almost exclusively focused on duties at the primary control and rarely deployed to cash operations. Multifunctional team leaders and senior managers confirmed that only a very limited number of cash operations had been undertaken since the development of the teams.
- 5.103. Senior managers acknowledged that cash seizures were being accorded a lower priority at Gatwick. One senior manager was of the view that cash detection had previously been given too much emphasis and wanted to see Multifunctional Teams supporting more general detection operations. Others stated that cash work was a relatively low priority in the Border Force Control Strategy. However, criminal cash is in fact accorded a medium risk / high rating in the Control Strategy. Moreover, we were not provided with evidence that any formal risk assessment or analysis had been undertaken prior to the decision taken to disband the Cash Teams.
- 5.104. We noted that cash seizures showed a decline since the disbandment of the Cash Teams in April 2011. Seizures between April 2010-June 2010 were £202,303 while seizures for the equivalent Q1 2011/12 period were £46,658 (there were no cash seizures in April and May 2011). Review of regional cash seizure performance for 2010/11 showed that the South and Europe region did not meet the £5 million cash seizure target set for 2010/11 with seizures reaching £3.34 million by the year end (compared with £5.88 million during 09/10²⁷). Gatwick has made a significant contribution to cash seized across the region in recent years, providing over a quarter of the total in 2010/11 and over a third in 2009/10.
- 5.105. The lower priority being accorded to cash operations at Gatwick suggests that this contribution may not be maintained and may have a significant impact on the intention set out in the 2011/12 regional business plan to *'maintain or improve the level of cash seized at the border'* and in achieving the 2011/12 regional target which was retained at £5 million.

Prosecuting offenders

- 5.106. The Criminal and Financial Investigation Team is contacted once a passenger is arrested by detection staff to evaluate the details of the case. CFI officers conduct the interview, liaise with the Crown Prosecution Service and accompany passengers to the police station for formal charging. Members of the team found the case information passed on by detection staff was generally acceptable but had recently noticed an increase in errors and omissions and were unsure if the same level of quality assurance was being undertaken by team leaders / senior managers.
- 5.107. The following drug offences have been prosecuted at Gatwick from December 2009:
- 157 drug offences between 1 December 2009 - 31 December 2010;
 - 87 drug offences between 1 January 2011 - 31 July 2011; and
 - 53 cannabis offences in each of 2009/10 and 2010/11.

²⁶ The Cash Teams focused on detecting passengers carrying large amounts of outbound or inbound cash. Where passengers are unable to prove the cash was acquired by legitimate means, detection officers can seize monies under the Proceeds of Crime Act 2002. Cash is returned to passengers who can subsequently provide evidence of the legitimate basis for this money.

²⁷ Cash seized at Gatwick showed a similar decline to the regional cash seizure levels in 2010/11 compared with 2009/10. Regional cash seizure levels in 2009/10 declined by over 40% in 2010/11 and cash seized at Gatwick during 2011/10 was just under half the 2009/10 total amount.

- 5.108. The Agency stated that 95% of the cases were successfully prosecuted. Cases are often clear cut with few appeals lodged since the passengers are caught in possession of the drugs.
- 5.109. The Cargo Team notify the International Crime Team based at Heathrow for cases arising from cargo seizures. The International Crime Team contacts the relevant law enforcement agency such as the police, Serious Organised Crime Agency, or HMRC to progress the investigation. However, CFI will investigate cargo cases themselves where people have been arrested if they are not taken up by other agencies. During the inspection, members of the Cargo Team raised concerns about difficulties in getting cases investigated, including cases involving high volume cannabis seizures; there was a clear need for closer liaison between the parties involved regarding the status of case investigations.
- 5.110. No evidence was provided of referrals to HMRC for the prosecution of persons found in possession of excess undeclared revenue goods over legal allowances including in relation to repeat offenders. Active liaison was however taking place between HMRC and the Airport Crime Team in relation to airline crew caught evading duty on revenue goods. Staff found in possession of between 200-1000 undeclared cigarettes were subject to fines, while those carrying over 1000 cigarettes were subject to prosecution.

We recommend that the UK Border Agency:

- Ensures all detection staff are selecting passengers for challenge with sufficient basis and in line with guidance; and enforce the law in relation to goods in excess of non-EU allowances.
- Implements port-specific commodity targets for detection operations based on local seizure patterns.

Complaints procedures should be in accordance with the recognised principles of complaints handling

- 5.111. The UK Border Agency defines complaints as *'any expression of dissatisfaction about the services provided by or for the Agency and / or about the professional conduct of UK Border Agency staff or contractors'*. Complaints are categorised as either service complaints, minor misconduct or serious misconduct complaints. Serious misconduct complaints are complaints which if upheld would lead to disciplinary or criminal proceedings against the staff member(s) involved. All serious misconduct complaints including discrimination complaints (where perceived differential treatment cannot readily be explained by factors other than prejudice) must be referred to the Professional Standards Unit for investigation.
- 5.112. The Agency's handling of complaints was previously assessed in the thematic inspection *'Lessons to learn: The UK Border Agency's handling of complaints and MPs' correspondence'* published in July 2010²⁸. This inspection made a number of recommendations for improvement in respect of complaints handling which were accepted by the Agency. The examination of complaints processes at Gatwick therefore included consideration of the extent to which progress had been made in implementing prior recommendations.

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

Promotion of complaints process

- 5.113. There were no posters at either the primary control or in detection channels advising passengers about how to make a complaint. Complaints leaflets were unavailable at the primary control throughout the inspection. They were observed in the detection channels for a limited period after the inspection team queried their usage, but were not readily visible and accessible to passengers. Raising awareness of the complaints process would be better served by placing the leaflets in prominent locations where passengers can help themselves. The thematic complaints inspection previously highlighted the importance of an active approach to ensuring accurate complaints information is provided at the time of interaction with the Agency.
- 5.114. Frontline immigration staff were critical of the lack of complaints leaflets and stated they had not been available for some time. They commented they often received verbal complaints from passengers relating to queues and felt that issues could be more easily diffused by handing out leaflets signposting passengers to the complaints process. Local managers stated that there had been delays in printing updated leaflets and were uncertain when this issue would be resolved.
- 5.115. There was also evident confusion concerning the distinction between complaints and seizure appeals processes. Some detection staff were under the impression that passengers should be given a Notice 12A seizure appeal form if they wished to make a general complaint rather than appeal a specific goods seizure. However, the Notice 12A seizure form is specifically directed towards passengers wishing to appeal seizures with virtually no information about general complaints procedures. Passengers wishing to make a general complaint would find little relevant information and could easily be deterred by the relatively complex content about seizure appeals processes. Moreover, the Notice 12A seizure forms used were produced in April 2009 and did not mention the UK Border Agency.

Complaints recording and investigation

- 5.116. Staff at the primary control commented that passenger exchanges of particular note are recorded in the combined Complaints/Compliments/Incident log at the time. This provides handwritten accounts of passenger exchanges identified as complaints or which may lead to complaints mixed with other incidents (such as issues with technology). However, there was no shared understanding of what should be recorded in the log and formal direction was not given to staff on this issue. Furthermore, at the time of the inspection complaints recorded within the log were not routinely analysed. Indeed, this recording format did not readily lend itself to such analysis; complaints could easily be overlooked amongst the mix of issues covered.
- 5.117. Relatively routine complaints such as those relating to queues were not being recorded at the primary control. The Agency therefore had no way of knowing if volumes of verbal complaints were increasing or decreasing, were more likely at particular times or if particular officers generated more complaints. Since June 2010 frontline staff across the Agency have been exempt from the need to create individual complaints files where matters appear to be satisfactorily resolved at the first point of contact. However, there remains an expectation that mechanisms are in place to gather information about verbal complaints to identify trends and to learn lessons. Frontline officers at the immigration control were nevertheless of the view that they only needed to record any exchanges that they personally considered merited an entry into the complaints log.

The Agency therefore had no way of knowing if volumes of verbal complaints were increasing or decreasing, were more likely at particular times or if particular officers generated more complaints.

- 5.118. During the inspection a number of exchanges were observed where the passenger stated they wished to complain but which were not recorded in the incident log at the time, including:
- a passenger wished to complain that a previous entry clearance refusal had not been removed from the WI despite assurances from an officer on a previous visit that this would be addressed; and
 - a passenger wished to complain about the queues and asked for details about making a complaint. In response the desk officer wrote an address on a piece of paper and handed this to the passenger which did not present a professional image of the Agency.
- 5.119. Detection officers did not maintain a central complaints/incident log in contrast to the approach taken at the primary control. Instead, officers recorded details of passenger complaints or exchanges they considered might lead to a formal complaint in their individual notebooks. Again perceptions of what should be recorded differed between officers. Complaints information from individual notebooks was not collated and there was therefore no cohesive overall picture of the number and nature of incidents being recorded and no analysis undertaken of issues arising. The lack of an integrated approach across detection and immigration operations in respect of complaints is unacceptable.
- 5.120. A local log was kept of formal written complaints received by the Customer Service Unit (CSU) at Dover relating to Gatwick operations at both terminals. Passengers initially write to the CSU in making a complaint, which then forwards the details to Gatwick for investigation and for an initial response. The CSU considers the draft response and agrees a final response with one of the local senior managers. The log is a mechanism for keeping track of the formal complaints received and the required timescales for response in meeting customer service standards and includes:
- information about the nature of the complaint;
 - the officer responsible for ensuring a response;
 - dates for liaison with CSU;
 - date of final response; and
 - the outcome of the complaint.
- 5.121. However, on examination, the log was not fully updated and contained many blank fields, mostly in relation to the date of final response and complaint outcomes. Moreover, not all the complaints files received from the CSU as part of the inspection review process (see below) were included in the log. This almost exclusively covered immigration complaints for 2010/11, even though several formal complaints were received relating to detection operations during this period; it is unclear why these complaints were not locally recorded and monitored in line with other complaints.
- 5.122. The CSU was positive about the level of engagement with Gatwick, the quality of investigations and the timeliness of response. However, the purpose of the Gatwick complaint log needs to be reviewed. This was poorly maintained and was not actively utilised to analyse local complaints. The Complaints Management System has been available for use in Border Force since August 2010 and provides the means to monitor complaints and provide appropriate management information. The value of using a separate log needs to be evaluated in light of this development.
- 5.123. Fifty-four formal complaints files were reviewed to consider the investigation process and outcomes for passengers writing to the CSU to complain about operations at Gatwick North Terminal during the period 2010/11. These files were maintained by the CSU and contained correspondence and relevant documentation for the complaints received. Three cases involved MPs' correspondence and were therefore not handled through the general complaints process. Two of the cases were linked to associated Tier 2 level complaints files within the sample group.

5.124. The following points were noted from the files reviewed:

- Seven cases should not have been classified as complaints and involved requests for information or related to case decision outcomes. In the remaining cases complaints were correctly categorised into service and misconduct categories in all but five cases. Three cases were classified as minor misconduct complaints despite clear statements claiming race or gender discrimination. The other two cases were classified as service complaints although passengers were simply requesting information rather than complaining.
- In three out of four cases where passengers perceived there to be a race discrimination element to the complaint there was no evidence of referral to Professional Standards Unit (PSU). The Agency complaints guidance states that *'if there is any doubt whether an allegation is about discrimination the CSU must refer the matter to PSU'*. The only circumstances where a complaint alleging race discrimination may be handled by local action is where there is strong initial evidence available that that the customer's treatment can be explained by factors other than race.
- Fifteen complaints were about the perceived rudeness of officers at the primary control. Where the officer concerned could not recollect the passenger interaction, this was communicated to the passenger in a generic reply offering an apology. In general the officer's version of the event was taken at face value.
- The extent of investigations differed for similar complaints concerning officer conduct at the primary control. In some cases officers were spoken to directly while in other cases an email response was provided by the officer concerned and accepted. Complaints guidance in place at the time stated that *'Line managers will always need to talk with the staff member the complaint was about but have discretion to determine how formally they need to proceed'*. The CSU also confirmed that investigations should as a minimum involve speaking to the officer concerned directly.
- A number of complaints concerned the same officer indicating that there may be an issue with the officer's behaviour and approach to passengers. It is unclear whether such links between complaints were being considered and acted upon.
- The extent of investigation was unclear from the information contained in some of the files. In one case a passenger wrote to the Agency and the airline in regard to damaged luggage; the airline suggested the damage was caused by customs. Any enquiries made by the Higher Officer in relation to this issue are not apparent from the documentation provided. There is merely a line in an email *'confirming that customs did not cause the damage'*. However, in other cases there was evidence of a thorough investigation in relation to the complaint raised.
- The response did not always address the issues raised in the passenger correspondence. In one case a passenger wished to receive further information about how to avoid being challenged when escorting a friend's child in future. However, the response gave only generic information about safeguarding children rather than answering the specific query. In another instance a passenger included a request to see their immigration records within a complaint letter. This query was answered with a single line referring the passenger to the Information Commissioner's Office.
- A more comprehensive response in the first instance could have precluded escalation of the complaint to the Tier 2 stage in two cases (there were four Tier 2 complaints in the sample reviewed). An example of this is outlined in Figure 8 below.

Figure 8: Case study showing complaint escalation due to an inadequate initial response

Initial complaint

A passenger experienced long delays in clearing immigration on two separate journeys: at the South Terminal in May 2010 and the North Terminal in June 2010. The passenger complained that the queuing times were excessive and highlighted the lack of staffed desks at the controls. They also stated they had a biometric passport but the eGates were not working. The complaint letter provided approximate arrival times and the countries of departure.

Investigation

The initial investigation did not address the delay experienced at the South Terminal because the flight could not be identified. The complainant was only told this in the reply without being given the opportunity to provide additional information prior to the formal response. However, relevant information about flight arrivals and recorded queuing times was provided by a Chief Immigration Officer to account for the delay at the North Terminal.

Initial response

The initial response contained information about the recorded queuing times for the morning in question but also contained misleading information about passenger volumes (quoting figures for passengers arriving at a similar time to the complainant, but indicating this to be over an hour period). The letter included only a single sentence about the opening times of the eGates and requirement for hosts to support their use. The response did not offer an apology and gave the impression that the Agency did not believe the passenger.

Second tier complaint

A further letter was received from the passenger stating they were unhappy with the response and did not accept the information provided regarding the queuing times and the number of passenger arrivals.

Second tier response

The subsequent Agency response outlined the queue measuring process and indicated how this can cause a difference between the recorded statistics and passenger experience. It also investigated the South Terminal delay following additional information supplied by the passenger. In addition, the response outlined the methods for deploying staff at the control and provided a more detailed explanation regarding the operation of eGates and need for Border Force staff to support their functioning. This response included an apology.

Outcome

A further letter was received from the complainant stating they were content the complaint had now been fully investigated and were happy with the response.

Chief Inspector's comments

The more thorough approach undertaken in the second letter and inclusion of an apology clearly provided the passenger with a more positive view of the complaints handling process.

- 5.125. As outlined above some of the complaints files provided should not have been treated as complaints including correspondence relating to decisions on entry into the UK or regarding seizures, for which there are separate appeals processes. In other cases it was clear the passenger merely wished to receive a response to a query rather than to make a formal complaint. For example, one passenger had lost their ID card and simply wanted to know if it had been handed in. It is unclear why passenger requests for information are still being recorded as complaints. This was previously highlighted to be an issue in the thematic inspection of complaints in 2010.
- 5.126. That report also recommended that *'all complaint files have a clear audit trail, recording the outcome and level of authorisation'*. This recommendation was accepted by the Agency. However, the reviewed complaints files did not meet this standard indicating that further progress is required to ensure that complaint files provide a robust audit trail. While some of the reviewed files contained all the relevant paperwork, other files held only minimal information. Moreover, in some cases the files did not include the response to the complainant and there was not always a consistent audit trail in relation to authorisation provided.
- 5.127. Significantly greater care needs to be taken to ensure that cases involving potential discrimination are referred to PSU. In addition to the cases mentioned earlier which were not appropriately referred, evidence was also found of a clear race discrimination complaint being dealt with locally by a CIO without referral in one of the children's casefiles reviewed as part of the inspection. The thematic complaints inspection previously recommended that the Agency *'ensure all staff have a clear understanding of their responsibilities with regard to the referral of complaints wherever racism or discrimination is alleged.'* There clearly remains a need for further work in this area to ensure that staff are fully appraised of their responsibilities and act accordingly.

Training

- 5.128. Training in complaints handling was raised as a concern by a range of staff and particularly by team leaders at the primary control, who commented that they did not feel sufficiently trained in dealing with complaints and in diffusing tensions arising in the arrivals hall.
- 5.129. We found poor awareness of and participation in the e-learning complaints training package available. When questioned about the level of training undertaken none of the staff mentioned this training.

Learning from complaints

- 5.130. No evidence was provided of any local analysis of complaints to identify learning points or emerging trends. Indeed, there was no mechanism in place to draw together complaints recorded in various places, including from the individual notebooks of officers. The lack of a systematic approach to recording verbal complaints at the primary control also meant that an unknown proportion of these complaints were actually recorded, diminishing the opportunity to identify trends. The log of formal written complaints was also not being actively utilised to determine trends in complaints and identify learning points. Furthermore, there was a lack of staff awareness of any complaints analysis undertaken at regional or national levels.
- 5.131. In response to the 2010 complaints thematic report, the Agency accepted the recommendation to *'systematically analyse complaints and MPs' correspondence to identify potential improvements in service'*. The lack of attention paid to complaints analysis revealed in this inspection demonstrates that further progress is required in this area.

We recommend that the UK Border Agency:

- Ensures passengers are advised about complaints procedures at the point of contact with the Agency and the level of complaints is accurately recorded.
- Ensures there are effective local mechanisms to analyse and learn from complaints and that complaints analysis at regional and national levels is widely disseminated including to frontline staff.

6. Inspection Findings – Safeguarding Individuals

All people should be treated with dignity and respect and without discrimination in accordance with the law

- 6.1. The UK Border Agency is subject to the Equality Act 2010 which came into effect in October 2010 and has been required to meet the general public sector equality duty since 06 April 2011. The public sector equality duty requires that in exercising its functions the Agency has due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - advance equality of opportunity between people who share a protected characteristic²⁹ and those who do not; and
 - foster good relations between people who share a protected characteristic and those who do not.
- 6.2. This involves:
- removing or minimising disadvantages suffered by people due to their protected characteristics;
 - taking steps to meet the needs of people from protected groups where these are different from the needs of other groups; and
 - encouraging people from protected groups to participate in public life or in other activities where their participation is particularly low.
- 6.3. Immigration functions are exempt from aspects of the general equality duty in relation to race, religion, age and the advancement of equality. The Agency's detection functions are however subject to all aspects of the general public sector duty.
- 6.4. This inspection considered the systems and processes in place at Gatwick North Terminal to integrate equalities considerations into operational delivery. This included consideration of data collection and monitoring approaches relevant to supporting equality in service delivery and also staff awareness of equalities issues. Detection operations were of particular interest given obvious sensitivities in relation to the visual profiling of passengers and the exercise of powers in relation to stopping and searching individuals. The inspection therefore focused on race equality considerations in regard to detection activities. This is clearly an area where the Agency needs robust processes in place to provide assurance that powers are being used appropriately and proportionately. However, a number of serious concerns were raised about detection practices.

²⁹ The full public sector equality duty covers eight protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Public authorities also need to have due regard to the need to eliminate unlawful discrimination because of marriage or civil partnership status.

Passenger challenge

- 6.5. As detailed earlier in this report, detection officers were questioned about their specific reasons for stopping and questioning particular individuals. Answers revealed some highly inappropriate reasons used to justify passenger challenge based on prejudice and stereotypical views of individuals rather than evidence-based criteria set out in guidance.
- 6.6. Oversight of detection operations needs to be considerably improved to ensure that such poor practice is addressed and all officers use robust criteria in passenger selection. Leaving these issues unaddressed not only adversely impacts those detained or searched without due cause, but also increases the possibility of actual offenders escaping detection as officers are occupied in challenging passengers without sufficient basis other than prejudice.

Discriminatory practice

- 6.7. We were also told that detection officers were engaging in active discriminatory practice at the Terminal. This involved detaining white passengers purely to avoid potential race discrimination complaints when there was an intention to question a black passenger. During the inspection detection officers from different teams informed us that this practice takes place. One example is outlined in Figure 9 below as described in detail by an officer to a member of the inspection team immediately after the incident had taken place.

Figure 9: Inappropriate discriminatory practice

Intelligence alerts had been received about an individual travelling on an EU flight and officers attended the flight to question the passenger. The officer commented that when they saw the arrivals they *'knew they had a problem'* as the person they wanted to intercept was the only black passenger. The officer then went on to explain that as a result of this, his colleagues *'covered him'* and specifically detained a number of white passengers so that *'when they complained he had only been stopped because he was black (as I knew he would) I was able to physically point to the other people being searched and show that white people were also being questioned'*.

The officer then went on to say that this practice of ensuring a mix of passengers are detained based on colour is also used for Caribbean flights to reduce the potential for future race claims.

- 6.8. This approach is not justifiable and means that:
- detection officers would not be operating within their legal powers in such practice; there is no legal basis for detaining people for such purpose;
 - people were being treated differently simply because of their colour; and
 - concerted action was being taken by team members in such differential treatment.
- 6.9. These issues again raise questions about the effectiveness of oversight provided by team leaders. Senior managers were alerted to these disclosures during the inspection for any immediate action they deemed necessary and acknowledged such activity should be proactively investigated and addressed.

Evidence of systems and procedures to ensure compliance with the Equality Act 2010

- 6.10. We found no evidence of monitoring systems in place to assess whether detection powers were being used appropriately and proportionately in relation to different ethnic groups. The prevailing attitude from frontline staff and team leaders was that discrimination was not an issue and anyone inappropriately targeting individuals from particular groups would be detected by team leaders.

- 6.11. Public authorities require robust data collection and monitoring systems in place to provide assurance that people from protected groups are not being adversely treated, that service delivery outcomes are appropriate for different groups and that any differential treatment is justified. However, key details of passengers challenged by detection officers such as ethnicity / perceived ethnicity were not routinely recorded (with the exception of the small proportion of cases where individuals are subject to person searches or arrest procedures following an initial challenge).
- 6.12. Hence, there was no data in regard to the proportion of passengers intercepted from particular groups and no mechanism to determine if certain officers or indeed certain teams were challenging passengers from particular groups disproportionately compared to other officers. Moreover, the recent instructions to only record details of positive seizures in notebooks means that it could potentially be harder to detect discriminatory stops in future. There was also no data available comparing the levels of passengers challenged with the ethnic mix of arrivals including in relation to high risk flights.
- 6.13. In 2005 Mary Coussey, the former Independent Immigration Race Monitor³⁰ reviewed the commitments made in the HMRC race equality scheme. This review considered a range of issues concerning race equality and passenger selection at ports in relation to customs activity. This included consideration of the basis for initially challenging passengers and the mechanisms in place to monitor differential race impact across customs operations. The report recommended approaches to help ensure that passenger selection was based on appropriate criteria to reduce the risks of discriminatory practice. This review also highlighted clear deficiencies in data collection and monitoring arrangements in relation to race equality at the time. A number of suggestions / recommendations were made in 2005 to address these issues including the following:
- *Monitoring of all passenger interceptions (defined as physical searches including baggage) and Search of Person by ethnicity and outcomes must be continued and developed.*
 - *As part of the normal quality assurance procedures there should be regular local evaluation of all interceptions and the outcome whether successful or not. Quality assurance should assess information from notebooks, and discuss selection with officers, with the aim of analysing how far selection matched intelligence and risk assessments. There should be specific consideration in quality assurance of any potential racially adverse impact.*
 - *Statistical ethnic monitoring of all interceptions including baggage search should be formally recorded and reported. Analysis of the data will indicate whether there is any racially adverse impact, and this impact should also be reviewed against current profiles and intelligence. The aim should be to establish whether interceptions are successful or not, and whether targeting closely relates to profiles. In this way the risk assessment may be validated, enabling any adverse impact to be justified. If this analysis indicates that targeting were not justifiable and not closely based on intelligence, selection methods would need to be reviewed.*
- 6.14. Passenger selection methods used by detection staff were also raised in the Chief Inspector's May 2011 thematic report on intelligence. In that inspection, staff acknowledged varied practices in relation to passenger selection with some officers admitting to using 'their own approaches'. This resulted in a recommendation that the Agency should *address the potential for discriminatory practice and assess why people are selected for further examination at ports and how this results in the detection of offences*. The Agency responded to this by stating that operations followed recommendations made by Mary Coussey in 2005 and that officers are required to follow the enforcement standards in conducting pre-arrival and visual selection of passengers which incorporated the recommendations. The Agency also stated that all Border Force managers have an assurance role within their responsibilities including in relation to selection.

³⁰ From July 2008, the Independent Race Monitor's role was subsumed into the remit of the Independent Chief Inspector of the UK Border Agency.

- 6.15. However, the findings of this inspection concerning passenger selection shown that the effectiveness of team leader oversight needs to be strengthened to ensure that challenges are in line with the selection criteria set out in guidance. Furthermore, the 2005 Coussey recommendations concerning race equalities monitoring have not been implemented effectively and reveal poor progress in this area. Equalities data including ethnicity / perceived ethnicity is not captured and analysed in relation to detection activity. Ethnicity is recorded in search of person forms but this information is not analysed to determine the level of passenger searches, outcomes of searches for different groups and any differential outcomes.
- 6.16. Without more effective systems in place we cannot be confident the Agency is fulfilling its duties in accordance with the Equality Act 2010.

Ministerial Authorisation

- 6.17. Immigration functions are exempt from the full range of obligations under the Equality Act as set out in schedule 18. Nationality based differentiation is permissible at UK borders within the provisions of the Act in line with the Equality (Transit Visa, Entry Clearance, Leave to Enter, Examination of Passengers and Removal Directions) Ministerial Authorisation issued on 10 February 2011 under schedule 3, part 4, paragraph 14 (4)(a) of the Act.
- 6.18. The Authorisation allows the Agency to legitimately pay closer attention to individuals on the grounds of nationalities deemed to pose the greatest risk to UK immigration controls (based on a range of data including both entry and in-country refusals, presentation of forged documents and absconder levels). The February 2011 Authorisation specifically allows closer consideration and scrutiny of specified nationals at UK borders than others in similar circumstances purely on the basis of national identity according with identified nationalities posing the greatest border risks. Quarterly updates of the nationalities which can be legitimately differentiated in this way are produced in line with statistics of adverse decisions or breaches of laws / rules by nationality in the preceding three months³¹. The Minister may also specify nationalities meriting closer attention at the border in line with intelligence or emerging trends in these updates.
- 6.19. The inspection wished to examine whether the Ministerial Authorisation was being appropriately applied at the border and whether officers understood the limitations of the Authorisation in place. However, team leaders and frontline officers were largely unaware of the existence, contents and purpose of the Authorisation. There was also a low level of awareness at senior management levels.
- 6.20. After explanation of the use of the Authorisation, immigration staff at all levels broadly considered the contents and provisions to have little implications for their work. The prevailing attitude was that awareness of the highlighted nationalities was not directly relevant to the decisions on entry taken at the border since only individuals specifically arousing interest or suspicion were subject to further examination.
- 6.21. The Ministerial Authorisation was not being actively utilised at the primary control at Gatwick North Terminal and did not inform decisions regarding individuals requiring closer examination. This means that frontline officers were not guided by the latest national statistical trends of nationalities posing the greater risk to the border in relation to their work. Officers were also not using provisions within the Authorisation in the imposition of greater restrictions for individuals from identified nationalities granted temporary admission or in regard to prioritising removals from the UK. The intentions and limitations of the Authorisation had not been effectively cascaded to officers at the frontline.

³¹ The Border Force Removals List identifies the nationals which can be subject to nationality based differentiation under the Ministerial Authorisation based on the following statistics: nationalities exceeding 50 adverse decisions and/or breaches of immigration laws/rules in total and 5 for every 1,000 admitted persons in any of the last three months.

Passenger interactions

6.22. The majority of passenger interactions in the arrivals hall and detection channels reflected positively on the Agency and exchanges were generally professional and courteous. However, there was some variability in the quality of passenger exchanges and in the conduct observed with some interactions causing concern. The following positive practice was noted during observations in regard to passenger welfare, dignity and cultural sensitivity:

The majority of passenger interactions in the arrivals hall and detection channels reflected positively on the Agency and exchanges were generally professional and courteous.

- sensitivity was shown towards women wearing face coverings at the primary control. The women were asked if they would prefer to unveil in front of a female immigration officer. We were also informed provision was made for passengers wishing to uncover their faces in greater privacy;
- there was awareness of sensitivities in using detection dogs in proximity to religious items for particular faiths;
- passengers requiring mobility assistance such as buggy transport or wheelchair users were given priority consideration at the primary control;
- passengers were treated courteously and respectfully during interviews with due consideration to welfare needs including the need for breaks or refreshments; and
- passengers were also generally treated respectfully and courteously during the examination of baggage in the detection channels, with officers taking care in the handling of items and in repacking baggage.

6.23. Conversely, the following points of concern were also noted:

- officers were observed on a number of occasions discussing passengers or cases, sometimes casting people in an unfavourable light within hearing distance of the passenger themselves or other travellers;
- communication difficulties with passengers were not always well-handled at the primary control. Some officers were observed raising their voices with passengers who did not speak English presumably in an attempt to make themselves clear. We were informed 'crib sheets' were available in the watchhouse to support basic exchanges in particular languages; however these could not be found on occasions while we were observing, causing delays to passenger clearance;
- some passengers were asked to sign a letter giving the Agency permission to check NHS records. However, there were evident communication difficulties on a number of occasions and passengers did not seem entirely clear what they were signing; and
- inconsistent practice was observed in the treatment of elderly mobility restricted passengers. Some non-EEA passengers were required to disembark the mobility assistance vehicle and walk over to the desk (with visible difficulty in cases) for fingerprinting while others were not subject to this process

Use of interpreters

6.24. There was an inconsistent approach to the use of interpreting facilities across Agency functions. Interpreters were provided for passengers subject to interview as part of the immigration control process although members of staff with language skills were also sometimes used. There was, however, no provision for interpreting facilities in the detection channels. The lack of availability of interpreting facilities (even telephone interpretation) in the detection channels can clearly place passengers at a disadvantage and mean that officers are unable to determine material facts. The

need for interpretation is particularly important where there is a clear interest in an individual - for example where there is an intention to undertake a person search. A case is cited later in this report of an individual who did not speak English being subjected to a person search without any interpretation provided to facilitate questioning of the passenger in advance of the search.

- 6.25. We were also advised of inconsistent practice in the provision of interpreters for immigration casework across Gatwick with increasing use of telephone interpretation at the South Terminal but a continued preference for physical presence of an interpreter at the North Terminal. The physical attendance of an interpreter can provide some reassurance to passengers during case interviews and may assist in drawing out the full facts of the case. It is unclear whether the impact of the use of telephone compared with physical interpretation has been fully evaluated by the Agency (including whether there is any impact on case / appeals outcomes) but there is a trend towards greater adoption of telephone interpretation at ports as a cost saving measure. Gatwick spent almost £100,000 on interpretation across both Terminals during 2010/11 but Q1 2011/12 costs show a 42% decline compared with the equivalent period in 2010/11.
- 6.26. Potential difficulties in relying on the language proficiency of staff have been highlighted earlier in this report including the risk of compromising the independence of the interpretation process. The Agency should evaluate the respective costs and benefits of the different delivery options available including the use of telephone interpretation to ensure that passengers are appropriately served by the translation process.

We recommend that the UK Border Agency:

- Implements robust monitoring mechanisms so that data is routinely captured and analysed to determine if there are any differential race impacts across the spectrum of detection operations including in relation to initial passenger stops and searches of person.
- Investigates the extent of discriminatory practice in relation to detection operations and takes urgent action to address any inappropriate activity.

Decisions to detain people must be lawful

- 6.27. Where immigration officers are not satisfied that a passenger is suitable for immediate clearance, the passenger is detained at the primary control with the issue of an IS81 form to allow further questioning or additional checks to be undertaken. The IS81 form outlines the need for the passenger to wait and gives a brief reason for the delay. Detained passengers are seated in an open waiting area near the non-EEA desks and are generally not held in this area for more than a few hours. A log of all the people held at the primary control is maintained in the watchhouse³² listing the time of detention, name, nationality, flight and a brief reason of the need to detain. The log helps Chief Immigration Officers (CIOs) maintain oversight of the number of people held at the primary control, the length of waiting and the potential level of casework which may develop.
- 6.28. Passengers can be delayed for a number of reasons including to:
- undertake additional database checks, for example if the WI swiping process indicates further checks need to be made;
 - talk to sponsors to corroborate the passenger's intentions for their stay in the UK;
 - undertake a baggage search which may reveal information about passenger intentions; or
 - confirm the passenger's status with colleges or employers.

³² The watchhouse is the raised area where Chief Immigration Officers are based in overseeing operations at the primary control.

IS81 issuing

- 6.29. Observation sessions revealed variability in the approach of immigration officers to issuing IS81 forms. While some officers took time to verbally explain to passengers that they needed to wait to allow information to be checked, other officers simply handed the form to passengers and signalled them to proceed to the waiting area without any attempt to explain the need for delay. Passengers can be confused about the delay, the restriction to their entry to the UK and the closer attention being paid to them. Hence, a verbal explanation of the need to check information can assist passengers better understand the waiting imposed.
- 6.30. Officers were clearly aware of the need to record details of detained passengers in the IS81 log at the time of detention and were also observed discussing the reason for the detention with CIOs on a number of occasions. However, we noted that the details of some of the passengers whose casefiles were provided to the Independent Chief inspector for review were not recorded in the log. Hence, the detention point of these passengers was not formally recorded in the usual way and the waiting time of these passengers may not have been subject to the same level of monitoring and oversight.
- 6.31. The latest Border Force guidance requires that passengers should wait no longer than four hours before a key decision is made about their case. This can be a decision to detain the passenger in the holding room for further questioning, a decision to land the passenger or a decision to grant temporary admission to the UK until further checks can be undertaken or interpreting arrangements can be made. The Gatwick IS81 log did not capture the time at which a key decision had been taken and the passenger was released from the primary control waiting area. This information would be useful in determining the extent to which decisions are made within the expected timescales.

Processing passengers for detention

- 6.32. Where matters cannot be resolved by undertaking quick checks and the passenger needs to be questioned further, people are taken to the holding room facility. There are two holding rooms at Gatwick North Terminal, a general holding room and a specific facility for children / families. As covered earlier in this report, the holding rooms are managed by Reliance, who are Agency contractors.
- 6.33. Passengers are photographed and fingerprinted prior to registration in the holding room log, which formally records the passenger details and the time of entry to the facility. Fingerprinting and photographing is undertaken by assistant immigration officers who present the passengers to Reliance staff for completion of the entry process. The logging process and liaison with contractor staff were explored with assistant immigration officers who raised two key issues – the lack of 24 hour access to fingerprint ID results and perceived varied professionalism of contractor staff.
- 6.34. Passenger fingerprint scans are sent to Immigration Fingerprint Bureau (IFB) to check if there are any ID matches against police and EU asylum databases. However, results are unavailable between 9pm - 6am during weekdays and between 5pm - 9am at weekends and bank holidays. This means that passengers, who would otherwise be released, may be held in the holding room overnight until results are available. Conversely, passengers may also be released in advance of the results being available undermining this check. The impact of the IFB operational hours on passenger detention needs to be evaluated in addition to the extent to which this check is circumvented in practice due to the difficulty in accessing results at certain times including during system outage. When the system is non-operational manual fingerprints are taken and posted to IFB, meaning that results can take 3-4 days. In these circumstances the CIO decides whether passengers can be allowed entry to the UK in advance of the fingerprint results.

Temporary admission

- 6.35. Passengers who are refused entry to the UK are generally transferred to an Immigration Removal Centre facility in advance of removal from the country. Immigration officers set removal directions at the time the refusal decision is made specifying the flight the passenger will take in leaving the country and therefore the length of detention required. However, passengers may also be granted entry to the UK on a temporary basis prior to removal rather than being detained. Temporary admission may be granted at the time a refusal decision is made for a number of reasons including:
- lack of detention bed space;
 - compassionate reasons for admission to the country; or
 - a return flight cannot be arranged within a short timeframe and the passenger is not perceived to be at high risk of absconding³³
- 6.36. If places are unavailable in the detention estate, there is a tendency towards granting temporary admission unless arrangements can be made to remove the passenger within 24 hours or unless there is judged to be a risk to the public. The issue of bed space availability was explored with immigration officers during the inspection, who indicated this appeared to be more of an issue in the past and that bed space could often now be found if requested. However, as noted earlier in this report a few cases were noted in the refusal casefiles reviewed where requests for detention bed space were refused and the passengers subsequently absconded or where passengers were granted temporary admission when appeals were lodged and then absconded.
- 6.37. Key statistics in relation to grants of temporary admission and non-compliance for the North Terminal are:
- 667 people were granted temporary admission during 2010/11 with 91 cases of non-compliance (13.6%);
 - 693 people were granted temporary admission during 2009/10 with 96 cases of non-compliance (13.9%); and
 - 738 cases were given temporary admission during the period April 2010 – May 2011, with 100 cases of non-compliance. Detention bed space was refused in 37 of the cases during this period (22 male places and 15 female places).
- 6.38. The above statistics show that detention bed space refusal was related to non-compliance in approximately a third of cases. However, the majority of absconders involved individuals for whom detention was not requested meaning that these people were not considered to be a high risk of absconding. This implies there is a need to consider the assessment of risks of absconding and how judgements regarding detention / temporary admission are made.

Enforcement powers should be carried out in accordance with the law and by members of staff authorised for that purpose

- 6.39. Searches of person are permitted under S164 of the Customs and Excise Management Act (CEMA) 1979 which provides the powers to search any person where there are reasonable grounds to suspect

³³ Absconding refers to non-compliance with temporary admission arrangements; absconders refers to non-compliant individuals whose whereabouts are unknown.

the person is carrying an article which either is chargeable with any duty which has not been paid or secured or is prohibited or restricted. Powers to search an arrested person are also provided under Section 32 of the Police and Criminal Evidence Act (PACE) 1984 which permits search where there are reasonable grounds for believing that the person may present a danger to themselves and others, has anything which may be used to assist escape from lawful custody or which might be evidence relating to an offence.

- 6.40. Detection officers use the powers of search and arrest in the course of their duties in detecting concealed goods and in supporting the prosecution of criminal offences. Officers need to be fully aware of the relevant legislation including the limitations of applicable powers and to act within these boundaries. The application of powers in relation to person searches was therefore included as part of the inspection by undertaking a review of recent search of person records. Documentation was reviewed to determine whether searches were justified and proportionate, in line with both legislation and guidance and also whether recording procedures matched expected standards required to evidence the legality of the search and support any ensuing criminal proceedings.
- 6.41. The importance of acting under the appropriate legislation and following the correct recording procedures is underscored in the Enforcement Handbook which states: *It is essential that officers carry out the search under the appropriate legislation and observe the correct recording procedure. Failure to do so could render any evidence of an offence discovered during that search inadmissible and may also leave them open to criticism in court and even to charges of assault.*
- 6.42. The reasonable grounds for conducting a person search under Section 164 of CEMA require a firm basis beyond mere suspicion. The Enforcement Handbook states: *Officers must be aware that, in order to conduct a Search of Person under CEMA Section 164, they must have reasonable grounds to suspect that a person is concealing goods on their body. Reasonable grounds, in contrast to mere suspicion, must be grounded on fact. There must be some firm basis for this belief that can be considered and evaluated by a third person.* Indicators that can lead to reasonable grounds for suspicion are outlined in Figure 10. Officers normally require more than one of the following indicators to obtain authority to carry out a search of person.

Figure 10. Indicators which can provide grounds for supporting a search of person

- canine detection – where a dog has identified something of interest by scent on the passenger and / or baggage
- intelligence – where verified information exists that a passenger is involved with the importation of prohibited or restricted goods
- behaviour – the passenger exhibits negative body language (i.e. overt signs of nervousness, avoiding eye contact, flushed face) or the actions of a known drug user
- provable lies – there are provable discrepancies in the passenger's verbal statements which have been successfully challenged
- inconsistencies – there are discrepancies in the documentation provided by the passenger or unsatisfactory reasons for travel
- observations – physical discrepancies or anomalies in a passenger's appearance exist which include clothing and or baggage inappropriate to the traveller or the journey undertaken
- search of baggage – a search of baggage reveals evidence of possible prohibition and restriction offences including cash and drugs
- ion trace indication – positive indication of drug contamination

- 6.43. The need for officers to be able to distinguish between the initial grounds for intercepting passengers (pre-arrival and visual indicators) and those required for search of person is also highlighted in guidance: *‘Officers must be careful not to confuse these grounds (to justify Search of Person) with the grounds required for Pre-Arrival and Visual interceptions of passengers. The Pre-Arrival and Visual indicators are an aide to alert officers to considerations for initially challenging a passenger.’*
- 6.44. Searches of person can involve a rub down search in which the person is fully clothed or a strip search in which clothing is removed. Person searches may also involve a body scan, X-ray or other procedures. All searches must be fully authorised by a Higher Officer (HO) or above, ensuring that the grounds for the search have been evaluated by an officer of a sufficient grade before the search is allowed to proceed. Although not a legal requirement, the Enforcement Handbook states *post arrest searches carried out under PACE S32 should normally also be authorised by an officer of HO or above. This is to ensure equity of treatment with those searched under Section 164 CEMA. This authorisation requirement may be waived in exceptional circumstances but the circumstances and rationale for the decision to proceed without authorisation must be recorded in the officer’s notebook.*

Documentation requested

- 6.45. Documentation was requested for all searches of person conducted at Gatwick North Terminal during April and May 2011. A number of records are created for each search of person conducted:
- Search of person form: this form sets out key information in relation to the search and specifies a unique reference number for the case. Basic passenger details are provided including ethnicity identified by an IC code³⁴. The form also requires confirmation that both the search and right of appeal has been explained to the passenger and sets out the details of the officers involved. The reasons for the search, type of search and outcome of the procedure should also be specified.
 - Notebook records of the requesting officer and search officer (often the same person), witnessing officer and authorising officer. All searches must be witnessed by an additional officer to that undertaking the search.
- 6.46. The document review involved consideration of the following:
- completeness of the search of person records;
 - quality of notebook record-keeping; and
 - justifications provided for the search undertaken.
- 6.47. There is clear guidance setting out the level of information that must be provided in the notebook entries of the various officers involved. All officers must identify the passenger, type of search, legislation used, names of other officers involved and the grounds for the search. Both the requesting and authorising officers are also required to provide a number of additional details about the case.
- 6.48. Records were provided for:
- 91 of the 116 person searches conducted during April and May 2011; and
 - 17 of the person searches conducted in June 2011.
- 6.49. A number of the passengers were subject to more than one person search type. Twenty-four of the cases involved a strip search, 73 cases involved a rub down search, 43 cases involved a body scan and 13 cases involved an X-ray. A search was undertaken in nine cases but not identified.

³⁴ IC or Identity Codes refer to a classification system using perceived ethnicity based on appearance and is used by some organisations such as the police. Six ethnicity codes are specified: IC1 – White; IC2 – Mediterranean / Hispanic; IC3 – African / Afro-Caribbean; IC4 – Pakistani, Indian, Bangladeshi, Nepalese or other South Asian; IC5 – Chinese, Japanese or other South-East Asian; IC6 – Arabic, Egyptian, Tunisian, Algerian or Maghreb.

- 6.50. The complete set of documentary records (search of person forms and full complement of officer notebooks) were provided in only 24 (22%) of the total 108 person search cases considered.
- 6.51. The following records were supplied for review:
- 48 search of person forms;
 - 94 requesting officer / searching officer notebook records;
 - 57 witnessing officer notebook records; and
 - 88 authorising officer notebook records.
- 6.52. It is unclear why the complete records could not be provided for consideration. We were advised that copies of the notebook records relating to searches of person are not retained centrally and it can take a number of weeks for records to be collated according to the shift attendances of the officers concerned. However, this did not explain the provision of under half of the search of person forms (44%). Moreover, it took months rather than weeks for the Agency to supply the above notebook records. Furthermore, no explanation has been given to account for the bulk of the missing documentation including the majority of search of person forms or to explain the particularly low provision of witnessing officer records (53%).
- 6.53. The Agency was asked to account for each of the missing records but failed to do so. The lack of availability of proper documentary records is entirely unacceptable given the sensitive nature of searches of person and need for rigorous oversight of practice in this area.

Documentation review

- 6.54. All search of person forms reviewed were completed appropriately. Form sections were completed and the information accurately reflected that set out in the relevant notebooks. Perceived ethnicity details identified by IC category were included in all forms.
- 6.55. A number of prominent operational failings were however revealed by the review of notebook records including:
- a lack of understanding of the evidential requirements for undertaking person searches;
 - a lack of understanding of the indicator levels appropriate to different types of search (rub down / strip search)
 - person searches undertaken without prior authority; and
 - clear deficiencies in maintaining appropriate documentary records.
- 6.56. Significant concerns were also raised regarding the use of arrest powers in cases where a physical search revealed a negative result.
- 6.57. The search of person documentation provided did not indicate sufficient grounds for conducting person searches in a high proportion of the cases. Person searches were not considered to be justified and proportionate in 71% of the sample (77 out of 108 cases). In many cases officers cited grounds (using pre-arrival and visual indicators) which would justify initially stopping a passenger but which did not provide the necessary reasonable grounds for undertaking a search of person; examples are provided in Figure 11. Searches were both authorised and undertaken with insufficient grounds with evident confusion amongst officers and Higher Officers in regard to the

The search of person documentation provided did not indicate sufficient grounds for conducting person searches in a high proportion of the cases.

appropriate grounds for conducting searches. Indeed, even in the majority of the identified strip searches conducted (14 out of 24) there did not appear to be a sufficient basis to justify any type of person search, let alone a strip search.

- 6.58. Some of the apparently unjustified person searches may have been conducted under more legitimate grounds than those set out in the documentation; however, the failure to fully record these grounds means that the person searches cannot be considered to be proportionate and justified. As covered earlier, the failure to observe the correct recording procedure can render evidence inadmissible in court and mean officers could face charges of assault in relation to the conduct of person searches. Moreover, there is clearly a significant impact on passengers subject to person searches including strip searches without sufficient basis. These failings must be addressed.

Figure 11: Examples of notebook entries from requesting officers listing grounds for person searches undertaken

- source country, six day trip, nervous behaviour
- source country, travelling alone, went for break due to family problems, cash paid ticket, extended trip by 1 day
- previous refusal into UK, limited funds, nervous behaviour at controls
- short stay, late issue ticket
- routing, origin, low paid employment, inconsistent story, £1000
- last minute ticket, unemployed, previous CRO (having a criminal record)

Chief Inspector's comments

The reasons given accord with grounds for initially stopping a passenger but do not provide sufficient justification for person searches. Some of the listed indicators also require further explanation – for example indicators such as nervous demeanour or inconsistent story were documented without further elaboration. The Enforcement Handbook states that it is not sufficient to simply list the indicators used. Further details should have been recorded about the nervous behaviour exhibited and to explain any inconsistencies determined.

- 6.59. In addition to the concerns outlined above in regard to conducting person searches in general, particular concerns were also raised about the validity of conducting strip searches. It is unclear from the documentation reviewed why a strip search was deemed necessary by the officers rather than a less intrusive rub down in half of the cases where this took place (12 out of 24 cases). As set out in the Enforcement Handbook a strip search can be extremely distressing and should only be conducted where there are strong grounds for suspecting an internal or external bodily concealment. The finding that unjustifiable strip searches may be taking place needs urgent attention by the Agency. Figure 12 provides examples of cases where similar reasons were used for different search types.

The finding that unjustifiable strip searches may be taking place needs urgent attention by the Agency.

Figure 12. Examples of passengers with similar circumstances subject to different levels of search

On 20 April, a passenger was selected for a rubdown search on the following grounds:

- source country
- newly issued passport
- positive ion track
- 1st time to UK

On 21 April, another passenger was selected for a strip search on virtually similar grounds:

- brand new passport
- cash paid ticket
- positive ion track scan

On 6 June, two female passengers travelling together were selected for strip search. Grounds for the strip search of first passenger were given as:

- ticket purchased day before travel
- here to look at products for hair and beauty
- not sure where they will be going,
- £200 cash

Grounds of search for the second passenger were given as:

- source country and stay connected with passenger (named)

On 9 June, a passenger was selected for a rubdown search on virtually similar grounds to those above:

- two weeks stay
- cannot recall address of where he will stay
- ticket paid for by 3rd party
- £135 cash only

Chief Inspector's comments

In line with other cases examined, there was no clear distinction between the level of evidence used to justify different search approaches. Some passengers were subject to a strip search rather than rubdown examination based on similar evidence and it is unclear how the type of search was determined.

- 6.60. The review of documentation also revealed that in 17 of the cases where a passenger was searched with a negative outcome, the person was arrested and subjected to further checks (such as a bodyscan or X-ray) without any clear explanation as to the increased level of suspicion or grounds for arrest. It is a legal requirement that arrests are effected at the earliest opportunity in accordance with an appropriate level of evidence. However, reasons were not provided regarding any change in the level of suspicion leading to arrest following the negative person search. Indeed, in a number of instances the officers stated they were still not satisfied with the passenger's story and wished to undertake further checks. This is not permissible under Section 138 of CEMA; arrests cannot be legitimately undertaken simply to enable further examinations in this way. This is unacceptable and requires

robust action by the Agency to ensure staff are fully compliant with the legislation governing their work and act within these boundaries.

- 6.61. Despite clear guidance in place regarding the level of detail to be recorded in the individual notebooks of the different officers involved in a search process, the notebook records reviewed failed to meet this standard. Most of the notebook records provided a bare minimum of passenger details, reasons for the search and the result. However, the notebooks did not include either the legislation under which the passenger was stopped or the legislation under which the search was conducted. This raises the possibility that officers were unaware of the legislation under which they are operating. Moreover, in nine of the cases analysed the officers had not even recorded the type of search authorised and conducted. One of the authorising officers also did not record details of each search on a separate notebook page as required by guidance; this could lead to difficulties if a case progresses to criminal proceedings.
- 6.62. Some searches were conducted without the appropriate level of authority being granted in advance. Authorising officer notebooks were not provided in all cases and it cannot be determined whether the appropriate authority was granted in those instances. Additionally, the authorising notebook records were not dated in three cases and it is unclear when these entries were made. However, there were also cases within the sample reviewed (section 164 CEMA and section 32 PACE searches) where written authority had clearly not been provided in advance. In four cases the authorising officer notebook entries were not made at the time of the search but were in fact created some months later. This is unacceptable.
- 6.63. One of the authorising officers explained they were unable to provide notebook entries for three of the cases requested for review because authorisation was not given at the time since they were unaware that PACE protective person searches on health and safety grounds needed authorisation. The authorising officer commented that having checked the Enforcement Handbook they now understood that authorisation for person searches under PACE was required under departmental policy and had made team members aware of this requirement since the irregularity has been brought to their attention through the inspection process. Twelve PACE post-arrest searches were carried out within the cases examined; prior authorisation³⁵ had not been provided in the majority of these searches (seven cases).

Search outcomes

- 6.64. Only four out of the 108 (3.7%) of the search of person cases reviewed resulted in a positive outcome, the detection of illicit goods³⁶. This is a very low number of positive outcomes and supports the finding that many of the person searches were conducted without sufficient grounds. Analysis of person search outcomes should routinely be undertaken by the Agency to assess the effectiveness of approaches.
- 6.65. Search of baggage (prior to the person search) revealed passengers to be in possession of personal use quantities of cannabis in four cases. These passengers were allowed to proceed with a warning although persons entering the UK with illicit drugs should be arrested under Section 170 of CEMA. Passengers may, however, be offered the option of paying a compound settlement in lieu of court proceedings under the provisions of the Act. All offers to compound must be made by a Criminal and Financial Investigation Senior Officer. The appropriate procedures were not followed in these identified cases.

³⁵ Prior authority may be waived for PACE searches where an immediate protective search is deemed necessary for safety reasons or where it is deemed appropriate to waive the requirement for authority (for example, to prevent disposal of evidence). The reasons for waiving authority need to be clearly recorded. Reasons were not provided in the cases reviewed.

³⁶ Two of these cases involved travelling companions and were therefore not separate instances.

Equalities considerations

- 6.66. We found that 16 out of the 24 identified strip searches undertaken involved women. Given that only 30 of the 108 passengers subject to person searches involved women, this indicates that at least 54% of the female passengers stopped and searched were strip searched³⁷ compared with between 11% - 20% of the men subject to a person search³⁸. Although the majority of person searches involved men, women were significantly more likely to be subject to a strip search than men if a search was undertaken. The Agency needs to investigate whether there is a justifiable basis for this gender disparity to provide assurance that it is meeting its duties in accordance with the Equality Act 2010. The low proportion of person searches yielding illicit goods highlighted above suggests that the Agency should review its current search approaches to deliver more effective results.
- 6.67. A complete analysis of the ethnicity of passengers subject to person search within the reviewed sample cannot be undertaken. Ethnicity is recorded in the search of person forms and since only 48 forms were provided for the 108 cases under review it is not possible to provide a full breakdown of the persons subject to search by ethnicity (perceived ethnicity was also recorded in notebooks in 5 additional cases). The ethnicity breakdown for the 53 cases where perceived ethnicity was identified is³⁹: IC1 - 16 (30%); IC2 - 5 (9.4%); IC3 - 30 (57%) and IC4 - 2 (4%). The majority of the persons searched were of black individuals in the IC3 category (57%). These figures are in line with the ethnicity breakdown for person searches conducted during 2009 (513 searches) and 2010⁴⁰ (673 searches) as set out in Figure 13.

Figure 13: Ethnicity breakdown for person searches undertaken at Gatwick North Terminal during 2009 and 2010 (%)

| IC code | IC1 | IC2 | IC3 | IC4 | IC5 | IC6 | Not Known |
|---------|------|-----|------|-----|------|-----|-----------|
| 2009 | 28.7 | 5.4 | 56.0 | 4.3 | 0.4 | 0.4 | 5.1 |
| 2010 | 25.7 | 6.7 | 57.5 | 6.5 | 0.15 | 0.5 | 3.0 |

Please note the above percentage figures have been rounded up.

- 6.68. Over half of all person searches in 2009 and 2010 involved individuals perceived to be of African / Afro-Caribbean origin (IC3) and this group accounted for approximately double the proportion of searches compared to the next highest category (IC1 – white). The Agency needs to investigate whether there is a justifiable basis for persistent disparity in the ethnicity of persons subjected to searches to provide assurance that it is meeting duties in accordance with the Equality Act 2010.
- 6.69. In one case a non-English speaking passenger was subject to a rub down search with the only reasons listed as: ‘+ ion track, little baggage, no family in the UK’. The authorising officer stated in the notebook that ‘pax [passenger] speaks no English’. However, there appears to have been no attempt to find an interpreter to assist in this instance. The person was searched without the involvement of even a telephone interpreter to assist communication prior to the search being undertaken.
- 6.70. As covered earlier in this report the Agency should routinely undertake ethnic monitoring and analysis of detection operations including searches of person to identify if there is any disproportionate impact on particular ethnicities. In the cases reviewed a number of arrests were made following negative search outcomes⁴¹ without clear explanation. Conducting arrests is an area where the Agency needs to be alert to the potential for discriminatory practice and to have robust equalities monitoring mechanisms in place. Effective equalities monitoring should also address potential differential outcomes concerning positive seizures. For example, individuals with small levels

37 One of the person searches involving women was not identified and could have been a strip search.

38 Eight of the unidentified searches were of men and could potentially have been strip searches although it is unlikely that they all would have been.

39 Please see the Glossary for an explanation of the categories.

40 Excludes 4 cases in 2009 and 2 cases in 2010 where there was a mismatch in the data provided between the number of searches undertaken on a particular day and the ethnicity of those searched.

41 Negative search outcome refer to searches which did not reveal any illicit goods.

of cannabis may be subject to a compounding fine rather than court proceedings. Data collection and analysis would help to determine if there are different outcomes for people from different ethnic groups in this process.

We recommend that the UK Border Agency:

- Ensures all searches of person are justified, proportionate and conducted in accordance with the law and guidance with proper documentary records maintained.
- Ensures that all arrests associated with person searches are undertaken in accordance with the law.

Functions should be carried out having need to safeguard and promote the welfare of children

- 6.71. Safeguarding children is a legal responsibility for the Agency set out in Section 55 of the Borders, Citizenship and Immigration Act 2009, which requires the Secretary of State to make arrangements to ensure that immigration, asylum, nationality and customs functions are exercised having regard to the need to safeguard and promote the welfare of children in the United Kingdom. The legislation also places a clear duty of care with the Agency such that while a Border Force Officer is considering the application for entry of an unaccompanied child, the UK Border Agency has a duty of care to that child including in waiting for the arrival of a sponsor.
- 6.72. This inspection considered the effectiveness of the Agency in discharging its legal duties in regard to safeguarding children in the conduct of immigration functions. Interactions at the primary control involving children were observed and casework involving unaccompanied children was also examined including the checks made in regard to reception arrangements in removal cases. Liaison arrangements with social services were also discussed with both the Agency and local authority.

Observation at the primary control

- 6.73. Many interactions were observed between immigration staff and accompanied children / accompanying adults at the primary control and often revealed care taken in regard to the welfare of children. Children were closely observed and sometimes questioned in considering their sense of belonging and ease with the accompanying adults. In general parents were also questioned about their relationship to children with a different surname.
- 6.74. A small number of cases involving the treatment of unaccompanied children at the primary control were also observed. Sponsors were contacted to confirm arrangements in witnessed cases and the Agency ensured someone waited with the child until the arrival of receiving adults. However, there were also cases where significantly more stringent checks should have been undertaken as outlined in Figure 14.

Figure 14: Examples illustrating concerns regarding safeguarding children at the primary control

- 1) An unaccompanied child visitor approached a non-EEA desk but struggled to speak or understand English. The visa was stamped without any further enquiries being made in regard to reception arrangements and the validity of the sponsor. They were allowed to proceed without any checks being made.
- 2) A child was travelling with adults who were not the parents (all EU). They presented a letter of consent in Portuguese. This was accepted at face value without any attempt to translate the information.
- 3) An unaccompanied 15 year old arrived at an EEA desk and stated they were visiting a friend of their mother. They were unsure of the address but said they had stayed once before and had a telephone number. The Immigration Officer asked what the child would do if the sponsor did not arrive and the child replied they would call their mother. The child was then allowed to proceed without any attempt to either verify the arrangement with the mother or to contact the sponsor and confirm reception arrangements.

- 6.75. Officers did not fulfil the duty of care in the above examples involving unaccompanied children. Frontline immigration staff need to be continually mindful of section 55 duties at the primary control and ensure appropriate checks are made in all circumstances where a child could potentially be at risk. Sponsors should have been contacted and assessed for suitability in the cases of unaccompanied minors to ensure the duty of care was fulfilled. Moreover, stringent safeguards need to be maintained in cases where there may be communication difficulties to ensure children are afforded an appropriate level of protection from risk.

Casefile analysis

- 6.76 Unaccompanied minor casefiles concerning decisions on entry to the UK during 2010/11 were requested to examine the approaches to casework involving children. Information provided by the Agency indicated that there were 24 non-asylum unaccompanied child cases at Gatwick North Terminal during this period. However, a number of the files were unavailable because they had either been destroyed or were unable to be located; we were advised that paper files of all landed cases are destroyed after six months.
- 6.77 Thirteen unaccompanied child casefiles were sampled in total involving children of 14 years and above. Leave to enter was granted in five of the cases and the decisions on refusal and entry were soundly based in all cases reviewed. Two of the refusal cases were removed on the same day and temporary admission to a suitable sponsor was given in the remaining cases. Appropriate arrangements were made for reception at the return port for all eight refused children. Referrals to Children's Services were also made in all relevant cases (three cases), although none of the children were placed in the care of the local authority as there was either a suitable sponsor or the child was removed on the same day.
- 6.78 Each of the 13 reviewed cases used files specifically created for use in children's cases with the appropriate forms and checklists already incorporated. However, not all of the relevant forms were present or fully completed in the files examined. Key documentation which should be retained in the file includes: minor arrival details, action checklist, returns checklist, sponsorship proforma and the minor's sponsor proforma. The mandatory minor arrivals details form was only partially completed or was absent in the majority of the cases examined (10 files). Moreover, in six cases none of the minor's checklists were retained in the file. While sufficient information was given in the files to consider the basis for the entry decisions made, the low level of completion of the standard records

and forms rendered the files more difficult to navigate and did not provide a complete audit trail. The completeness of record keeping is an area for improvement.

eGates trial

- 6.79 A trial was undertaken at Gatwick North Terminal from mid-April – early May 2011 to test the feasibility of extending the use of eGates to children from 12 years of age. The trial was restricted to accompanied British children in accordance with preliminary research indicating that child trafficking risks would be minimised by adopting this approach. Other ports were also involved in trialling automated clearance for children and a formal evaluation of the outcomes from each site was being undertaken by Border Transformation Group at the time of the inspection.
- 6.80 The key considerations in the development of the trial were enhancing border experience through greater choice for families and reducing pressures on the primary control through increased accessibility to automated clearance. It was known that family groups were often disinclined to use the automated gates because younger family members were unable to use the facility. Therefore, the trials intended to see if reducing the limitations for children would deliver expected benefits in increased usage without posing additional risks to the safety of minors in addition to testing the technological functionality of the automated clearance process for children.
- 6.81 Over 800 children were successfully cleared through the gates at the North Terminal during the trial period. However, immigration officers raised a number of concerns about the trial and use of automated clearance for children including difficulties in monitoring risk to young people – particularly in regard to checking that they were accompanied and travelling with appropriate companions. The key issues raised were the lack of opportunity for immigration officers to consider the behaviour of the children and accompanying adults together and difficulties in matching minors to accompanying adults in cases where the adults did not have the chipped passports and took longer to clear than the child using the gates. Immigration officers also found that the hosts sometimes failed to check that a minor was travelling with a responsible adult leaving this to be challenged by officers covering the eGates desk. However, the ease with which some young people adapted to using the technology was also noted by a number of officers. Any extension of automated clearance to children will need to address the concerns raised by the trial and ensure that hosts are also appropriately trained in child safeguarding issues.

Liaison with Children's Services

- 6.82 The effectiveness of liaison arrangements between the Agency and local authority Children's Services were explored with the local authority and with a duty social worker. The management of the Children's Services were broadly positive about their work with the Agency, the timeliness and nature of referrals and involvement of the Agency in multi-agency joint working at a strategic level. The duty social worker commented that the level of case referrals had dropped and was unclear if Children's Services were being notified of all cases of suspicions in regard to sponsors. The propensity to engage with Children's Services was perceived to differ amongst immigration officers. The duty social worker considered that closer liaison could be developed and also commented that prior notification of arriving children likely to need the attention of Children's Services would be helpful in cases where this is known in advance.

We recommend that the UK Border Agency:

- Ensures the duty of care to unaccompanied children is discharged effectively at the primary control and that sponsors and reception arrangements are checked in each case with records kept of the checks made.

Personal data should be treated and stored securely in accordance with the relevant legislation and regulations

Protecting personal information

- 6.83 Improvements can be made to file management and security. The inspection found that:
- the precise location of casefiles requested for review was not known in all cases and was inaccurately reported in others;
 - there were particular difficulties in the provision of search of person records (as covered earlier in this report) and lack of a clear account of the gaps in records; and
 - casefiles containing sensitive personal information (such as passport, financial details and PNC⁴² checks) were stored in an open display cabinet in a corridor accessible to anyone passing through⁴³.
- 6.84 Further risks to personal information noted during the inspection included:
- there was no systematic recording process to keep track of the location of passengers' passports which could pass through a number of hands during the progression of casework;
 - loose papers containing personal information were occasionally seen in offices. A passport photocopy was seen on one desk and loose casework papers containing passenger details were also observed on a number of occasions; and
 - passengers were observed looking at the information on WI screens at the primary control desks on a number of occasions while waiting for accompanying travellers.

Training

- 6.85 All staff were required to undertake training in Information Assurance in 2010 as part of the Home Office mandatory e-learning programme. Central records were not kept at Gatwick of staff members who had completed this course and the inspection team was advised that confirmation of staff participation could not be provided.

Information disclosure and data sharing

- 6.86 Staff were mindful of the need to take care in the disclosure of passenger details in progressing casework including in:
- divulging information about passengers when contacting sponsors;
 - requiring telephone queries from other agencies to be provided in written format prior to any disclosure; and
 - requiring confirmation from passengers regarding solicitors acting on their behalf before any information is shared.

⁴² PNC is the police national database giving details of individuals, vehicles, property and crimes which can be accessed by criminal justice agencies.

⁴³ Access to the corridor is restricted by security code. However, cleaners operating in this area and in the UK Border Agency offices are subject only to a basic Criminal Record Check without further security clearance (information provided by Gatwick Airport Limited).

6.87 However, the position in regard to formal data sharing agreements with key partners was unclear. Local management advised there were no formal local agreements in place to cover data sharing and information exchange.

7. Inspection Findings – Continuous Improvement

The implementation of policies should be continuously monitored and evaluated to assess the impact on service users and associated costs

- 7.1 Some evidence of policy evaluation was observed during the inspection. However, improvements could be made in utilising management information to understand the effectiveness of business models and in informing policy. There was also a lack of proactivity in identifying and sharing learning from appeals and other processes.

Teamworking evaluation

- 7.2 An evaluation approach was incorporated into the implementation plan for teamworking from the outset at Gatwick. This involved consideration of the impacts of the new model and working arrangements in consultation meetings with unions, frontline staff and team leaders 5-6 weeks after the implementation date. The consultation meeting with frontline staff was not well-attended, but there was good participation from team leaders, particularly Chief Immigration Officers. Issues raised included the impact of new shift patterns, difficulties in resourcing the nightshift at the primary control, the need for improved advance shift attendance information and the opportunities for both team development and specialist activities.
- 7.3 Evaluation at this stage of the new model is a positive approach, providing the opportunity for issues to be identified and addressed earlier rather than later including the assessment of unintended outcomes. The consultation process was taking place at the end of the inspection; the final outcomes of the evaluation meetings, analysis of relevant management information and any ensuing management action are therefore not formally considered as part of this report.

Management information

- 7.4 Management information was either not being captured or utilised to best effect in a number of areas. This included the lack of active consideration of individual casework statistics of immigration officers covering both the generation and outcomes of casework. The inspection team was advised that no overall comparison was made and information could not be provided about the overall variation in casework by different officers. It is therefore not known if particular officers / teams were more or less likely to issue IS81s, generate refusals, land cases which have progressed to a detailed interview, or refer documentation for forgery assessment.
- 7.5 Other areas where more proactive approaches to management information would be beneficial highlighted earlier in this report include:
- analysis of technology usage patterns;
 - a robust approach to race equalities monitoring including in relation to person searches;

- analysis of the outcomes from passenger stops and searches in detecting illicit goods;
- analysis of outcomes from different sources of intelligence and the effectiveness of resource deployment in responding to intelligence; and
- a more outcome focused approach to deployment to flights authorised for section 159 baggage searches. Lack of variation in targeted flights is acknowledged and senior managers accepted that further consideration needs to be given to the outcomes from deployment. Targeting particular flights over an extended period without sufficient analysis of the returns can clearly compromise operational efficiency and effectiveness.

7.6 Some detailed resourcing analysis was being undertaken towards the end of the inspection. This involved using passenger arrival forecast numbers for the North and South Terminals (linked to flight patterns) to gauge the number of officers required per hour to avoid queue breaches in each of the arrivals halls. This basic resourcing model incorporated extra capacity allowing for sickness absence and other leave and utilised average passenger transaction times to arrive at desired resourcing levels. It was expected that such detailed analysis would have informed the implementation of the teamworking model. Conversely, the initial deployment approach did not take account of the known higher passenger traffic at the South Terminal with the same number of teams per shift originally being assigned to each Terminal. The more detailed resource modelling subsequently undertaken should improve the match between officer numbers and passenger arrival volumes.

Learning processes

7.7 More proactive approaches to share learning from existing practice would be beneficial in a number of areas including analysis of appeals processes. There is an obvious benefit in identifying learning points from appeal determinations and in disseminating this information to staff who are making entry decisions. Frontline immigration staff commented such regular analysis would be valuable.

7.8 Similar routine analysis of post seizure appeal outcomes would also be beneficial. Local managers were unable to provide information about either volumes or outcomes of either condemnation or restoration seizure appeals. Condemnation appeals are challenged on a legal basis where passengers feel that due process has not been followed and are considered through a legal mechanism. Restoration appeals (where passengers wish goods to be returned but are not challenging seizure legality) are considered by review officers within the national Post Seizure Unit. Appeal information is categorised by region by the information systems used within the Unit with no ready means to extract port-specific information. Hence, managers at Gatwick were unaware of the local volume of seizure challenges, how this compared to other ports and were unable to identify trends in seizure volume and appeals outcomes. The lack of access to basic port-specific information regarding seizure challenges and appeals outcomes is a significant barrier to using such information to support organisational learning and in improving practice on the ground.

7.9 Written briefings of national / regional trends and learning points were not produced and issued to ports although the Port Seizure Unit did undertake some direct liaison with individual ports if specific training issues were identified. Review officers also sometimes informed detection officers of case outcomes. However, these relatively informal approaches do not support a rigorous approach to ensuring information and learning is widely disseminated and that future practice is effectively informed by the outcomes of seizures challenged.

7.10 Similar concerns regarding the Agency's lack of approach to formally capturing and disseminating the learning points from complaints at local, regional and national levels are covered earlier in this report.

We recommend that the UK Border Agency:

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

Risks to the efficiency and effectiveness of the UK Border Agency should be identified, monitored and mitigated

- 7.11 The inspection identified clear weakness in corporate governance arrangements including in relation to formal risk management processes. Identified key risks were not formally assessed by the senior management team on a regular basis and senior management oversight of a number of border risks was also found to be lacking.

Corporate governance risks

- 7.12 The inspection revealed a poor approach to the management of risk and other fundamental areas of corporate governance. Senior managers stated they had only formally reviewed the local risk register once during the previous six months. This register lists the key operational risks for the Agency at Gatwick and provides the basis for keeping track of the status and effective management of these risks.
-
- The inspection revealed a poor approach to the management of risk and other fundamental areas of corporate governance.*
-
- 7.13 Seven risks were identified in the register provided to the inspection team in March 2011 rated as either medium / high risk; the majority rated as high risk. These covered areas such as: loss of expertise at senior management levels, access to centrally delivered training, unacceptable queues, the implementation of new working practices, concerns in relation to integrated working across detection and immigration operations and accommodation issues.
- 7.14 However, the register was not fully updated and did not effectively set out some of the key risks – for example the only identified adverse potential impact associated with the implementation of the teamworking model was that of potential industrial action. Additionally, the overall assessed risk level did not accord with the ratings presented for likelihood and impact in some instances.
- 7.15 The lack of attention to formal risk management is surprising given that Gatwick was undergoing major changes in operational approach at the time of the inspection. The senior management team were not actively reviewing risk levels in the lead-in period to the implementation of teamworking through this formal risk management mechanism, even for the high rated risks. The lack of regular formal review of key operational risks leaves the Agency vulnerable in effectively assessing and managing known risks and also in identifying the development of new risks.
- 7.16 Conversely, a range of partners were positive about the Agency's involvement in the multi-agency Risk Advisory Group, which meets monthly to consider and manage the key risks across the airport.
- 7.17 Local managers did not maintain any formal record of senior management team meetings since January 2011. Regular management team minutes were produced prior to this time and it is difficult to understand why the senior management ceased to formally record meetings. When questioned on this issue, local managers responded that management discussions were focusing on the implementation of the teamworking model and formal records were not considered necessary. It is clearly contrary to effective governance practice not to formally record the notes and outcomes of senior management team meetings.
- 7.18 Lack of team cohesion at the top level was raised in a number of the individual interviews with senior managers, with several members commenting that it sometimes felt as though individuals were operating on their own rather than as a united team; one member of the senior management team stated *'that they could not speak [i.e vouch] for how colleagues were discharging their duties.'* Establishing

more formal senior management team processes would undoubtedly support the effective functioning of the management team as a more concerted unit and indeed help to keep members fully apprised of key developments.

- 7.19 Senior management lead areas were reassigned at the time of the introduction of the teamworking model in mid-May 2011. At the time of interviews with senior managers almost six weeks later, it was evident that a number of the managers were still unfamiliar with their new areas of operational responsibility; with categorical statements being made in a number of cases that they had ‘no knowledge’ of new areas. Some senior managers stated that they not received a formal handover from those previously overseeing the operational areas. The lack of effective handover processes calls into question the effectiveness of management oversight of the changeover period and also the ability of senior managers to provide effective direction to newly assigned areas.

Resource utilisation and practice

- 7.20 Resourcing levels and utilisation are fundamental to the efficiency of border control operations and the maintenance of border security. Key operational risks identified during the inspection included:
- the low visibility of detection staff at times and lack of resilience of detection operations;
 - lack of effective operational oversight by detection team leaders in regard to passenger selection methods / utilisation of risk profiles and enforcement of legal commodity allowances;
 - resources used in responding to intelligence alerts compared to the success rates;
 - the impact of new shift patterns on operations at the primary control and particular difficulties in resourcing nightshifts;
 - lack of accurate advance information about available shift resources;
 - impact of reduced expertise and resource following recent staffing reductions, particularly at team leader and senior management levels (the local risk register included risks in relation to the loss of expertise at senior management grade);
 - the effectiveness of the consolidation of primary control and secondary examination area shift duties for Chief Immigration Officers;
 - low levels of cross-trained staff, particularly legacy immigration staff trained in detection operations (identified as a risk in the local risk register);
 - lack of clarity about targets in relation to both detection and immigration and perceived lack of relevance and impact of regional commodity seizure targets, particularly in relation to cigarettes and alcohol; and
 - detection deployment to the same flights without regular analysis of outcomes such as in the case of section 159 flights.
- 7.21 At the time of the inspection senior managers were taking steps to address some of these issues, particularly in relation to the difficulties of resourcing the primary control and improved shift attendance information. Conversely, issues such as the visibility and resilience of detection staff or effectiveness of detection team leader operational oversight did not appear to have been identified as particular risks to operational effectiveness by local managers.
- Resourcing levels and utilisation are fundamental to the efficiency of border control operations and the maintenance of border security.*

Evaluation of border risks

- 7.22 A number of border risks specifically relating to airport staff, airline crew and VIP clearance were highlighted by Agency staff during the inspection. These included:
- crew clearance – crew exits are not manned; spot-checks were undertaken approximately every six weeks at one of the Gatwick terminals. Crew use self-declaration forms in relation to goods carried;
 - baggage removal – airport staff can potentially remove baggage at different stages of the handling process including in the transfer sheds⁴⁴;
 - lack of deep aeroplane rummage activity – cocaine was found in the panels of an aeroplane which required unscheduled maintenance work earlier in the year. Aeroplanes are subject to light rummage / hold 5 searches but not intensive searching activity.
 - lack of detection focus on staff – staff can exit airside via the baggage reclaim area and can potentially receive baggage / items from passengers. Detection activity is focused on passengers rather than staff except during occasional spot-check exercises.
 - VIPs can pay to use a discreet facility, the Sussex Suite, in transferring to and from flights across Gatwick. However, the Agency is not always able to attend for immigration clearance; a member of the Suite staff takes passports to the arrivals hall in the South Terminal for remote clearance in such instances. Detection activity is rarely undertaken in this area according to Suite and detection staff.
- 7.23 These risks were raised with senior management to determine how they were evaluated and addressed. No evidence of any formal evaluation of the risks was provided by senior managers. The only comments made were that the Airport Crime Team was involved in this area of work and that *'borders cannot be watertight in relation to staff and crew'*.
- 7.24 The Airport Crime Team is a specialist team bringing together a mix of detection and investigative skills. The Team responds to specific intelligence from various agencies and undertakes a range of activity to detect, disrupt, deter and investigate illegal activity across airport operations. This includes spot-checks on crew exits, on staff exiting the green channel, aeroplane hold rummage and monitoring baggage handling. The team is also involved in joint operations with other agencies including regular covert and overt exercises with Sussex Police.
- 7.25 A number of questions were raised regarding the effectiveness of senior management oversight of the team's work. There was an evident lack of involvement of senior management in directing the team's focus and determining priority areas for action in relation to the level of border risks posed. Regular evaluation of the border risks posed in relation to staff, crew and VIP clearance would help to ensure that potential areas of border weakness are appropriately addressed and the limited resources of the Airport Crime Team are effectively aligned with level of risk.
- 7.26 The Team used a risk register to direct activity but this was not actively discussed or formally reviewed with senior management on a regular basis including the member of the management team with specific oversight of the detection aspects of the Team's work. The register identified 32 areas of concern, half of which were rated as high risk including the removal of landed or transfer baggage, direct transfer of items from passengers to staff and crew circumvention of non-EU allowances. In general the mitigating actions outlined in the register were to undertake more frequent covert and overt operations. However, the Team was small with limited capacity and there had not been any particular increase in operational activity in addressing these areas since the risk levels were assigned. The majority of the Team's activities during the inspection focused on monitoring the unloading of baggage from flights, but it is unclear if this emphasis was appropriately aligned to risk. The Team

⁴⁴ Transfer sheds refers to the storage area for baggage which will be transferred to other flights for an onward journey.

also did not have any specific outcome-focused performance targets and it is unclear both how priorities were assigned and performance judged for the wide remit of the Team's work. Similar issues were also raised regarding senior management oversight of the work of the Tarmac Team.⁴⁵

7.27 There are clear improvements to be made in corporate governance and management oversight of operational risks by the UK Border Agency at the airport.

We recommend that the UK Border Agency:

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

⁴⁵ Please see Appendix 3 for an explanation of the Tarmac Team's responsibilities.

Appendix 1

Inspection Criteria

1. Decisions on the entry, stay and removal of people should be taken in accordance with the law and the principles of good administration.
2. Customs and immigration offences should be prevented, detected, investigated and, where appropriate, prosecuted to ensure the law is upheld.
3. Complaints procedures should be in accordance with the recognised principles of complaints handling.
4. All people should be treated with dignity and respect and without discrimination in accordance with the law.
5. Decisions to detain people must be lawful.
6. Enforcement powers should be carried out in accordance with the law and by members of staff authorised for that purpose.
7. Functions should be carried out having regard to the need to safeguard and promote the welfare of children.
8. Personal data should be treated and stored securely in accordance with the relevant legislation and regulations.
9. The implementation of policies should be continuously monitored and evaluated to assess the impact on service users and associated costs.
10. Risks to the efficiency and effectiveness of the UK Border Agency should be identified, monitored and mitigated.

Appendix 2

List of Key Stakeholders

The following stakeholders contributed to the inspection:

Blackjack (providers of eGates hosts)
Board of Airline Representatives in the UK
British Air Transport Association
British Airways
Children's Services West Sussex County Council
Equality and Human Rights Commission
Gatwick Airline Operators Committee
Gatwick Airport Commander, Sussex Police
Gatwick Consultative Committee
Passenger Advisory Group, Gatwick Consultative Committee
Office of the Children's Commissioner
Mr Henry Smith MP
Radiography Department, Gatwick Park Hospital
Special Branch, Sussex Police
EasyJet
Gatwick Airport Limited

Appendix 3

Gatwick Detection Teams: Remit and Responsibilities

Tarmac Team

- Focus on baggage rather than passengers
- Detection activities conducted in areas outside of the terminal channels e.g. back of the baggage belts and tarmac arrival areas
- Undertake section 159 covert baggage searches, aircraft hold searches, observe baggage transfer activity, check baggage bins and scrutinise baggage before it is loaded onto the belts
- Freedom in directing activity and determining which flights to cover
- Gatwick seizure information and general seizure trends were used to inform flight coverage
- Largely self-generated seizures with specific intelligence alerts only rarely received
- Knowledge developed within the team about baggage worthy of further investigation such as bags similar to those previously used by smugglers and evidence of tampering

Upskilling Team

- Exclusively focus on detection of inbound and outbound class A drugs
- Free reign in choosing flights to cover and determining deployment
- Flights selected on the basis of analysis of local, national and international seizure information and available intelligence
- Mainly rely on self-generated passenger profiling rather than intelligence alerts
- Close working with local outbound profilers to identify potential targets and some joint-working with the Airport Crime Team
- Research and undertake some risk testing of new routes but maintain a focus on high risk flights
- 24 class A seizures since August 2009

Cargo Teams (2 teams)

- Examine cargo and mail deliveries (DHL and Royal Mail)
- Free reign in deciding flights of interest
- Majority of the freight selected for examination is by self-selection
- A profiler is appointed per shift to review documentation for points of interest including fit with risk profiles; cargo selections also made by visual profiling of freight and packages
- Receive and respond to targets selected by the Heathrow Freight Target Hub and from the East Midlands Target and Selection Hub in regard to DHL deliveries
- Undertake some risk testing of alternative routes; cargo may be checked from flights which have not been examined for some time to assess risk level
- Particularly close working with the Dog Unit and with Special Branch officers

- Robust record-keeping in relation to freight examinations and seizures obtained; significant seizures are detailed in case sheets

Dog Unit (11 dogs; 10 dog handlers managed regionally).

- 8 class A scent trained dogs; 1 cash trained and 1 trained to detect both cash and drugs. The product of animal origin trained dog was being retired at the time of the inspection and was intended to be replaced
- Assigned to cover high risk flights in the daily deployment plan
- Deployment tactics are discussed with the duty manager at the start of the shift
- Cover some European hub connector flights and undertake some risk testing of flights
- Also receive requests from other teams for support; usually responding on a first come first served rather than a risk assessed basis
- Usually two dogs are available per shift
- Often work at the back of the baggage belts
- Positively regarded by other detection teams

Appendix 4

Legislation Relevant to Detection Operations

Section 78 of the Customs and Excise Management Act 1979 (CEMA) empowers UK Border Force officers to stop and question passengers, entering or leaving the UK about their baggage. From January 2010 this was supplemented by Section 157A which gives powers to officers to require anyone entering or leaving the UK to produce their passport and travel documents and to question them about their journey.

Passengers may be selected for interception and questioning as guided by the Air Passenger Selection Indicator and Selection Template published in the Enforcement Handbook.

Following initial interception and questioning under Sections 78 and 157A, passengers are required if requested to present baggage for search under Section 163A CEMA – power to search articles.

Section 159 CEMA, amended by the Finance Act 2008, provides powers to covertly examine baggage outwith the presence of the passenger.

Goods detected in excess of excise goods allowances, or deemed for commercial gain if brought into the UK from within the EU, or are prohibited or restricted, are liable to forfeiture under Section 49 CEMA and officers will seize these goods under Section 139 CEMA.

Section 289 Proceeds of Crime Act 2002 empowers officers to conduct a search of person if there are reasonable grounds to suspect that the person is carrying cash which has been acquired from or is intended to be used in relation to a customs matter. (This section does not give power to carry out a strip search).

Officers may seize cash under Section 294 POCA which they suspect has been acquired from or is intended to be used in relation to a customs matter.

Appendix 5

Glossary

| Term | Description |
|---|--|
| A | |
| Absconder | A term used by the Agency to describe a person who the Agency has lost contact with, who has breached reporting restrictions or bail conditions and / or who they are unable to make contact with via their last known address. |
| Agency | Refers to the UK Border Agency. |
| Airside | The area of an airport beyond the security procedures – where passengers, crew or airline staff have passed security checks. |
| Article 3 (European Convention of Human Rights) | A person may claim that their removal or deportation would breach Article 3, where it would place them at risk of torture or to inhuman or degrading treatment or punishment. |
| Article 8 (European Convention of Human Rights) | A person may claim that their removal or deportation would breach Article 8, where it would interfere with their family and private life. |
| Assistant Director | Senior manager within the UK Border Agency equivalent to a civil service Grade 7 position. |
| Assistant Immigration Officer (AIO) | Junior grade, equivalent to an administrative officer. Supports immigration officers in carrying out administrative and operational tasks. |
| Asylum and Immigration Tribunal (AIT) | See Special Immigration Appeals Commission and First-tier Tribunal (Immigration and Asylum Chamber). |
| Automated Clearance System (ACS gates) | Border security technology which scans each passenger's face against the digital photo recorded in their passport. If there is a match, the automatic gates allow the clearance of EU passengers across the border. Also known as eGates. |
| B | |
| Biometrics | All customers are now routinely required to provide ten digit finger scans and a digital photograph when applying for a United Kingdom visa. There are some minor exceptions to this rule, such as Heads of State or children aged under five. |
| Biometric chips | The chip inside biometric passports contains information about the holder's face taken from the passport photograph. It also holds the information printed on the personal details page of the passport. |
| Border and Immigration Agency (BIA) | The name of the agency responsible for immigration functions prior to creation of the UK Border Agency. |
| Border Force | Part of the UK Border Agency, responsible for frontline operations at air, sea and rail ports. |

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| Border Force Control Strategy | This document sets out the priorities for Border Force operational activity, according an assessment of the risk posed to the UK by irregular migration, organised crime, terrorism and smuggling. The strategy guides management decision making and resource allocation at all ports. |
| British citizenship | A person who holds British citizenship has the right to apply for a British passport, live in the UK permanently and leave and re-enter the UK at any time. |
| C | |
| Case Work Information Database (CID) | The Case Work Information Database is an administrative tool, used by the UK Border Agency to perform case working tasks and record decisions. |
| Centaur | Legacy customs IT system used by the UK Border Agency to collate and manage information and intelligence. Details of seizures made at ports are stored on this system. |
| Chief Immigration Officer (CIO) | Team leader equivalent to Higher Executive Officer grade responsible for the effective running of the primary control (immigration) point. |
| Commodities | This refers to goods such as drugs, cigarettes and money. |
| Complaint | Defined by the UK Border Agency as 'any expression of dissatisfaction about the services provided by or for the UK Border Agency and / or about the professional conduct of UK Border Agency staff including contractors'. |
| Complaints Management Guidance | The formal UK Border Agency guidance for the management and handling of complaints |
| Complaints Management System (CMS) | Bespoke electronic system for the management of complaints. Launched in October 2009 by the UK Border Agency. |
| Criminality and Detention Group | Part of the UK Border Agency, responsible for undertaking criminal investigations, managing criminal cases and Immigration Removal Centres. |
| Customer Service Unit (CSU) | UK Border Agency unit created in February 2008 to manage and monitor customer complaints in each region and operational business area of the Agency. |
| Customer Strategy | A strategy document launched in April 2009, setting out the UK Border Agency's customer service standards. |
| Cutter Fleet | This comprises five fast patrol ships which protect the UK coastline and are involved in enforcement, surveillance and search activity. |
| D | |
| Daily Deployment Plan | An activity schedule setting out the requisite tasks for the day. For detection staff this will include the flights which must be attended for the detection of illicit goods. |
| Data Protection Act 1998 | The Data Protection Act requires anyone who handles personal information to comply with a number of important principles. It also gives individuals rights over their personal information. |
| Detection | A function carried out by Border Force staff to detect the illicit trade or importation of illegal goods. |

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| Detention estate | Term used to refer to the three types of detention facility operated by the UK Border Agency, namely Immigration Removal Centres, short-term holding facilities and holding rooms. |
| Direct Airside Transit Visas | <p>The requirement for the nationals of some countries and holders of non-national documents to hold a visa may be waived for passengers arriving by air, whose sole intention is to pass in direct transit through the UK. This concession may only apply where:</p> <ul style="list-style-type: none"> • they have a confirmed booking on a flight departing within 24 hours to their country of destination; and • they have entry facilities for that country and transit visas for any country en route which requires them. <p>The visa waiver concession does not apply to the nationals of certain countries. These nationals require a Direct Airside Transit Visa even when transiting airside without passing through the immigration control.</p> |
| E | |
| e-Borders | A multi-agency programme being delivered by the UK Border Agency in partnership with the police and the security and intelligence agencies. It focuses on the capture and analysis of passenger and crew data from carriers, in advance of movements into and out of the UK by air, sea and rail. |
| eGates | Border security technology which scans each passenger's face against the digital photo recorded in their passport. If there is a match, the automatic gates allow the clearance of EU passengers across the border. Also known as automated clearance system (ACS) gates. |
| e-Learning | Computer based training course |
| Entry Clearance | <p>A person requires leave to enter the United Kingdom if they are neither a British nor Commonwealth citizen with the right of abode, nor a person who is entitled to enter or remain in the United Kingdom by virtue of the provisions of the 2006 European Economic Area Regulations. Entry clearance takes the form of a visa (for visa nationals) or an entry certificate (for non-visa nationals).</p> <p>These documents are taken as evidence of the holder's eligibility for entry into the United Kingdom and, accordingly, accepted as "entry clearances" within the meaning of the Immigration Act 1971. The United Kingdom Government decides which countries' citizens are, or are not, visa nationals. Non-visa nationals also require entry clearance if they seek to enter the United Kingdom for purposes other than to visit and / or for longer than six months. More detailed information about Entry Clearance can be found on the UK Border Agency website: http://ukba.homeoffice.gov.uk/</p> <p>The Immigration Rules say that a customer making an application for an entry clearance as a visitor must be outside the United Kingdom and Islands at the time of their application and must apply to a Visa Section designated by the Secretary of State to accept applications for entry clearance for that purpose and from that category of applicant.</p> |

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| Equality Act 2010 | <p>The Equality Act 2010 has been in place since October 2010 and harmonises and integrates previous legislation governing equality and discrimination issues. Section 149 of the Act imposes a ‘general equality duty’ on all public bodies covered by the Act to have due regard to the need to:</p> <ul style="list-style-type: none"> • eliminate unlawful discrimination, harassment and victimisation; • advance equality of opportunity between different groups; and • foster good relations between different groups. <p>This duty came into effect in April 2011 and fully applies to eight protected characteristics: age; disability; gender; gender reassignment; race, religion or belief; pregnancy and maternity and sexual orientation. Marriage / civil partnership status is also protected from unlawful discrimination.</p> <p>Immigration functions of the UK Border Agency are exempt from aspects of the general public sector duty and nationality based differentiation is permitted at UK border entry points and at visa posts according to nationalities specified in line with the Ministerial Authorisation issued in February 2011 (see below).</p> |
| European Economic Area (EEA) | <p>The European Economic Area (EEA) was established on 1 January 1994 following an agreement between the member states of the European Free Trade Association (EFTA) and the European Community, later the European Union (EU).</p> <p>All European Economic Area (EEA) nationals enjoy free movement rights in the EEA. This means that they are not subject to the Immigration Rules and may come to the United Kingdom and reside here in accordance with the 2006 Regulations. They do not require permission from the UK Border Agency to enter or remain, nor do they require a document confirming their free movement status.</p> |
| European Economic Area (EEA) Family Permits | <p>All European Economic Area (EEA) nationals enjoy free movement rights in the EEA. This means that they are not subject to the Immigration Rules and may come to the United Kingdom and reside here in accordance with the 2006 Regulations.</p> <p>They do not require permission from the UK Border Agency to enter or remain, nor do they require a document confirming their free movement status. An EEA family permit is a form of entry clearance issued to the non-EEA national family members of an EEA national who is in, or intends to come to, the United Kingdom in order to exercise a Treaty right.</p> |
| F | |
| Final response letter | Letter sent to a complainant that states the outcome of the UK Border Agency’s investigation into a complaint. |
| Floorwalking | Floorwalking describes the process of monitoring passenger clearance at the primary control by walking behind the desks while the immigration officers are processing and interacting with passengers. |
| G | |
| General Aviation | Non-commercial private craft |

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| Government Protective Marking Scheme | A system used to ensure information and other assets are correctly managed. It governs the storage, distribution and destruction of assets and determines who is granted access to them. |
| H | |
| Her Majesty's Inspector of Immigration (HMI) | The UK Border Agency senior manager (equivalent to Senior Executive Officer grade) with overall responsibility for the effectiveness of legacy immigration operations on shift. |
| Her Majesty's Revenue and Customs (HMRC) | UK government department responsible for customs and taxation. HMRC Detection was one of the legacy organisations that constituted the UK Border Agency concerned with operations at air, sea and rail ports. |
| Hold 5 | Hold 5 refers to a section of an aeroplane where baggage is stored. Baggage loaded into this area is more accessible than in other holds and includes late arriving baggage. |
| Holding room | Temporary, non-residential holding facility operated at some ports and enforcement locations. |
| Home Office | The Home Office is the lead government department for immigration and passports, drugs policy, crime, counter-terrorism and police. |
| I | |
| IDENT1 | Also known as the National Fingerprint Database, a fingerprint identification system with the capability to search palm prints and marks. |
| Identity Codes | This is a shorthand classification system used by organisations such as the police to describe a person's apparent or perceived ethnicity. Six categories are defined: IC1 – White IC2 – Mediterranean / Hispanic IC3 – African / Afro-Caribbean IC4 – Pakistani, Indian, Bangladeshi, Nepalese or other South Asian IC5 – Chinese, Japanese or other South-East Asian IC6 – Arabic, Egyptian, Tunisian, Algerian or Maghreb IC0 – Origin unknown |
| Immigration Officer (IO) | Immigration Officers are employees of the UK Border Agency, appointed by the Home Secretary, whose powers are conferred by the Immigration Act 1971 and who act in accordance with Immigration Rules. They have the power of arrest and detention conferred on them by the Immigration Act 1971, both at ports and inland. |
| Immigration Removal Centre (IRC) | Longer term, residential detention facility, formerly known as a detention centre. |
| Inadequately documented passengers | Passengers who attempt to travel to the UK without a valid visa or with forged documents. |
| Independent Chief Inspector of Borders and Immigration | The role of the Independent Chief Inspector of Borders and Immigration was established by the UK Borders Act 2007 to examine the effectiveness and efficiency of the UK Border Agency (including the Border Force). The Chief Inspector is independent of both the Agency and the Border Force and reports directly to the Home Secretary. |

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| Integration | Term used to describe the process of integrating immigration and customs functions within the UK Border Agency. |
| J | |
| 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. |
| L | |
| Landside | This refers to areas of the airport which are not within the security controlled boundaries. |
| Legacy customs functions | Term used to describe the customs detection functions undertaken by the UK Border Agency since integration. |
| Legacy immigration functions | Term used to describe the immigration functions undertaken by the UK Border Agency since integration. |
| Legacy organisations | The three organisations that formed the UK Border Agency: the Border and Immigration Agency, UK Visas and HMRC Detection. |
| M | |
| Management Information | Data which provides information about business / operational effectiveness and can be used to inform management decisions. |
| Ministerial Authorisation | Nationality based differentiation is permitted at the UK border based on the Ministerial Authorisation issued under schedule 3, Part 4 paragraph 17 (4) (a) of the Equality Act 2010. The Equality (Transit Visa, Entry Clearance, Leave to Enter, Examination of Passengers and Removal Directions) Authorisation 2011 came into force on 10 February 2011 and 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. The nationalities that can be subject to differentiation at the border in this way is dependent on the number of breaches of immigration law / adverse decisions for every 1000 admissions during the previous 3 months or is related to specific intelligence / trends regarding that country. |
| Minor misconduct | Category of complaint concerning isolated instances of rudeness or unprofessional conduct that are not serious enough to warrant formal investigation and, if substantiated, would not lead to criminal or disciplinary proceedings. |
| Minors | Unaccompanied children under the age of 17.5 years |
| N | |
| National Border Targeting Centre (NBTC) | A central hub staffed by the UK Border Agency and the police, undertaking operational activities integral to the e-Borders programme. |
| Non-visa nationals | A national or citizen of any country that is not listed on the UK Border Agency website (Appendix 1 of the Immigration Rules). A non-visa national does not need a visa to come to the United Kingdom for less than six months, unless it is a requirement of the immigration category under which they are entering. A non-visa national coming to the United Kingdom for more than six months will need a visa. |

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| O | |
| Omnibase | This is an IT database allowing authorised users to view passport records. |
| P | |
| Paragraph 320 (7a) – deception rules | From 29 February 2008, under Paragraph 320 (7A) of the Immigration Rules, an applicant must be refused entry clearance if false representations or documents are used, or material facts not disclosed, whether or not the false representations or documents are material to the application, and whether or not the deception is with the applicant’s knowledge. |
| Performance Development Review (PDR) | The appraisal system used for all staff at Grade 6 or below in the Home Office and the UK Border Agency. |
| Points-based system (PBS) | On 29 February 2008, a new immigration system was launched to ensure that only those with the right skills or the right contribution can come to the United Kingdom to work or study. The points-based system was designed to enable the UK Border Agency to control migration more effectively, tackle abuse and identify the most talented workers. The system: <ul style="list-style-type: none"> • combines more than 80 previous work and study routes to the United Kingdom into five tiers; and • awards points according to workers’ skills, to reflect their aptitude, experience and age and also the demand for those skills in any given sector. Employers and education providers play a crucial part in making sure that the points-based system is not abused. They must apply for a licence to sponsor migrants and bring them into the United Kingdom; and meet a number of duties while they are sponsoring migrants. |
| Police and Criminal Evidence Act (PACE) | PACE, and the PACE codes of practice provide the core framework of police powers and safeguards around stop and search, arrest, detention, investigation, identification and interviewing of arrested people. |
| Police National Computer (PNC) | The PNC holds details of people, vehicles, crimes and property that can be electronically accessed by the police and other criminal justice agencies. |
| Primary Checkpoint or Primary Control Point (PCP) | The area in an arrivals hall where immigration officers make a decision on whether a passenger should be allowed entry into the UK without delay. All passengers must submit their passports / travel documentation to the officer making this decision. |
| Professional Standards Unit (PSU) | Team within CCSPD, responsible for investigation of all serious misconduct complaints. |
| R | |
| Removal | The process by which a person or person(s) physically leaves the UK voluntarily, through assistance or through enforcement by UK Border Agency staff. |
| Risk Assessment | Process by which the Agency assesses the risk to the UK border of particular activities / flights / passenger profiles. |

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| Risk Profile | An outline that determines the relative potential harm (to the UK of a visa applicant / travelling passenger) based on characteristics of an individual when compared to existing evidence of adverse activity either in the UK or overseas. |
| Risk Register | Document setting out the key operational / business risks with assessments of the likelihood of occurrence and likely business impact that also outlines appropriate mitigating actions or preventative measures. |
| Rostering | This refers to the process of assigning frontline staff to particular shifts. |
| S | |
| Screening interview | The process of establishing initial information from an asylum seeker in support of his or her claim. Applicants are issued with an application registration card as identification whilst their claim is being considered. |
| Secondary Examination Area (SEA) | An area where UK Border Agency officials may be involved in the questioning of passengers or the searching of persons, baggage, freight or vehicles. |
| Secondary Examination Area Training (SEAT) | This is a course undertaken by detection staff to ensure they are fully trained in all aspects of detection work. |
| Senior Customs Officer (SO) | The UK Border Agency senior manager (equivalent to Senior Executive Officer grade) with primary responsibility for detection operations staff on shift. |
| Serious and Organised Crime Agency (SOCA) | An Executive Non-Departmental Public Body of the Home Office responsible for proactive operations against serious and organised crime. |
| Serious misconduct | Category of complaint concerning any unprofessional behaviour which, if substantiated, would lead to disciplinary action. |
| Service complaint | Category of complaint concerning the way the UK Border Agency works or the level of service provided, for example delay, lost documents or administrative failings. These complaints can include concerns about the actual service provided and the operational policies in place. |
| Strategic Threat Assessment (STA) | A document which describes and assesses the threats to the UK border from irregular migration, organised crime, terrorism and smuggling and considers how these threats might develop. |
| T | |
| Targeting and selection (T&S) hub | A central hub where staff scrutinise flight manifests to identify those whose routing or other indicators suggest that an individual/s may be importing illicit goods. |
| Tasking and Co-ordination Group (TCG) | A group which is engaged in prioritising threats, setting objectives and in planning resources and action for an operational area. In essence, a business process supported by intelligence. |
| Teamworking Model | A working approach which means that frontline officers attend shifts in accordance with team rather than individually based rostering patterns. The intention is to build closer relationships with colleagues and support closer managerial oversight. |

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| Temporary Admission | Individuals may be granted leave to enter the UK on a temporary basis while a case for entry is being decided or in compassionate circumstances where a person has been refused entry to the UK. Such admission will involve conditions for reporting back to the Agency or for removal. |
| U | |
| United Kingdom and Islands | The United Kingdom is made up of England, Scotland, Wales and Northern Ireland. The Channel Islands and the Isle of Man are not part of the United Kingdom. The geographical term 'British Isles' covers the United Kingdom, all of Ireland, the Channel Islands and the Isle of Man. |
| United Kingdom Border Agency (UKBA) | The agency of the Home Office responsible for border control, enforcing immigration and customs regulations (up until 20 February 2012). It considers applications for permission to enter and stay in the UK, including nationality and asylum applications. The UK Border Agency has been a full executive agency of the Home Office since April 2009. |
| United Kingdom Border Force | Up until 20 February 2012, Border Force was the directorate within the UK Border Agency responsible for frontline operations at UK ports. Since 20 February 2012, the Border Force has become a separate operational command within the Home Office. |
| V | |
| Visa Nationals | Visa nationals require a visa for every entry to the United Kingdom. A visa national is a national of a country listed on the UK Border Agency website (Appendix 1 of the Immigration Rules). Some visa nationals may pass through the United Kingdom on the way to another country without a visa, but in some circumstances they will require a direct airside visa or visitor in transit visa. Visa nationals must obtain entry clearance before travelling to the United Kingdom unless they are: <ul style="list-style-type: none"> • returning residents; • those who have been given permission to stay in the United Kingdom and, after temporarily leaving the United Kingdom, return within the duration of that permission to stay; or • school children resident in a European Union member state who are on an organised school trip from a general education school and accompanied by a teacher. |
| W | |
| Warnings Index also known as Watchlist (WI) | A database of names available to the UK Border Agency of those with previous immigration history, those of interest to detection staff, police or matters of national security. |
| Warnings Index Control Unit (WICU) | A unit within the UK Border Agency responsible for updating and maintaining the Warnings Index system. |

Appendix 6

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| | |
|-----------------------------|--|
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