



**An inspection of Home Office (Borders,
Immigration and Citizenship System)
collaborative working with other government
departments and agencies**

February – October 2018

David Bolt

**Independent Chief Inspector of
Borders and Immigration**

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Our purpose

To help improve the efficiency, effectiveness and consistency of the Home Office's border and immigration functions through unfettered, impartial and evidence-based inspection.

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Foreword

This inspection looked at how efficiently and effectively the Home Office's Borders, Immigration and Citizenship System (BICS) directorates were working with other government departments (OGDs) in order to meet both Home Office objectives and those of the OGD.

This was done by examining examples of collaborative operations or projects begun since 1 March 2016, and of ongoing collaborations now regarded as 'business as usual' (BAU). The examples covered Border Force (BF), Immigration Enforcement (IE), UK Visas and Immigration (UKVI) and four OGDs, chosen because anyone seeking to settle or stay for an extended period in the UK would most likely have been encountered by one or more of them.

I would like formally to thank the Department for Work and Pensions (DWP), Her Majesty's Revenue and Customs (HMRC), the Department for Education (DfE), and the Department of Health and Social Care (DHSC) for their support with this inspection.

The Home Office has commented that the report feels more like an inspection of the compliant environment than of collaborative working per se, and that it fails to recognise the innovative and proactive approach taken to the forming of mutually beneficial relationships where none previously existed. The latter, if true, was unintended. The examples quoted include instances of innovation and proactivity, particularly at the working level. Meanwhile, there is a certain inevitability to viewing collaborative working through the prism of the compliant environment given the focus from 2013 onwards of immigration policies and legislation, and the creation of related Home Office structures and inter-ministerial groups and taskforces.

However, as my report points out, collaboration between government departments is neither new nor exceptional. Increasingly, the cornerstone of these collaborations is data sharing and matching, which, when done well, should benefit not just the departments concerned in terms of their efficiency and effectiveness, but also their "customers" by reducing the burden on individuals of having to re-present evidence to one department that has already been provided to and verified by another.

Parliament and the public will want to be reassured that any inter-departmental data sharing is not only legal, but that it is also demonstrably proportionate and necessary, that the data is accurate, and that safeguards are in place to prevent it being misapplied. The Home Office has told me that it is engaged in an extensive programme of work on data protection, including a network of operational data practitioners and a Data Protection Officer with statutory responsibilities. I did not examine these data protection measures in the course of this inspection but will look to do so as I follow its progress.

The key finding from this inspection was that there was no evidence of an overarching BICS strategy for collaborative working with OGDs, no single central list of current collaborations, and that the Home Office had no means of assessing, or even articulating, the overall value BICS derived from OGD collaborations, or of understanding what more value it could gain from them

and how to go about this. Nor did BICS capture centrally where another department relied on it to deliver its objectives and how the Home Office might ensure and enhance the support it provided.

I have made three recommendations which together aim to achieve better oversight, coordination and value from BIC-OGD collaborations. The Home Office has questioned whether an overarching strategy, uniformity and centralisation are inherently useful in a decentralised system, to which my answer is possibly not. However, I would argue that the BICS system would benefit from being less decentralised, at least in terms of its knowledge and information management and how it presents itself to others.

My report was sent to the Home Secretary on 30 October 2018.

D J Bolt

Independent Chief Inspector of Borders and Immigration

1. Purpose and scope

- 1.1 This inspection examined the efficiency and effectiveness of collaborations between the Home Office, specifically its Borders, Immigration and Citizenship System (BICS) directorates, and other government departments and agencies (OGDs). The inspection focused principally on how BICS directorates worked with OGDs in order to meet Home Office objectives, but also considered how they worked together in support of OGD objectives.
- 1.2 The inspection looked at examples of collaborations involving Border Force (BF), Immigration Enforcement (IE), and UK Visas and Immigration (UKVI) and four OGDs:
 - Department for Work and Pensions (DWP)
 - Her Majesty's Revenue and Customs (HMRC)
 - Department for Education (DfE)
 - Department of Health and Social Care (DHSC)
- 1.3 Work on this inspection began in February 2018 and evidence gathering continued through to September 2018. During that time, the Home Office has temporarily restricted proactive bulk data sharing where information is volunteered to another organisation for the purpose of ceasing employment, benefits or services, to ensure that information on persons over the age of 30 is not shared in order to avoid the possibility of Windrush generation migrants being impacted by this activity. Data sharing with the financial services sector under the Immigration Acts 2014 and 2016 has been further restricted to include only those under the age of 30 facing deportation for criminal offending. The Home Office continues to respond reactively to all status checks being conducted by employers, landlords, OGDs, the NHS, local authorities, and other public service providers, to enable them to fulfil their statutory duties to control migrants' access to work, benefits and services and to prevent fraud.
- 1.4 This report notes these changes. However, inspectors did not look to examine what impact BICS' collaborations with OGDs had had on the 'Windrush generation', not wishing to pre-empt or duplicate the work of 'lessons learned' review announced by the Home Secretary and due to report at the end of 2018-19.¹

¹ <https://www.gov.uk/government/publications/windrush-lessons-learned-review>

2. Methodology

- 2.1 Inspectors asked the Home Office for a list of the work the three Borders, Immigration and Citizenship (BICS) operational directorates - Border Force (BF), Immigration Enforcement (IE), and UK Visas and Immigration (UKVI) - did in collaboration with other government departments or agencies (OGDs). The Home Office responded that it did not maintain a single central list.
- 2.2 Simultaneously, seven OGDs were approached for details of their work with BICS:
- Department for Education (DfE)
 - Department of Health and Social Care (DHSC)
 - Department for International Development (DfID)
 - Department for Transport (DfT)
 - Department for Work and Pensions (DWP)
 - Her Majesty's Revenue and Customs (HMRC)
- 2.3 Having reviewed the OGD responses and considered the findings of recent inspections where inter-departmental working was identified as a key feature,² inspectors decided to focus on four of the seven: DWP, HMRC, DfE, and DHSC. The rationale for this was that anyone seeking to settle in the UK or to stay for an extended period would most likely have been encountered by one or more of them. Inspectors then reverted to the Home Office to ask for details of collaborations with these four OGDs.
- 2.4 From the Home Office return, inspectors selected examples of time-bound collaborative operations or projects that had commenced since 1 March 2016, and of ongoing collaborations that were regarded as 'business as usual' (BAU) at the time of the inspection.
- 2.5 The Home Office was asked to provide written evidence in relation to each operation, project or BAU process, and inspectors also interviewed the Home Office and OGD staff directly involved in these collaborations, plus relevant Home Office senior managers. In total, inspectors interviewed 33 Home Office staff, along with 5 members of staff from DWP, 4 from HMRC, 7 from DfE, and 8 from DHSC/NHS. Most interviewees were in the grade range Executive Officer (or equivalent) to Senior Civil Servant.
- 2.6 The inspection team invited contributions from ICIBI's established stakeholders and posted a call for written evidence from anyone with first-hand experience of the areas within the inspection's scope, and received submissions from Asylum Matters, Doctors of the World, Liberty, and National Aids Trust.

² <https://www.gov.uk/government/publications/inspection-report-of-hostile-environment-measures-october-2016>
<https://www.gov.uk/government/publications/an-inspection-of-how-the-home-office-considers-the-best-interests-of-unaccompanied-asylum-seeking-children>
<https://www.gov.uk/government/publications/an-inspection-of-the-right-to-rent-scheme>
<https://www.gov.uk/government/publications/an-inspection-of-the-vulnerable-persons-resettlement-scheme>

- 2.7 Finally, in order to gauge the efficiency and effectiveness of the individual collaborations, inspectors reviewed a range of academic papers and business studies into the characteristics of successful partnership working, from which they distilled a set of key characteristics against which to examine each of the examples:
- Agreed objectives
 - Defined processes
 - Strategic leadership
 - Committed resources
 - Communication
 - Evaluation
 - Review and revision
- 2.8 The inspection team presented its emerging findings to BICS on 21 June 2018, a draft copy of the report was sent to the Home Office for factual accuracy checking on 9 October 2018. The final report was sent to the Home Secretary on 30 October 2018.

3. Summary of conclusions

- 3.1 Collaboration between government departments is neither new nor exceptional. While the ‘hostile (now ‘compliant’) environment’ agenda has emphasised cross-government working, with the creation in 2012 of the ministerial ‘Hostile Environment Working Group’,³ and the introduction of new measures in the 2014 and 2016 Immigration Acts “to limit, or otherwise make provision about, access to services, facilities and employment by reference to immigration status”,⁴ the precursors of the Home Office’s BICS directorates had been collaborating with other government departments and agencies (OGDs) in various ways over many years.
- 3.2 Despite this, the inspection found no evidence of an overarching BICS strategy for collaborative working with OGDs,⁵ and the fact that the Home Office was unable to provide inspectors with a complete list or directory of partnership agreements or specific collaborations was indicative of a generally piecemeal approach.
- 3.3 As a consequence, the Home Office had no means of assessing, or even articulating, the overall value BICS derived from OGD collaborations, or of understanding what more value it could gain from them and how to go about this. Equally, BICS did not capture centrally where another department relied on it to deliver the department’s objectives and how the Home Office might ensure and enhance the support it provided.
- 3.4 In some instances, collaborations took the form of joint operational deployments or the collocation or embedding of staff. However, most collaborations, whether one-off operations or projects, or processes that had become ‘business as usual’ (BAU), were based on data sharing and matching – the Home Office or OGD had collected data for its own purposes, but had recognised that the other party might also have an interest in it. Mostly, the data matching was ‘person-centric’, the starting point being a named individual. But, other data might also be used for matching purposes, such as addresses.
- 3.5 The Home Office business area that came closest to having an overview of BICS-OGD collaborations was the Data Sharing and Protocols Team,⁶ which sat outside BICS, and acted as a ‘gatekeeper’, storage point and review mechanism for ‘umbrella’ and process Memoranda of Understanding (MoU) agreed by UK Visas and Immigration (UKVI) and Immigration Enforcement. However, it did not perform the same role for Border Force, which had its own data-sharing team.
- 3.6 Inspectors were not given sight of the minutes of the ministerial ‘Immigration Implementation Taskforce’, or of any of its initiatives or directives, so were unable to establish to what extent ministers were briefed on or involved with particular BICS-OGD collaborations. On the evidence

3 Subsequently renamed the ‘Inter-Ministerial Group on Migrants’ Access to Benefits and Public Services’ and replaced in 2015 by the ‘Immigration Implementation Taskforce’ with the Prime Minister as Chair.

4 From the ‘Introductory text’ to the 2014 Immigration Act.

5 At the factual accuracy stage, HMRC commented that while there was no BICS strategy there is a Border Security Strategy, which sits alongside the Serious and Organised Crime Strategy under the National Security Strategy. HMRC FIS led on the HMRC input into the development of the Border Security Strategy.

6 Part of the Digital, Data and Technology Directorate.

that was presented by the Home Office and OGDs, it appeared that ‘operational’ collaborations were instigated mostly as a result of ‘front-line’ staff identifying opportunities to work together and pushing these forward, generally with the approval of local or regional management, but with no obvious higher-level engagement on the Home Office side. In at least one of the examples examined by inspectors, this had resulted in the potential UK-wide value of the shared data not being fully tested.

- 3.7 Inspectors examined examples of collaborations between BICS and the Department for Work and Pensions (DWP), Her Majesty’s Revenue and Customs (HMRC), the Department for Education (DfE), and the Department of Health and Social Care (DHSC). The 11 examples covered the three operational BICS directorates: Border Force, IE, and UKVI, and included specific operations or projects and BAU processes.
- 3.8 In each case, inspectors looked for evidence of certain key characteristics of good partnership working: that objectives had been agreed; that processes had been defined; that senior management was engaged; that the necessary resources had been made available; that communications between the parties were effective; that performance was being measured and outcomes captured and evaluated; and that the collaboration had been reviewed and, where necessary, revised.
- 3.9 Three of the examples were collaborations between BICS and DWP: Project WALKS, in which IE sought to establish if it could assist DWP to identify individuals trying fraudulently to access benefits and, in the process, gain valuable intelligence about immigration offenders; the recording by UKVI of National Insurance Numbers (NINos) on Biometric Residence Permits (BRPs); and Accessed Public Funds checking, also by UKVI.
- 3.10 Based on these three examples, BICS (specifically IE and UKVI) and DWP had been able to identify areas where it was in their mutual interests to collaborate, and had done so effectively, to a point, to the benefit of both parties. The examples turned primarily on data sharing and matching and included both ‘top down’ and ‘bottom up’ initiatives. However, there was little sense of a BICS strategy to maximise the potential of collaborating with DWP, or to oversee, co-ordinate, and evaluate the individual collaborations, and to develop and spread good practice, including by providing regular feedback.
- 3.11 Inspectors examined three examples of collaborations between BICS and HMRC: Operation MANDERA, in which Border Force sought to test its ability to set up and run a multi-agency operation (involving HMRC and others), in this case targeting the importation of illicit firearms through Dover and Coquelles; Operation LARI, in which IE looked to make use of HMRC data to identify Houses of Multiple Occupation (HMO) containing non-EU nationals suspected of illegal working; and the BAU process for data sharing in relation to evidence of employment, finances and residence, involving both IE and UKVI.
- 3.12 The examples demonstrated that all three BICS directorates were capable of forging effective operational collaborations with HMRC. The two departments had recognised that it was in their mutual interests to collaborate, particularly in terms of data sharing, underpinned by statute and by specific agreements. The fact that the first phase of Operation LARI did not work as planned showed the importance of clear communication and strategic leadership on both sides. Meanwhile, the bulk sharing of HMRC data with UKVI was a good example of how to test, evaluate, and improve a bottom up initiative and formalise it into a BAU process.

- 3.13 Inspectors looked at the Home Office’s collaboration with the DfE in three areas: Operation BORTZ, in which IE sought to make use of DfE data for immigration compliance and enforcement purposes, and two processes where the DfE was seeking assistance from UKVI, the first to check a child’s entitlement to state-funded education, and the second to check their entitlement to free school meals.
- 3.14 The three examples presented a mixed picture of BICS-DfE collaboration. Where the Home Office was the main beneficiary, as in the case of Operation BORTZ, IE was ready to invest in making the relationship work, including agreeing objectives and processes, documenting, reviewing and revising them, and ensuring that the DfE’s needs were met alongside its own. Where DfE, or its stakeholders (schools and Local Education Authorities), stood to benefit more, as with entitlement to state-funded education and free school meals checks, the collaboration was not working as effectively. Here, protocols and processes had not been formally agreed, there were inconsistencies and breakdowns in communication, the fault for which appeared to lie mostly with the Home Office.
- 3.15 The inspection examined data sharing between the DHSC/NHS and IE in respect of ‘NHS debtors’, and Operation DINTEL, in which IE sought to use this data for immigration compliance and enforcement purposes, and to encourage repayment of debt to NHS Trusts.
- 3.16 In 2017, the Public Accounts Committee (PAC) noted that the Department of Health (DoH)⁷ had “launched an overseas visitor and migrant cost recovery programme” in 2014, but the DoH and NHS were “a long way from meeting” projected targets. The PAC concluded that the NHS was “not effectively identifying chargeable patients”, particularly EEA nationals.
- 3.17 NHS Improvement⁸ countered by pointing to the difficulty of establishing whether a person should or should not be charged for NHS treatment as “there is no single document or piece of information, such as a passport or NHS number that confirms” this. Meanwhile, DoH told the PAC that it had worked with the Home Office to tighten residency criteria for non-EEA nationals and that Trusts “could link through to the Home Office system and a record of bad debt could be taken into account the next time a person applied for a visa.”
- 3.18 Inspectors found that the process for NHS Trusts to report non-EEA debtors to the Home Office was clear and straightforward. However, Home Office data for 2017 showed that most Trusts were not submitting returns,⁹ some that were did not do so every month, while reporting varied in quality in terms of errors and omissions. With regard to confirming whether a person should be charged, the number of Trusts making use of the Home Office’s Immigration Enforcement Checking and Advice Service (IECAS)¹⁰ was low. In the case of email checks, the slow speed of response (5 days) may have been a factor, but this did not explain why only 45 Trusts had signed up to the telephone checking service by mid-2018.
- 3.19 It was evident that BICS needed to improve its communications with Trusts, both about the importance of reporting NHS debtor data and about the support it offers. Home Office Local Partnership Managers (LPMs)¹¹ needed to be more active with Trusts’ Overseas Visitors Managers (OVMs) in promoting the process and improving the rate and quality of returns. Meanwhile, Immigration Checking Enquiry Services (ICES) needed to improve response times for email enquiries so that these were a viable alternative to the telephone helpline, as well as encouraging more Trusts to sign up to using the latter.

7 The Department of Health became the Department of Health and Social Care in January 2018.

8 NHS Improvement is responsible for overseeing foundation trusts, NHS trusts, and independent providers of NHS care, and supporting them to give patients consistently safe, high quality, compassionate care within local health systems that are financially sustainable.

9 At the factual accuracy stage (in October 2018) DHSC indicated that the latest debtors return had over 100 Trusts responding.

10 Part of IE’s Interventions & Sanctions Directorate.

11 The LPM role is to implement the Interventions and Sanctions Directorate strategy and ‘compliant environment’ at a local level, supporting external partners in developing their processes to ensure they identify individuals without immigration status attempting to access their services.

- 3.20 The other challenge for the Home Office was to extract operational value from NHS debtor data. The inspection did not look at its use in denying entry to the UK to visa nationals with an outstanding debt. Operation DINTEL had focused on testing the value of the data to in-country ICE teams. While the results were modest, the instigators deserved credit for initiative and persistence. Their efforts meant at least IE made some use of the data. However, the decision not to task this work more widely, due to other ICE priorities, meant that the data's true potential as a compliant environment tool was not fully tested.

Postscript

- 3.21 During the course of this inspection, major concerns about the Home Office's handling of the 'Windrush generation' led to some temporary restrictions to existing data-sharing agreements.
- 3.22 Challenges to the legal and ethical bases of the NHS Digital¹² MoU covering the sharing of non-medical patient data with the Home Office for immigration purposes pre-dated Parliamentary scrutiny of Windrush in Spring 2018. But, these challenges had been largely rebuffed by the departments. However, in May 2018, the government announced a "narrowing" of the scope of the MoU, restricting its use to the tracing of individuals being considered for deportation having been convicted of a serious criminal offence, or whose presence was deemed not conducive to the public good, or where there are concerns about the welfare and safety of a missing individual.
- 3.23 Then, on 10 July 2018, the Home Secretary wrote to the chair of the Home Affairs Committee with an update on the Home Office's work in relation to Windrush, announcing that: "We have paused pro-active data sharing with other government departments and delivery partners on data for all nationalities over 30 years old for a period of three months. This covers HMRC, DWP and the DVLA."¹³
- 3.24 At the time of reporting (October 2018), the Home Office had not assessed the impact of these changes on the overall effectiveness and efficiency of BICS, and had no plans, nor a set timetable, for doing so. Clarifying the scope of the suspensions, the Home Office informed inspectors that:
- "... it's worth noting that the Home Office has only restricted proactive data sharing for compliant environment purposes, i.e. for the purposes of cutting off access to work, benefits and services. The suspension does not cover all data sharing activity, and its purpose has never been to stop responding to status checks by public service providers conducting statutory checks to establish an individual's entitlement. Where necessary, the Home Office has built in processes to allow cases to be referred to the Windrush Taskforce and the partner informed of the potential Windrush implications."
- 3.25 During the second reading of the Data Protection Bill, the Minister for Digital and the Creative Services told the House of Commons that: "The bar for sharing data will now be set significantly higher."¹⁴ The Minister was referring explicitly to the sharing of data between the NHS and other government departments. However, Parliament and the public will no doubt want to be assured that any data sharing with or by the Home Office is not only legal, but also demonstrably proportionate and necessary, that the data is accurate and that there are safeguards against it being misapplied.

¹² NHS Digital is the national information and technology partner to the health and social care system. Its vision is "to harness the power of information and technology to improve health and care." It supplies information and data to the health service, and is the guardian of patient data "making sure it's protected, and only ever used for the good of health and care."

¹³ The Home Office informed inspectors that the suspension took effect on 23 April 2018 on the order of the previous Home Secretary.

¹⁴ Hansard, 9 May 2018.

4. Recommendations

The Home Office should:

1. Maintain a list of ‘business as usual’ collaborations between Borders, Immigration and Citizenship System (BICS) directorates and business areas and other government departments and agencies, with a brief description of their purpose and contact details for the BICS “owner” and publish this on the Home Office intranet as an aid to other potential users.
2. Develop a standard methodology for managing ‘business as usual’ collaborations and specific Operations and Projects involving Borders, Immigration and Citizenship System (BICS) directorates and business areas and other government departments and agencies that includes, as a minimum:
 - a. a signed Memorandum of Understanding (MoU), or similar, that covers all aspects of the collaboration, including its legal basis, and sets out what both (all) parties are seeking to achieve from it
 - b. how the parties intend to work with one another, including the scope (and limitations) of any data-sharing, how data accuracy will be assured, process maps, Standard Operating Procedures (SOPs), staff guidance
 - c. nominated senior owners for both (all) parties, responsible for identifying and resolving any issues and managing risks, including to the resourcing of the work required to maintain the collaboration
 - d. a communication strategy, at management and at working level, including feedback mechanisms, meetings/dial-ins, intranet updates
 - e. performance measures, supported by the routine collection of data and evidence – the measures need to be capable of demonstrating not only that the collaboration is meeting its objectives, but that where data is being shared this is proportionate and necessary
 - f. regular joint reviews, with agreed improvement plans.
3. Appoint a Senior Responsible Officer (SRO) to oversee all collaborations between Borders, Immigration and Citizenship System (BICS) directorates and business areas and other government departments and agencies (OGDs), and a brief to develop a strategy to improve the efficiency and effectiveness of BICS across all its functions (not just those linked to the compliant environment agenda) and to support OGDs to do the same.

5. Background

Inter-departmental collaboration

- 5.1 The functions of government departments or agencies often connect, and inter-departmental collaborations are common-place. In some instances, a department is reliant on another to deliver its objectives, for example Border Force anti-smuggling activities form a key part of Her Majesty's Revenue and Customs' (HMRC) anti-fraud strategies.
- 5.2 Inter-departmental collaborations take many forms. The Border Force relationship with HMRC is by necessity close as they share responsibility for delivery of the UK customs functions. Each has specific statutory responsibilities, requiring them to collaborate closely. The Director General of Border Force holds the position of Director of Border Revenue, responsible for the collection of duties and taxes from passengers, and the prevention of the smuggling of goods where duties and taxes have not been paid. At the other end of the spectrum, some collaborations are informal, person-to-person, and operate with limited or no departmental knowledge or oversight.
- 5.3 Data sharing and matching is the cornerstone of inter-departmental collaboration. A public body's powers to share data may be set out expressly in statute, may be implied from a body's other statutory powers or functions, or in the case of a government department headed by a Minister of the Crown may derive from the latter's common law powers to do whatever a natural person may do, although this may be restricted by confidentiality rights or agreements.¹⁵

Home Office collaborations before the 2014 Immigration Act

- 5.4 Since 2013, collaborations between the Borders, Immigration and Citizenship System (BICS) functions of the Home Office and other government departments (OGDs) have for the most part been characterised as serving the government's 'hostile environment' agenda.¹⁶ While the latter may have brought a greater degree of structure and formality to collaborative working, a number of these collaborations had been in place for some time, many of them reliant on local agreements between individuals who saw mutual benefits in working together.
- 5.5 In some cases, there was interest at departmental level in exploring the potential for closer collaboration. For example, in 2010 the Home Office and the Department of Health (DoH), who shared a long-standing concern about 'health tourism', agreed to run a public consultation, 'Refusing entry or stay to NHS debtors', regarding proposed changes to the Immigration Rules and associated administrative arrangements. The responses contributed to legislative changes and informed the current NHS debtor reporting scheme.¹⁷

¹⁵ <https://www.gov.uk/government/publications/identity-document-validation-technology/supplementary-guidance-public-sector-data-sharing-for-prevention-and-detection-of-crime>
<https://www.gov.uk/government/organisations/home-office/about/personal-information-charter>
<https://www.gov.uk/government/publications/personal-information-use-in-borders-immigration-and-citizenship>

¹⁶ Since re-named the 'compliant environment' by the Home Office. At the factually accuracy stage, the Home Office commented that "BICS also works in partnership with OGDs in many other areas, particularly at the border" which is "one of BICS' largest joint working environments".

¹⁷ The public consultation, which posed 12 questions, ran from 26 February to 30 June 2010.

5.6 Also, in January 2012, preceding the then Home Secretary's first reported statement about creating 'a hostile environment' by several months, the Home Office and Department for Work and Pensions (DWP) signed an 'umbrella' data-sharing agreement, recognising their common interest in benefits claimants who were not entitled to make claims by virtue of their immigration status.

The 2014 and 2016 Immigration Acts – creating a 'hostile environment'

5.7 The 2014 and 2016 Immigration Acts brought in a range of measures intended to deny access to benefits and services to individuals who were in the UK without valid leave. The measures relied explicitly on collaboration between the Home Office and a broad range of government departments and agencies, together with other 'bodies', including employers and landlords.

5.8 The then Home Secretary's aim to create "a really hostile environment for illegal migration" was reported in a newspaper interview in May 2012.¹⁸ The coalition government created the 'Hostile Environment Working Group' in the same year. This was later renamed the 'Inter-Ministerial Group on Migrants' Access to Benefits and Public Services' and involved 12 government departments. As at March 2013, the membership comprised:

- Minister of State for Immigration
- Minister of State for Care Services
- Minister of State for Employment
- Minister of State for Government Policy
- Exchequer Secretary to the Treasury
- Minister of State for Housing and Local Government
- Minister of State for Schools
- Minister of State for Foreign and Commonwealth Affairs
- Minister of State for Universities and Science
- Minister of State for Justice
- Parliamentary Under-Secretary of State for Health
- Parliamentary Under-Secretary of State for Transport

5.9 The Group drew up proposals to limit access by illegal migrants to employment, benefits and public and private sector services, and also to reduce and restrict rights of appeal against Home Office immigration decisions.

5.10 In a speech given on 25 March 2013, the then Prime Minister referred to the relationship between maintaining effective immigration control and restricting migrant access to benefits and services and argued that controlling immigration was a cross-government issue.

"Controlling immigration has been a job for the Home Office, but the reality is you can't control immigration if you have a welfare system that takes no account of who it's paying out to. You can't control immigration if you have a healthcare system that takes no account of the people using it. And you can't control immigration if you have a housing policy that doesn't take account of how long people have lived and contributed to a local area."¹⁹

¹⁸ The Telegraph, 25 May 2012.

¹⁹ <https://www.gov.uk/government/speeches/david-camerons-immigration-speech>

5.11 Most of the Group’s proposals became law in the Immigration Act 2014. This made it:

“more difficult for illegal immigrants to live in the UK by:

- requiring private landlords to check the immigration status of their tenants, to prevent those with no right to live in the UK from accessing private rented housing;
- making it easier for the Home Office to recover unpaid civil penalties;
- prohibiting banks from opening current accounts for migrants identified as being in the UK unlawfully, by requiring banks to check against a database of known immigration offenders before opening accounts;
- introducing new powers to check driving licence applicants’ immigration status before issuing a licence and revoking licences where immigrants are found to have overstayed in the UK.”²⁰

5.12 For the most part, the Immigration Act 2016 strengthened and extended the measures introduced by the 2014 Act, particularly those reliant on non-governmental actors. For example, individuals identified by the Home Office as in the UK without leave were not only prevented from opening a bank or building society account but were now also prevented from continuing to operate an existing account. In the case of residential tenancies, the 2016 Act created a criminal offence of knowingly leasing a property to a disqualified person, with a maximum sentence of 5 years’ imprisonment, or fine, or both. It also introduced greater penalties for anyone employing a migrant who did not have the right to work.

Immigration Implementation Taskforce

5.13 In June 2015, the Prime Minister announced the creation of an Immigration Implementation Taskforce (IITF), which he would chair. It was designed to hold every part of government to account for playing its part in a “relentless drive to properly control immigration”²¹ and was one of 10 new taskforces set up to oversee the delivery of government policies in key areas.

5.14 The initial Terms of Reference for the Taskforce focused on controlling immigration from the EU “through reforming welfare rules and reducing reliance on migrant labour.” The Terms of Reference were later revised, and at the time of this inspection they were “To deliver annual net migration in the tens of thousands, by: implementing domestic measures to control migration; ensuring an efficient and targeted visa system; and making it harder for illegal immigrants to stay in the country.”²²

5.15 Inspectors were told that the Taskforce had met on 9 June 2015, 7 July 2015, 26 January 2016, 16 November 2016, 1 February 2017 and 13 September 2017. As at August 2018, its last meeting had been on 29 March 2018, when the membership comprised:

- Chancellor of the Duchy of Lancaster and Minister for the Cabinet Office (Chair)
- Secretary of State for the Home Department and Minister for Women and Equalities
- Chancellor of the Exchequer
- Secretary of State for Foreign and Commonwealth Affairs

²⁰ 2014 Immigration Bill: Factsheet, published on the gov.uk website.

²¹ The Independent, 21 May 2015.

²² <https://www.gov.uk/government/speeches/cabinet-committees-and-implementation-taskforces-membership-list>

- Lord Chancellor, Secretary of State for Justice
- Secretary of State for Education
- Secretary of State for Exiting the European Union
- Secretary of State for International Trade
- Secretary of State for Business, Energy and Industrial Strategy
- Secretary of State for Health and Social Care
- Secretary of State for Work and Pensions
- Secretary of State for Housing, Communities and Local Government
- Minister of State for Immigration
- Parliamentary Secretary at the Cabinet Office

5.16 The Cabinet Office informed inspectors that:

“The purpose of the IITF is to support cross-government co-ordination and implementation of the Government’s immigration policy, as well as working to develop policy in some areas. The IITF maintains oversight of a broad programme of work across the whole of government, tracking progress and intervening to progress issues where needed. In fulfilling this role, the group of ministers who make up membership of the IITF are supported by officials in the Cabinet Office. The secretariat manage the work programme, recommend areas of focus to the IITF, commission work from a variety of departments and support cross-government working to implement actions agreed by the IITF as a whole.”

5.17 Since the involvement of the IITF was not apparent in any of the evidence provided by the Home Office for this inspection, inspectors asked to see the minutes of the IITF in order to understand the extent of its oversight, where it had intervened to progress issues, its areas of focus and any work that it had commissioned. The Cabinet Office responded that:

“As a matter of principle, the minutes of Cabinet Committees and Implementation Taskforces are not released. As set out in the Cabinet Manual, there is always a strong argument that the proceedings of Cabinet and its Committees should remain private given the need to maintain the ability of ministers to debate and develop policy freely in those meetings and to protect the principle of collective responsibility. The Ministerial Code states that the principle of collective responsibility ‘requires that the privacy of opinions expressed in the Cabinet and Ministerial Committees, including in correspondence, should be maintained’.

While Implementation Taskforces do not take collective decisions directly, they play a central role in developing policy and preparing ground for those decisions. As such, the proceedings of Implementation Taskforces are treated in the same manner as Cabinet Committees.”

Home Office Interventions and Sanctions Directorate (ISD)

5.18 In June 2013, the Home Office created the Interventions and Sanctions Directorate (ISD), within Immigration Enforcement (IE). ISD’s purpose was to enforce the ‘hostile environment’ at the operational level “through a series of legislative and non-legislative measures, built upon a framework of compliance, deterrence and data-sharing.” In this way, it would:

- discourage prospective illegal migrants
- make it difficult for illegal migrants to live and work in the UK
- incentivise voluntary departures or regularisation of stay
- deter legal migrants from breaching conditions of leave²³

5.19 ISD “forges new, and develops existing, strategic partnerships across the public and private sector – including the banking sector, construction and core credit reference agencies.” Its 2017-18 Business Plan noted that “For the compliant environment to be truly effective a cross-Government approach is needed, along with sustained and tangible engagement from a range of other public and private sector partners.”²⁴

5.20 According to ISD, it works with its partners to “increase their awareness of their obligations, and to provide them with the necessary guidance, training and support to enable them to fulfil their duties”, and much of its work involves the management of various data exchanges with other government departments, agencies and other parties.

“Deepening” the compliant environment

5.21 The BICS Policy and Strategy Group (PSG)²⁵ Business Plan 2017-2021 records one of BICS’ key missions as ‘to reduce the illegal population’. One of the work-streams for achieving this is headed ‘Deepen the Compliant Environment’,²⁶ which has the following objectives:

- “Implement legislation. Complete the roll out of the Immigration Act 2014 and Immigration Act 2016 measures, including right to rent checks and related landlord powers, alcohol licensing, powers to close bank accounts, driving search and seizure and offence measures, asylum support measures.
- Deliver effective immigration status checks. Support employers and service providers in undertaking checks through delivering digital checking services, engaging with employer groups and promoting data sharing. Extend Biometric Residence Permit/National Insurance Number alignment to new work-enabled categories.
- Broaden work across Government to reduce opportunities to live in the UK illegally. Develop a cross-Government approach to prevent illegal migrants remitting money overseas through money service businesses. Continue joint work with the Department of Health (DoH) to better regulate access to the National Health Service, including reviewing the immigration health surcharge levels in the light of evidence for change submitted by the DoH. Action to exclude illegal migrants from the electoral roll.”

Current cross-government collaborations

5.22 For this inspection, inspectors asked the Home Office for a list of the work the Home Office was doing with OGDs. A senior manager from BICS PSG informed inspectors that there was no overall list. The closest the Home Office came to a central co-ordination point for such collaborations was the Data Sharing and Protocols Team.²⁷

²³ Interventions and Sanctions Directorate – internal Home Office guidance.

²⁴ ‘Interventions and Sanctions Directorate Business Plan 2017–2018’.

²⁵ The Border, Immigration and Citizenship System (BICS) is made up of Border Force, Her Majesty’s Passport Office, Immigration Enforcement, UK Visas and Immigration and BICS Policy and Strategy Group (PSG). BICS PSG provides the policy and strategic structure which underpins the rest of the system.

²⁶ ‘BICS Policy and Strategy Group Business Plan’ 2017-2021.

²⁷ Part of the Digital, Data and Technology Directorate, which is separate from BICS.

- 5.23 In the absence of an overall list, and having written to and received responses from seven government departments regarding the extent of their work with the Home Office, ICIBI decided to focus the inspection on four departments (HMRC, DWP, Department for Education (DfE), and Department for Health and Social Care (DHSC) where there were or had been collaborations, and to examine particular examples of both specific operations or projects and enduring ‘business as usual’ (BAU) processes.

Partnership working in relation to the UK’s exit from the European Union

- 5.24 The inspection did not focus on collaboration between the Home Office and OGDs in preparation for the UK’s exit from the EU. During the inspection, the Home Office was in the process of developing the EU citizens registration scheme. Under that scheme, the initial ‘private beta phase’ of which was launched on 28 August 2018, it was looking to HMRC and DWP to share specified data they held (employment, tax, and benefits records, for example) that could help confirm an applicant’s history of continuous residence in the UK, with the aim of reducing the burden on individuals of having to produce evidence that was already known to a government department.
- 5.25 This has involved the trialling of Application Program Interface (API) technology, designed to enable the databases of participating departments to be searched directly by the Home Office for agreed items of data. For the Home Office and OGDs, the advantages of API are speed and security. Data is accessed in real-time, and there is no need for separate spreadsheets, batch processes or bulk transfers. For applicants, the process should be easier and more efficient. For both, subject to the accuracy of the data that is held, decisions should be better-informed and outcomes more dependable.

Status Checking Project

- 5.26 BICS management told inspectors that their longer-term ambition was to combine multiple APIs to establish a system that obtains and shares an individual’s immigration status in real time with authorised users, providing proof of entitlement to a range of public and private services, such as work, rented accommodation, healthcare and benefits. The work is being taken forward by the Home Office’s Digital, Data and Technology (DDaT) directorate and is known internally as the ‘Status Checking’ Project.
- 5.27 The first such service, a digital ‘Right to Work’ status check, enables Biometric Residence Permit (BRP) holders to check their own right to work status and share it securely with an employer. This was trialled with 23 employers. It went live in early April 2018. The ‘Right to Work’ status check service was intended to provide ‘proof of concept’. Future services will use the same technology, for example to enable:
- landlords to check a potential tenant’s right to rent property in the UK
 - law enforcement officers to check an individual’s right to hold a UK driving licence

Stakeholder contributions

- 5.28 As well as engaging directly with its established stakeholders, the ICIBI called via its website for written evidence from anyone with first-hand experience of Home Office collaborative working with the four departments in scope. Some responses referred to collaboration with DfE, but most were about data sharing between the Home Office and the DHSC.

- 5.29 Stakeholders were concerned about data being shared about NHS debtors. They raised the following issues:
- this actively deterred vulnerable people from accessing essential healthcare because of fears of immigration enforcement action – one NGO reported that, in 2017, 96 people had told it that one of the reasons they had not made use of an NHS service was fear they would be reported to the Home Office or arrested
 - there was a lack of clarity about
 - whether patients were properly informed that their outstanding healthcare bills are recorded – one stakeholder suggested that NHS frontline staff were not aware of the data-sharing agreement, which meant individuals were not informed that their data might be used for immigration enforcement purposes²⁸
 - which parts of the NHS recorded such data
 - accountability for the accuracy of the data
 - how patients could get their records changed if they were inaccurate
 - the lack of an independent advocacy or complaints service to assist patients who felt they had been wrongly charged or had their immigration status inaccurately recorded
- 5.30 Stakeholders’ concerns that data sharing acted as a deterrent to seeking necessary medical care echoed contributions to the 2010 public consultation on proposed changes to the Immigration Rules to refuse entry or stay to NHS debtors.²⁹
- 5.31 One stakeholder pointed out that although DHSC guidance consistently states: “Do not disclose any medical information”, and ministers had said that it was only patient data and not patient records that were being shared, its partners reported that IE staff had questioned patients about their debts. The stakeholder was concerned that, when that happens, the patient could be compelled to disclose sensitive health details. Another stakeholder pointed out that the law³⁰ required that patients should be clearly informed that their debts have been recorded. The stakeholder argued that this needed to be assured in every case.³¹

Home Office – NHS Digital data-sharing Memorandum of Understanding

- 5.32 In January 2017, the Home Office and NHS Digital implemented a Memorandum of Understanding (MoU) covering the provision of non-medical NHS patient data to the Home Office for immigration purposes. This sought to formalise existing practices. The sharing of NHS debtor data was not covered by this MoU.

28 At the factual accuracy stage, the Home Office commented that it was more accurate to refer to “immigration purposes” rather than “immigration enforcement purposes” as the data is used by Border Force and UKVI as well as IE.

29 In September 2018, Maternity Action published ‘What price safe motherhood? – Charging for NHS maternity care in England and its impact on migrant women’, in which it argued that charging meant that pregnant women were delaying or avoiding care, risking their health and that of their babies, and that charging for NHS maternity care should be immediately suspended.

30 (W, X, Y and Z, R (on the application of) v The Secretary of State for Health & Ors [2015] EWCA Civ 1034 (14 October 2015).

31 At the factual accuracy stage, the Home Office commented “the Home Office’s data sharing agreements with NHS on debtors have been challenged throughout the courts system, and found to be lawful by the Supreme Court”.

- 5.33 The MoU was renewed in December 2017.³² In announcing its renewal, NHS Digital stated that it had agreed with the Home Office jointly to commission “a formal audit of the operations and governance of data-sharing activities” the findings of which it would make public.³³
- 5.34 The MoU was heavily criticised by the Health and Social Care Select Committee. In its March 2018 report,³⁴ the Committee noted that “Concerns about the practices enshrined in the MoU included... the knowledge that information may be passed to immigration authorities could deter people from seeking treatment, resulting in detriment to the individuals concerned, hazard to public health, and greater cost to the NHS due to more expensive emergency treatment needing to be administered later.”³⁵ Home Office and DHSC Ministers, and NHS Digital had earlier rejected the Committee’s request to suspend the MoU “and undertake a further and more thorough review of the consequences and wider implications of sharing addresses with the Home Office for immigration tracing purposes”.
- 5.35 On 9 May 2018, during the second reading of the Data Protection Bill, the Minister for Digital and the Creative Services, introduced a new clause on data sharing by health bodies. The Minister referred to the “significant and legitimate concerns” of the Health and Social Care Select Committee and stated that the aim [of “new Clause 12”] was “to narrow the MoU’s scope, so that it facilitates the exchange of personal data in cases involving serious criminality.” and that “with immediate effect, the data sharing arrangements between the Home Office and the NHS have been amended.”
- 5.36 The Minister told the House that:

“The bar for sharing data will now be set significantly higher....

... Henceforth the Home Office will only be able to use the Memorandum of Understanding to trace an individual who is being considered for deportation action having been convicted of a serious criminal offence,³⁶ or where their presence is considered non-conducive to the public good – for example, when they present a risk to public security but have yet to be convicted of a criminal offence.

My Right Hon. Friend the Minister for Immigration is committed to sending a copy of an updated MoU to the Health and Social Care Committee shortly, but as I have indicated. The significant narrowing of the MoU will have immediate effect....

... As now, the memorandum of understanding would also continue to operate when there are concerns about the welfare and safety of a missing individual – for example, vulnerable children and adults. That has always been the case.”³⁷

32 In January 2018, the CEO of NHS Digital responded to a request from the Health and Social Care Committee for a breakdown for 2017 of the numbers of Home Office requests for information that it had rejected either because it was not persuaded that “other reasonable and appropriate efforts to locate [the person sought had] failed” or that the person concerned was an immigration offender. It provided the following “indicative data” for November 2017 (randomly selected as “a proxy indicator for the year as a whole”): Total processed/responses - 623; Total rejected - 30; Total approved - traced - data provided - same address - 257; Total approved - traced - data provided - different address - 228; Total approved - traced - data provided – deceased - 1; No Trace - 107. <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/health-and-social-care-committee/memorandum-of-understanding-on-datasharing-between-nhs-digital-and-the-home-office/written/77664.html>

33 In September 2018, Home Office Internal Audit informed ICIBI that an audit of the operation of the NHS MoU had been included in its Audit Plan for 2018-19, and it had liaised with Government Internal Audit Agency colleagues in DHSC and NHS Digital with the aim of conducting co-ordinated reviews of processes in each department. At the time, Director General IE had been keen for Home Office compliance with the MoU to be reviewed as soon as possible. However, following the amendment of the MoU, and the small number of checks subsequently being submitted, the audit was removed from the 2018-19 Plan.

34 <https://publications.parliament.uk/pa/cm201719/cmselect/cmhealth/677/677.pdf>

35 The report noted that in 2014-15 of 8,910 tracing request made of NHS Digital’s National Back Office tracing service 3,501 (39%) had been for immigration purposes. In 2015-16, the number of immigration-related requests almost doubled, to 6,774, while percentage had risen to 55% (6,774 out of a total of 12,210 requests).

36 An offence that results in a minimum sentence of at least 12 months in prison.

37 Hansard, 9 May 2018.

‘Windrush’ and the suspension of bulk data sharing

- 5.37 The inspection did not examine the impact on the ‘Windrush generation’ of the Home Office’s collaborations with OGD, not wishing to pre-empt or duplicate the work of the Home Office’s ‘lessons learned’ review.³⁸
- 5.38 However, Windrush does point up some of the challenges of inter-departmental data sharing. It has been suggested that data sharing between the Home Office and OGDs, of the sort envisaged for the EU registration scheme, might have helped some Windrush individuals to prove their continuous residence in the UK, and that requiring people to produce comprehensive documentary evidence was both unnecessary and unfair if this information was already held by another department. At the same time, opposition to the government’s compliant environment measures, which rely to a large degree on data sharing and matching, and have been blamed for creating the conditions that led to Windrush, has questioned whether Home Office records are accurate enough to be shared.
- 5.39 While the Health and Social Care Committee’s opposition to the NHS Digital MoU pre-dated the raising of Windrush cases in Parliament in March 2018 and the subsequent resignation of the Home Secretary on 29 April 2018, the amendment to data-sharing arrangements between the Home Office and the NHS came later.
- 5.40 How much the decision to make this amendment was influenced by events is moot. However, ‘Windrush’ was raised in the House during the second reading of the Data Protection Bill on 9 May 2018 to challenge the government’s rejection of an Opposition amendment seeking to remove the exemption of data required to maintain “effective immigration control”. In response, the Minister for Digital and the Creative Services sought to reassure MPs that the provisions in the Bill relating to this were “not a blanket carve-out of a data subject’s rights” and that “The exemption will be applied only on a case-by-case basis and only where it is necessary and proportionate.”
- 5.41 Whatever effect ‘Windrush’ may have had on the NHS Digital MoU and the Data Protection Bill, it was directly responsible for the temporary restriction of other data-sharing agreements in place between OGDs and the Home Office, including OGDs that fell within the scope of this inspection.
- 5.42 On 10 July 2018, the Home Secretary wrote to the chair of the Home Affairs Committee with an update on the Home Office’s work in relation to ‘Windrush’. His letter announced:
- “We have paused pro-active data sharing with other government departments and delivery partners on data for all nationalities over 30 years old for a period of three months. This covers HMRC, DWP and the DVLA.”³⁹
- 5.43 This suspension was still in force at the time of writing (September 2018), and the Home Office had not set a date by which to review it. The Home Office has temporarily restricted proactive bulk data sharing where information is volunteered to another organisation for the purpose of ceasing employment, benefits or services, to ensure that information on persons over the age of 30 is not shared in order to avoid the possibility of Windrush generation migrants being impacted by this activity. Data sharing with the financial services sector under the Immigration Acts 2014 and 2016 has been further restricted to include only those under the age of 30 facing deportation for criminal offending. The Home Office continues to respond reactively to all status checks being conducted by employers, landlords, OGDs, the NHS, local authorities, and other public service providers, to enable them to fulfil their statutory duties to control migrants’ access to work, benefits and services and to prevent fraud.

³⁸ <https://www.gov.uk/government/publications/windrush-lessons-learned-review>

³⁹ Driver and Vehicle Licensing Agency (DVLA).

6. Inspection findings

Principles of efficient and effective partnerships

- 6.1 In order to be able to gauge the efficiency and effectiveness of the Home Office’s collaborations with other government departments and agencies (OGDs), inspectors reviewed a range of academic papers and business studies into the characteristics of successful partnerships. This revealed that there is no single, universally agreed list of fundamental principles.
- 6.2 Five sources were considered in more detail:
- The Harvard Business Review, ‘Collaborative Advantage: The Art of Alliances’ (1994)⁴⁰
 - Audit Scotland, ‘Review of Community Health Partnerships – Good Governance Principles for Partnership Working’ (2011)⁴¹
 - The College of Social Work, ‘Effective Partnership Working – Partnership Principles V1’ (2012)⁴²
 - The National College for Teaching and Leadership, ‘Effective Partnership Working’ (2014)⁴³
 - What Works Scotland – Evidence Review: ‘Partnership working across UK public services’ (2015)⁴⁴
- 6.3 Drawing on these studies, which explored a number of similar or overlapping elements of good partnership working, inspectors identified seven characteristics against which to review the Home Office’s collaborations with OGDs – see Figure 1.

Figure 1: Key characteristics of efficient and effective partnership working

Agreed objective(s)	Both (all) parties need to be clear from the outset about what each is seeking to achieve from their partnership – this might take the form of a joint ‘Statement of Intent’ or signed ‘Memorandum of Understanding (MoU)’, which covers all aspects of the partnership, including its legal basis (and limitations), where appropriate.
Defined process(es)	How the parties intend to work with one another may entail the creation of Standard Operating Procedures (SOPs), process maps, published guidance, points of contact, record keeping.
Strategic leadership	As well as ‘top level’ (ministerial/Home Office Board) sponsorship, partnerships need a senior owner who is accountable for steering the partnership, resolving any issues, and managing risks.

40 <https://hbr.org/1994/07/collaborative-advantage-the-art-of-alliances>

41 http://www.audit-scotland.gov.uk/docs/health/2011/nr_110602_chp_poster.pdf

42 https://www.basw.co.uk/system/files/resources/basw_115215-7_0.pdf

43 http://www.inspiringleaderstoday.com/ILTMaterials/LEVEL2_EPW-v4.0-2014_08_22-10_55/effective-partnership-working/epw2-s5/epw2-s5-t1.html

44 <http://whatworksscotland.ac.uk/wp-content/uploads/2015/12/WWS-Evidence-Review-Partnership-03-Dec-2015-.pdf>

Committed resources	Unless the work is properly and reliably resourced it is unlikely to be managed efficiently. This may require ensuring that resources are protected from competing departmental priorities.
Communication	Open and honest dialogue between the partners at all levels is important in establishing understanding, trust and effective working relationships, plus corporate communications highlighting the benefits of the partnership and encouraging maximum 'take up'.
Evaluation	The agreed objectives should include performance measures, which in turn will require data collection (typically covering volumes, response times, and quality assurance mechanisms)
Review and revision	Regular joint reviews ensure that both (all) partners are getting what they need from the partnership, and that, where this is not the case, revisions, refinements and improvements are timely.

Previous inspections

6.4 Inspectors also reviewed recent inspections where the Home Office's collaboration with an OGD featured, specifically:

- 'An inspection of the 'hostile environment' measures relating to driving licences and bank accounts', published in October 2016, which examined partnership working with the Driver and Vehicle Licensing Agency (DVLA), an executive agency sponsored by the Department for Transport (DfT), to implement measures created by the Immigration Act 2014.⁴⁵
- 'An inspection of how the Home Office considers the 'best interests' of unaccompanied asylum-seeking children', published in January 2018, which looked at how the Home Office worked with the Department for Education (DfE) to implement and improve the National Transfer Scheme (NTS).
- 'An inspection of the 'Right to Rent' scheme', published in March 2018, which touched on joint working and data sharing with Her Majesty's Revenue and Customs (HMRC) in relation to an operation targeted at individuals who were working illegally and living in Houses of Multiple Occupation (HMOs).⁴⁶
- 'An inspection of the Vulnerable Persons Resettlement Scheme', published in May 2018, which explored the Home Office's partnership with the Department for International Development (DFID) and the Ministry of Housing, Communities and Local Government (MHCLG), to deliver the government's target of 20,000 resettled refugees by May 2020, plus its interactions with the DWP in relation to their integration in the UK.

6.5 These earlier inspections provided pointers to what had worked in practice, as well as to where there was room for improvement in the way the Home Office had approached working with others.

Examples of BICS collaborations

6.6 Inspectors examined 11 examples of collaborations between the Home Office and four OGDs - the Department for Work and Pensions (DWP), Her Majesty's Revenue and Customs (HMRC), the Department for Education (DfE), and the Department of Health and Social Care (DHSC).

⁴⁵ The report also covered the Home Office's work with Cifas to enable banks and building societies to prevent individuals without leave to open a current account.

⁴⁶ Operation LARI.

The 11 examples covered the three operational Borders, Immigration and Citizenship (BICS) directorates: Border Force, Immigration Enforcement (IE), and UK Visas and Immigration (UKVI), and included specific operations or projects and ‘business as usual’ (BAU) collaborations.

BICS collaborations with DWP

- 6.7 The inspection examined three examples of collaborations between BICS and DWP: Project WALKS, involving IE; the recording of National Insurance Numbers (NINOs) on Biometric Residence Permits (BRPs),⁴⁷ involving UKVI, and ‘Accessed Public Funds’ checking, also involving UKVI.

Example 1: Project WALKS (IE and DWP joint project)

Background

- 6.8 Project WALKS ran between 20 June and 1 July 2016 at DWP’s Cityside office, one of four DWP offices in London where interviews of applicants for a NINO take place. NINOs are issued automatically to UK nationals, but foreign nationals who require a NINO for work, tax, pension and benefit purposes must apply for one. Applicants are required to attend an interview, and the Cityside office can conduct up to 700 such interviews a day.
- 6.9 Following the closure of the East of England Immigration Compliance and Enforcement (ICE) (Stansted) team in 2015, some IE officers were redeployed to the East London ICE team, though remained based at Stansted. This increased capacity enabled the ICE team senior manager to look for opportunities for collaborations with local contacts in OGDs. These included the DWP Senior Operations Manager at Cityside.

Agreed objectives

- 6.10 Discussion between the senior managers led them to recognise that DWP encountered people in whom IE might have an interest. They agreed that a 2-week collaborative ‘project’ would help them to assess how many of the NINO applicants interviewed by DWP were likely to be of interest to IE, and to align their processes better to identify people suspected of trying fraudulently to access the benefits ‘gateway’.
- 6.11 An operational briefing was produced, outlining how the project would be conducted. This described the objectives of ‘Project WALKS’ as:
- To be able to quantify the number of NINO applicants who may be of interest to IE, which will then allow for more informed consideration of whether greater focus (and resource) should be given by IE on such applicants and/or closer working with NINO Hubs is desirable.
 - To be available to DWP interviewing officers to provide advice on documentation and the immigration status of applicants and to identify any immigration offenders seeking to obtain a NINO.

⁴⁷ Inspectors had originally intended to examine verification by the Home Office of NINO applications, but discovered that this was not subject to routine collaboration.

Defined processes

- 6.12 IE officers based at Stansted were deployed to the DWP Cityside office to carry out checks on documents presented by NINo applicants and to assess the potential stream of intelligence from interviews of applicants. The officers were issued with tablets with access to the Home Office Case Information Database (CID)⁴⁸ and other Home Office databases, so they could conduct immigration status checks in real time.

Strategic leadership

- 6.13 Project WALKS was formally approved by the ICE team senior manager's line manager, a Grade 7, to whom the senior manager had advocated the benefits of multi-agency working and promoted the project as a scoping exercise. The Grade 7 authorised the ICE team senior manager to take the project forward. The senior manager was not aware of any interest from anyone in IE above his line manager.

Committed resources

- 6.14 The IE officers allocated to Project WALKS were clear that they would be based at Cityside for the duration of the project. Since they all came under the overall management of the ICE team senior manager there was no risk that they would be diverted to other duties.

Communication

- 6.15 The IE officers were briefed by the senior manager before they were deployed. They told inspectors that he had explained the background to the project, saying that a potential intelligence stream existed within the DWP and the project was an attempt to determine whether IE could tap into it. They understood that they were to carry out document checks and assess the intelligence stream.
- 6.16 The officers did not experience any obstacles or resistance from DWP staff, although the latter were initially unsure why the IE officers were there. This was despite the fact that the IE officers had been briefed that: "DWP interviewing officers will have been informed that we will be there and why, and that they can approach the IOs⁴⁹ directly for advice, or to refer something they think is of interest to us."

Evaluation

- 6.17 It transpired that most of the applicants interviewed by DWP were EU nationals, and although IE officers sat with DWP front-desk staff during interviews they were unable to add any value to the questioning.
- 6.18 The IE officers also soon realised that their forged document detection skills were largely redundant because DWP staff at Cityside were well-versed in identifying forgeries, and DWP also had a forgery team in Glasgow to which suspicious documents could be referred, if required.
- 6.19 No quantitative performance measures were set for Project WALKS. However, over the course of the project, 503 cases were referred to IE officers by DWP staff. Of these, 15 were of interest to IE:

⁴⁸ Case Information Database (CID) is the Home Office's in-country caseworking and operational database. It is used throughout the Home Office in-country immigration system to record personal details of foreign nationals who pass through the immigration system in-country.

⁴⁹ Immigration Officers.

- 4 false Italian ID cards
- 1 suspected immigration facilitator
- 5 likely immigration offenders
- 5 suspected 'sham' marriages

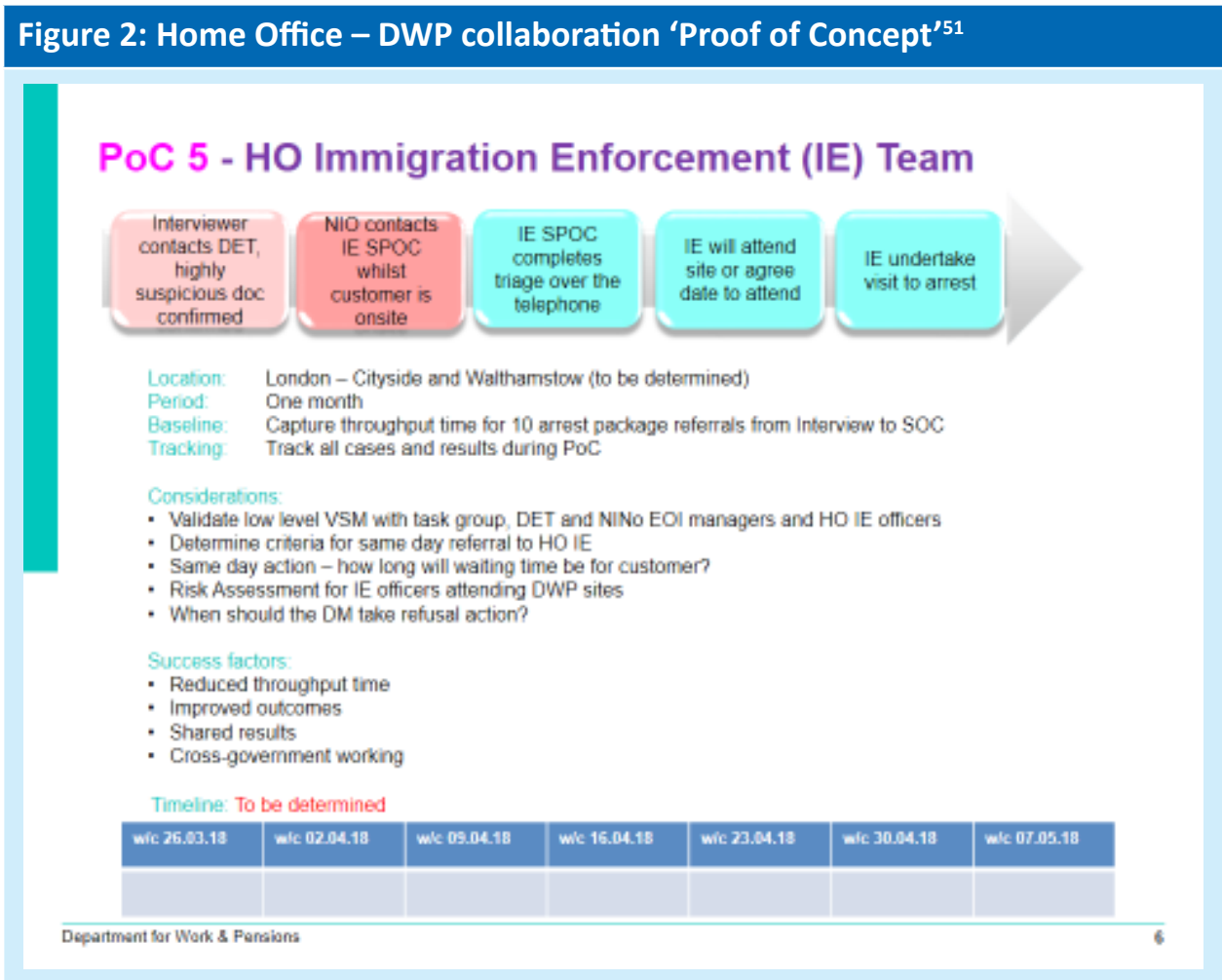
- 6.20 IE officers were surprised to discover that DWP did not have a 'Prosecution Officer' onsite at Cityside. When DWP staff identified forged documents they were not empowered to seize them. If they had concerns about an application or the documents submitted with it they could report them to the DWP's National Integrity Unit (NIU) to investigate further. This included concerns not just about an applicant's identity, but also about benefit fraud, 'sham' employment, 'sham' marriage and human trafficking. Such concerns could lead to an intelligence referral to the Home Office.
- 6.21 If a supporting document was found not to be genuine, the case would be referred to one of DWP's prosecution teams, who would call the applicant in for a further interview, which might result in an arrest and prosecution.
- 6.22 The ICE team senior manager informed DWP about Home Office powers to confiscate documents. Inspectors were told that this led directly to DWP revisiting their own legislative powers, revising their processes and instructing their staff to seize suspected fraudulent documents at the first encounter with them. A DWP National NINo Operations Manager told inspectors that this had been the principal outcome from Project WALKS.
- 6.23 The IE officers deployed to the Cityside office were involved in evaluating the project. They had not seen any immediate benefits and believed their work could have been done remotely, and that the cases uncovered would have been picked up whether or not they had been at the Cityside office. Some of these cases were handed on to other ICE teams to follow up, as the applicant was living outside East London ICE team's catchment area. More positively, the IE officers had formed working relationships with DWP staff, and after Project WALKS had concluded the latter would regularly contact one of the IE officers. However, the IE officer was not empowered to share data with them and had to direct them to submit an enquiry to Status Verification, Enquiries and Checking.⁵⁰ The officer felt this did not leave DWP with a very good impression of IE.
- 6.24 In May 2018, National NINo Operations management told inspectors that no NINo application verification work was being done with the Home Office on a daily basis, so there was currently no requirement to contact IE regularly. The Cityside team did not have a formal process for contacting the Home Office. All enquiries were routed through their colleagues in Glasgow. However, inspectors were also told that DWP recognised the need to share intelligence with the Home Office and was "working on it".

Review and revision

- 6.25 According to IE, a meeting at the end of Project WALKS between IE officers and DWP investigators had not gone well. The DWP investigators appeared to interpret the project as a threat to their role. This had caused IE to question whether DWP could "see the bigger picture" in relation to collaboration on NINo applications.

⁵⁰ Previously the Evidence and Enquiries Unit .

- 6.26 A project report submitted by the ICE team senior manager in August 2016 initially received little interest. DWP National NINO Operations management told inspectors that it had been for the Home Office to take the lead on project follow-up work. However, the ICE team senior manager had had to deal with other priorities and had not been able to give this much attention.
- 6.27 In 2017, new management at DWP wanted to explore what could be done, with IE’s assistance, to protect the “gateway” to benefits, and this led to a review of the Project WALKS report. Based on its recommendations, the two departments developed a ‘Proof of Concept’ (PoC) for future collaboration in relation to fraudulent NINO applicants – see Figure 2.



- 6.28 The PoC envisaged IE officers arresting applicants with forged documents at their first encounter with DWP. A National NINO Operations Manager said that its advantage was speed; it would take longer for DWP’s prosecution team to arrest such individuals. At the time of this inspection, IE and DWP were still in discussion about exactly how this would work, but there had been some delays after the senior member of the DWP prosecution team who had been leading on this had moved to another post.

51 Slide supplied by DWP.

Example 2: Recording NINOs on Biometric Residence Permits (BRPs) (UKVI and DWP BAU)

Background

- 6.29 UKVI's Immigration Checking and Enquiry Service began recording NINOs on Biometric Residence Permits (BRPs) in April 2015. Ministers had agreed that the scheme should initially apply to individuals granted leave as Tier 2 migrants.⁵² In June 2017, the scheme was extended to individuals granted refugee status, and was rolled-out for them on 15 January 2018. Within the Home Office, the scheme is known as 'NINO Alignment'.
- 6.30 The NINO Alignment scheme originated from a tripartite board comprising the Home Office, DWP and HMRC. The UKVI manager responsible for running the scheme at the time of the inspection believed it may have come about because of a push by the former Prime Minister (David Cameron) for greater cross-governmental working. As of March 2018, 2,700 BRPs had been issued with the NINO recorded on the reverse.

Agreed objectives

- 6.31 DWP management described the aim of the scheme as improved customer service, since it meant individuals who had applied and been interviewed by the Home Office for a BRP did not have to apply separately for a NINO and be interviewed again by DWP. It was recognised that the tests the DWP required a refugee to meet to claim benefits were already demonstrated by them being in receipt of asylum support.
- 6.32 An internal Home Office presentation⁵³ listed further benefits, including:
- it enabled the Home Office, DWP and HMRC to tackle illegal working
 - it meant that employers had to check just one document (a 'one stop shop')
 - it stopped possession of a NINO from being regarded as a 'right to work'
 - it improved the transition from Asylum Support to DWP benefits – see Figure 3

Figure 3: Aims of the Post-grant Appointments Service for Refugees

To ensure that:

- those eligible are in receipt of DWP benefits by the time the financial support that they receive from UKVI comes to an end
- transitioning to DWP/HMRC benefits at the earliest opportunity provides continuity between these two provisions
- applications for those benefits applications are dealt with through the DWP's established "vulnerable persons' process" and can be assessed and paid promptly
- a streamlined process is in place so that payments are ready at the end of the '28-day grace period'.⁵⁴

⁵² Tier 2 is a category of leave for migrants offered a skilled job in the UK.

⁵³ Home Office presentation (internal) 'NINO Alignment – Expansion to the world of asylum'.

⁵⁴ Applicants who are granted Asylum, Humanitarian Protection or Discretionary Leave are not eligible to receive asylum support after the 28-day grace period (from the time the decision is notified to them) has come to an end. (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/460419/Ceasing_asylum_support_v12.pdf)

Defined processes

- 6.33 The process is covered by a Memorandum of Understanding (MoU) agreed between UKVI and DWP, the latest version of which was signed in May 2018. For Tier 2 migrants the process is as follows:
- UKVI grants a Tier 2 visa and records this on the Casework Information Database (CID)
 - each day the grants recorded on CID are sent to DWP
 - this includes the NINo where the applicant has indicated in their application that they already have one
 - DWP checks the CID particulars against its own records, and sends a spreadsheet back to UKVI
 - confirming where the NINo supplied by the applicant matches DWP records (using bulk data matching, which normally takes 24 hours)
 - (where the applicant has not supplied a NINo) noting where DWP records show that they have already been allocated a NINo
 - assigning a NINo (where there is no record of the applicant already having been allocated one)
 - the Home Office prints a BRP with the NINo on the reverse and issues it to the applicant
 - where DWP tracing produces a ‘partial match’, for example because a name is common or the date of birth differs, it should contact the Home Office for further information to try to resolve this.
- 6.34 In January 2012, the Home Office and DWP agreed an ‘umbrella’ data-sharing MoU. The Service Level Agreement (SLA) timescales for data checking in support of the scheme are drawn from this umbrella agreement. DWP has 5 days to trace and assign NINos for Tier 2 migrants, and 48 hours for ‘vulnerable individuals’ (i.e. refugees).

Strategic leadership

- 6.35 In May 2018, the UKVI manager responsible for the scheme told inspectors that digital data sharing was of continuing interest to Home Office top management and ministers.

Committed resources

- 6.36 The scheme had become BAU for both departments and was resourced as such. In practice, the scheme represented an efficiency saving for DWP, since it had to carry out fewer interviews of NINo applicants.

Communication

- 6.37 The Immigration Checking and Enquiry Service described its relationship with DWP as “good”. The departments hold weekly dial-in meetings to discuss any difficulties. No major obstacles had arisen to date.
- 6.38 Within the Home Office there had initially been some “resistance” to rolling the scheme out to refugees, but this had been overcome once the Immigration Checking and Enquiry Service had given presentations to the casework teams affected.

Evaluation

- 6.39 Inspectors were told that prior to launching the scheme, the Home Office had run a pilot to find out how much an automated process of recording NINOs on BRPs would cost. This had identified potential efficiency savings of almost £300k per annum. However, the UKVI manager responsible for the scheme was not sure when there would be an overall evaluation of the scheme “since it had no fixed end date”.
- 6.40 DWP management agreed that the system had delivered benefits for DWP. For example, the Home Office’s electronic confirmation of the immigration status of NINO applicants ensured that DWP had less work to do (fewer background checks) to process first benefit claims and did not have to work through paper claims, so it was able to redeploy staff. However, the benefits had not been quantified as yet.
- 6.41 In terms of the process, DWP had no issues with the way the Home Office shared its data and was able to turn most cases around within 48 hours, with less than 1% going over the 5-day SLA. According to DWP, about 30% of the cases referred by UKVI already had a NINO.

Review and revision

- 6.42 The Home Office and DWP had made some adjustments to the process on the basis of lessons learned from the initial roll-out.
- 6.43 The UKVI manager told inspectors he felt the scheme had given the DWP the appetite to do more work with the Home Office. He was not sure why it had not been instigated earlier, but suggested it was because the technology had not been available. DWP management thought that collaboration between the two departments on the resettlement of Syrian Refugees had served to forge closer working ties and more communication.⁵⁵
- 6.44 The process had not been affected by the suspension of proactive data sharing in April 2018. Speaking to inspectors in May 2018, the UKVI manager said that the departments were hoping in due course to roll the scheme out further to Northern Ireland and to out-of-country Tier 2 dependants. Meanwhile, the Home Office was employing the same digital tools with DWP to confirm the immigration status of NINO applicants affected by the UK’s planned exit from the European Union.

Example 3: ‘Accessed Public Funds’ checking (UKVI and DWP BAU)

Background

- 6.45 The DWP’s National Disclosure Unit (NDU), part of its Counter Fraud and Compliance Directorate, receives around 7,500 requests a month from OGDs and others to check DWP records. Approximately 1,200 of these are received from over 100 Home Office users.⁵⁶ Inspectors were told that the majority of the 1,200 are requests from IE teams attempting to locate absconders.⁵⁷

⁵⁵ ‘An Inspection of the Vulnerable Persons Resettlement Scheme (August 2017 – January 2018)’, published in May 2018.

⁵⁶ The evidence supplied to inspectors identified 117 Home Office email addresses from which information from DWP had been requested.

⁵⁷ Home Office guidance defines an absconder as an individual who ‘breaches one or more of the conditions imposed as a condition of Temporary Admission (Temporary Release), bail or release on a restriction order served to them on the appropriate notice and, in all cases, whose whereabouts are unknown and all mandatory procedures to re-establish contact with the migrant have failed.’

- 6.46 UKVI also runs checks with DWP against migrants who have made an application for leave to remain in the UK, in order to establish whether the applicant has accessed public funds while here. DWP can confirm whether benefits have been paid, and if so on what basis.
- 6.47 The inspection team spoke to managers from the Migrant Casework and Sponsorship Casework teams, both part of the UKVI's Visas and Citizenship business area based in Sheffield. Inspectors also interviewed a manager from DWP's NDU.
- 6.48 The manager from Migrant Casework did not know how long this BAU arrangement with the DWP had existed or how it had begun, but the Sponsorship Casework manager told inspectors that collaboration with the DWP had been "in place since 1992", recalling that in the past (the early 2000s) liaison with DWP had been much easier. Immigration Service⁵⁸ staff would simply call up a DWP colleague with whom they had formed a working relationship. Now, UKVI staff had to go through a call centre or use a generic inbox to request information. "The human element had disappeared."
- 6.49 The NDU manager confirmed that "12 years ago" collaboration with the Home Office had been based on local arrangements and people knowing each other. Relationships were now more formal and structured. From the DWP perspective, the collaboration with the Home Office over Accessed Public Funds checks had become more organised since the creation of the Counter Fraud and Compliance Directorate around the end of 2016.

Agreed Objectives

- 6.50 The Migrant Casework team makes more DWP requests (for information about individuals with Tier 2 visas) than Sponsorship Casework, but in both cases the numbers are small.
- 6.51 Typically, the Migrant Casework team is looking to discover:
- if an applicant who has declared never to have been in receipt of benefits has claimed benefits while at a specific address
 - why an applicant who has declared never to have been in receipt of benefits has benefits payments recorded on their bank statements
 - whether an applicant who has declared that they have received benefits was entitled to claim them.
- 6.52 Sponsorship Casework receives around 120 applications a week from new employers or sponsors seeking to become licensed but sends only 1 or 2 information requests a month through to DWP.

Defined processes

- 6.53 Requests are made by filling in a template ('Form 1000'). DWP first developed the 'Request to Department for Work and Pensions for information under Section 29(3) of the Data Protection Act 1998' form in consultation with the Metropolitan Police. At the time of the inspection, two versions of the form were in use, one for OGDs, including the Home Office, and another for police forces. The form is designed to enable DWP to input the database searches easily.

⁵⁸ The UK Immigration Service was disbanded in 2007.

- 6.54 NDU has a team of 17 Executive Officer-grade Disclosure Officers who process and respond to the requests from OGDs and other agencies. The DPU manager told inspectors that DWP worked to a 5-day SLA for responses, which was set out in an MoU owned by the DWP's data-sharing team. The manager believed that the MoU was "quite old" and "probably still referred to the Immigration Service".
- 6.55 The Migrant Casework manager was not sure of the agreed timescales for responses but explained that there was a process for chasing up the information if it was required urgently.

Strategic leadership

- 6.56 The checking of DWP records for Accessed Public Funds appeared to function efficiently and effectively at a working level. The umbrella data-sharing MoU agreed by the two departments notwithstanding, inspectors did not find any evidence of more senior level interest either from the Home Office or DWP in relation to how this particular collaboration was working. The process was not affected by the suspension of proactive data sharing in April 2018. The Home Office informed inspectors that:

"Suspension has not affected our ability to respond to status enquiries from DWP, HMRC and local authorities where doubts have arisen about a migrant's entitlement to benefits, child benefit or tax credits, or social housing. A reactive status check is designed to assist the OGD to make a decision within its legal framework where there is a requirement to confirm a person's immigration status. Where the checks concern someone with a Windrush profile, we have liaised with the OGD to connect the subject to the [Windrush] Taskforce so their status can be addressed."

Committed resources

- 6.57 Migrant Casework and Sponsorship Casework treat the information requests as BAU, and there are too few requests for it to impact on their staff resources. Meanwhile, DWP told inspectors that response times to requests for information (from all parties) could be affected, though not significantly, if 2 or 3 of DPU's 17 EO Disclosure Officers were off at the same time.

Communication

- 6.58 DWP's EO Disclosure Officers were in constant contact with their Home Office counterparts. Where problems arose, such as with the volume of requests or duplicate requests, these were discussed. If problems required escalating, the NDU manager had a contact at the Home Office ("2MS").
- 6.59 The Sponsorship Casework manager described the relationship with DWP as "in good shape". The Migrant Casework manager agreed, as did the NDU manager. However, face-to-face contact had reduced. Previously, DWP had attended meetings in Sheffield, but resources no longer permitted this. DWP Disclosure Officers also used to visit Home Office units in the past, but that had not happened for about two years. In turn, the NDU did not receive many visits from Home Office staff.

Evaluation

- 6.60 Apart from timeliness of responses, the UKVI teams did not capture any performance data or outcomes in relation to their DWP information requests. The Sponsorship Casework manager explained that "Due to the small number of referrals which occur, we do not currently keep

routine performance statistics on these cases.” In terms of timeliness, evidence provided by UKVI indicated that it received responses from DWP generally within 7 days. This was at odds with what the NDU manager told inspectors, which was that his team responded to requests from OGDs within 48 hours on average. Inspectors did not see any response time data for other departments.

Review and revision

- 6.61 The Sponsorship Casework manager mentioned a feedback loop with the DWP, to which his team contributed, which helped evaluate the partnership. He said he was aware of the pressures OGDs are under, which was why he constantly tried to promote collaborative working.
- 6.62 However, the NDU manager said his team received little feedback from Home Office units in general. There is a section on the NDU responses to the Home Office asking to be informed if the subject of the enquiry is not entitled to remain in the UK. The team chased feedback, but only once for each response. The NDU manager said that feedback would be a “great enabler” as it could help identify what other work could be done, and also whether the work being done presently was having any impact.

Overview of BICS collaborations with DWP

- 6.63 Based on these three examples, BICS (specifically IE and UKVI) and DWP had been able to identify areas where it is in their mutual interests to collaborate, and had done so effectively, to a point, to the benefit of both parties. The examples turned primarily on data sharing and matching and included both ‘top down’ and ‘bottom up’ initiatives. However, from these examples, there was little sense of a BICS strategy to maximise the potential of collaborating with DWP, or to oversee, co-ordinate, and evaluate the individual collaborations, and to develop and spread good practice, including by providing regular feedback. As a result, while some effective collaborative working was taking place, this was essentially piecemeal.

BICS collaborations with HMRC

- 6.64 The inspection examined three examples of collaborative working between BICS and HMRC: Operation MANDERA, involving Border Force; Operation LARI, involving IE; and the BAU process for data sharing in relation to evidence of employment, finances and residence, involving IE and UKVI.

Example 4: Operation MANDERA (Border Force and HMRC)

Background

- 6.65 Operation MANDERA was a Border Force-led operation targeting the importation of illicit firearms in vehicles arriving at Dover. It ran for 4 days in June 2017.
- 6.66 The operation was developed as part of the Border Force response to the firearms threat. It followed a meeting between Border Force and National Crime Agency (NCA) Deputy Directors with firearms remits. The HMRC representative within the NCA-led National Joint Agency Group (NJAG) suggested that for the duration of the operation HMRC should supply an intelligence resource to help staff a real-time Operations Room.

Agreed Objectives

- 6.67 Operation MANDERA was consistent with Border Force Control Strategy⁵⁹ objectives and was treated as a “template exercise” for Border Force to test its ability to manage a quick-response multi-agency operation.

Defined processes

- 6.68 Inspectors were told that the operation did not require a specific MoU as the required data sharing was covered in Section 41A of the UK Borders Act 2007.⁶⁰

Strategic leadership

- 6.69 The operation was approved by the Border Force Tactical Tasking and Coordination Group (TTCG).⁶¹

Committed resources

- 6.70 The operation involved the NCA, Ministry of Defence (MOD) Firearms and Explosive dog resources and Kent Police, as well as Border Force and HMRC. HMRC initially committed to providing two Intelligence Officers (IOs) for two days, but this was later extended to four days to cover the whole period of Operation MANDERA. The HMRC IOs were based in the Border Force Operations room (at Folkestone) and provided Border Force officers with real-time intelligence under the appropriate legal gateways. Meanwhile, members of the Border Force National Operations Command Centre (NOCC) Ops Planning Team were ‘on the ground’ throughout the operation, and also worked from the Ops room.
- 6.71 A Border Force regional flexible team (brigaded resource) was deployed. HMRC also stood up additional alcohol and tobacco officers to ensure that if either commodity was detected the Border Force resources available for Operation MANDERA would not be depleted.

Communication

- 6.72 The planning phase of Operation MANDERA involved both face-to-face sessions and weekly ‘dial-ins’ for those involved, which helped to build relationships. In practice, the relationship between HMRC and Border Force was already a positive one, as HMRC had a presence in Dover for customs functions.

Evaluation

- 6.73 Operation MANDERA resulted in the seizure of 2 illegal firearms. The Border Force frontline officers involved were disappointed and felt that it would have been more successful if it had been conducted at a different time of year and they had had better intelligence to work with. However, the commissioning managers were quite content with the outcomes of the operation.

59 As part of becoming ‘intelligence-led’, Border Force has introduced a ‘Control Strategy’, updated annually, which assesses and rates the risks at the border and to the UK. The ‘Control Strategy’ is broken down by types of goods and modes of travel, and is used, together with current intelligence, to target resources, with the emphasis being on targeting the highest identified risks.

60 Section 41A(1) states that “HMRC and [the CPS] may each supply a person to whom this section applies with information for use for the purpose of the customs functions exercisable by that person.”

61 Tasking and Coordination Groups exist at various levels, e.g. Strategic/Tactical, National/Regional/Local, and meet as often as required. Strategic TCGs set an agency’s overall priorities. Tactical TCGs meet more frequently and are normally chaired by a senior manager with the authority to deploy the operational resources needed to complete the tasks the TCG has endorsed.

Review and revision

- 6.74 The same managers considered that the operation had been a success, in that it had encouraged multi-agency working and had helped to identify at least some of the challenges they might face and lessons should they need to run a similar operation in the future.

Example 5: Operation LARI (Immigration Enforcement and HMRC)

Background

- 6.75 In Operation LARI, IE looked to make use of HMRC data to identify Houses of Multiple Occupation (HMO) containing non-EU nationals suspected of illegal working, as well as the landlords of these HMO.
- 6.76 HMO were seen as a key enabler of immigration abuse, providing cheap, flexible accommodation that facilitated access by immigration offenders to the UK jobs market. At the same time, there were concerns that some HMO landlords could be exploiting individuals with no right to rent in the UK, judging that they would be unlikely to seek protection from the authorities.
- 6.77 The operation was carried out in two phases. The first phase ran for just over 14 weeks in the first half of 2017. The second ran from November 2017 to March 2018.

Agreed objectives

- 6.78 The aim of this operation was not simply to identify targets for ICE team raids and removals. It also sought to improve the Home Office's strategic response to illegal working and migration, and to protect vulnerable individuals from trafficking and modern slavery.

Defined processes

- 6.79 It took a year of negotiations with HMRC to ensure everything was in place for Operation LARI, including a data-sharing MoU. Nevertheless, during the first phase of the operation, HMRC did not share the relevant data with IE. Inspectors were told by the Home Office that HMRC diligently guarded its data, and IE had had to specify exactly how the information would be used, especially as data relating to British citizens and EU nationals might have been included within the dataset. Meanwhile, HMRC explained that the time taken to establish the necessary gateways, supporting structures and in releasing information reflected the implications of the statutory duty of confidentiality that HMRC has with regard to the data and information it holds. In the case of Operation LARI, it also reflected the scale of the project, the time needed to build the code to extract the data, and the changing Home Office requirements.
- 6.80 Once a data usage agreement (DUA) had been finalised, and IE had made a few adjustments to its information requests, HMRC shared the required data for the second phase of the operation.

Strategic leadership

- 6.81 Operation LARI was authorised by IE's National Tasking Board (NTB). Both phases were overseen by a Grade 6 with the job description of 'Illegal Working Threat Lead', who was personally responsible for driving forward with the operation.

Committed resources

- 6.82 Enforcement activity commenced in May 2017. In the first phase of Operation LARI, IE was involved in 21 joint operations. By the end of the second phase, 17 of IE's 19 ICE teams had deployed on 253 occasions. The ICE teams were closely supported by IE's network of operational intelligence teams.

Communication

- 6.83 At the Home Office end, the majority of communications between IE and HMRC were channelled through the Grade 6 Illegal Working Lead. He told inspectors that he had "a great relationship with HMRC".

Evaluation

- 6.84 IE told inspectors that Operation LARI had identified "a significant number" of HMO which the data and intelligence from HMRC suggested were housing immigration offenders. By the end of the second phase, IE had encountered 888 people of interest. Of these, 201 were arrested, and 37 removals were pursued. Right to Rent (RtR) Civil Penalty Referral Notices (CPRNs) were served on 24 landlords, and 14 eviction notices were issued on the basis of 'letting to a disqualified person'. The operation seized £19,800 under Proceeds of Crime Act 2002 powers, and 11 landlords/properties were identified as being of interest to HMRC or to local authorities.

Review and revision

- 6.85 Although there were problems with the provision of HMRC data for the first phase of the operation, IE described the relationship with HMRC as "positive" and told inspectors that individuals within the two departments knew each other well enough to work through the detail of how IE needed to request information.
- 6.86 In May 2018, the Grade 6 'Illegal Working Threat Lead' produced a detailed evaluation report of phase two of Operation LARI. His internal report concluded that HMRC had been able to identify tax evaders and other forms of tax fraud as a result of IE's enforcement activity and he recommended making further use of HMRC data to target selected HMOs, noting that Operation LARI had "demonstrated the utility of HMRC data to support conventional enforcement activity by taking data from other Departments, developing it into usable operational intelligence and flowing it directly to different operational areas through a variety of means. Once all measures were taken to improve enrichment, refinement and automated processes as far as was practically possible, it was proved that HMRC derived data could be used to augment and enhance existing intelligence sources."

Example 6: Checking for evidence of employment, income and residence (IE and UKVI and HMRC BAU)

Background

- 6.87 Under Section 40 of UK Borders Act 2007, HMRC may supply the Home Secretary "with information for use for the purpose of – (a) administering immigration control under the Immigration Acts; (b) preventing, detecting, investigating or prosecuting offences under those Acts ... (j) doing anything else in connection with the exercise of immigration and nationality functions."

- 6.88 IE has made most use of Section 40 information requests, checking on individuals encountered during enforcement actions. However, UKVI has also made some use of this facility. One of the functions of UKVI's European Casework team is to determine an individual's employment status. This was being done on a case-by-case basis through the HMRC. Staff from both departments came up with the idea of bulk data sharing as a more efficient way of working.

Agreed objectives

- 6.89 The agreed purpose of bulk data sharing was to establish an individual's right to remain in the UK or determine that they were exercising their EU Treaty Rights.

Defined processes

- 6.90 The bulk sharing of this data is covered by a data-sharing agreement. This was unaffected by the suspension of proactive data sharing with effect from April 2018.

Strategic leadership

- 6.91 UKVI caseworkers told inspectors that they had arranged the bulk data sharing with the help of Home Office Corporate Services, since the latter had the relevant contacts within HMRC.

Committed resources

- 6.92 Inspectors were told that the bulk data-sharing process would not be impacted by UKVI staff movements as it was now well-established and embedded in BAU practices.

Communication

- 6.93 The bulk data sharing agreement is subject to an ongoing review process with the two sides meeting every six months. At an operational level, the data analysts on both sides are in regular contact between these review meetings.

Evaluation

- 6.94 The arrangement began in August 2016 as a 6-month pilot, after which it was evaluated. Inspectors were told that the evaluation highlighted some logistical and technical challenges, which resulted in the process becoming more automated.

Review and revision

- 6.95 From the outset, the Home Office was restricted to 10,000 information requests per month. Home Office staff told inspectors that, generally, this was more than enough in any given month.

Overview of BICS collaboration with HMRC

- 6.96 Based on these three examples, all three BICS directorates have demonstrated that they are capable of forging effective operational collaborations with HMRC. The two departments had recognised that it was their mutual interests to collaborate, particularly in terms of data sharing, underpinned by statute and by specific agreements. The fact that the first phase of

Operation LARI did not work as planned showed the importance of clear communication and strategic leadership on both sides. Meanwhile, the bulk sharing of HMRC data with UKVI was a good example of how a ‘bottom up’ initiative is tested, evaluated, improved and formalised by management into a BAU process.

BICS collaboration with DfE

- 6.97 Inspectors looked at the Home Office’s collaboration with DfE in three areas: Operation BORTZ, in which IE sought to make use of DfE data for immigration compliance and enforcement purposes, and two processes where DfE was seeking assistance from UKVI, the first to check a child’s entitlement to state-funded education, and the second to check their entitlement to free school meals. None of these was affected by the suspension of proactive data sharing in April 2018.

Example 7: Operation BORTZ (IE and DfE)

Background

- 6.98 In July 2015, the Home Office reached a data-sharing agreement with DfE to enable the Home Office to check whether DfE held information about migrant children with whom the Home Office had lost contact.
- 6.99 In March 2016, a proposal was presented to the IE National Tasking Board (NTB) for IE to make use of this arrangement to support its compliance and enforcement work. The NTB agreed, stipulating that all cases should be evaluated at the three-month and six-month points. An implementation plan was agreed and the evaluation exercise was named Operation BORTZ.

Agreed objectives

- 6.100 The original agreement was for DfE to provide the Home Office with the home address and school details of children with whom the latter had lost contact so that the Home Office could update the information it held on unaccompanied migrant children and re-connect with them. Operation BORTZ sought to use the information to enable it to take compliance and enforcement action against migrant families with no right to remain in the UK.

Defined processes

- 6.101 The data-sharing agreement was supplemented by a process MoU between the two departments, signed in 2015. From the evidence submitted by the Home Office, it appeared that the first two versions of the umbrella MoU for data sharing between the Home Office and DfE had also covered the process.
- 6.102 Under the process MoU, the Home Office would select data which it would pass to the DfE on a monthly basis. DfE would manually compare the Home Office data with the data it held from the school census,⁶² which fed the National Pupil Database. Matched results would be returned to the Home Office with the latest address(es) and school details. The returns would not include any data the DfE held about the parents of the child(ren).

62 <https://www.gov.uk/guidance/school-census>

6.103 For Operation BORTZ, IE's Returns Preparation (RP) team, part of Removals Casework, had clear, written guidance. This included the requirement for the Home Office to have reason to believe that the parent(s) was an immigration offender at the time of any request, the details to include on a standard submission template, and next steps once a DfE response had been received.

Strategic leadership

6.104 For IE, Removals Casework served as the central point of contact for data sharing with DfE on Operation BORTZ, with the RP team collating requests from other units, such as the National Absconders Tracing Team (NATT) and the Family Removals Unit, as well as generating its own requests.

Committed resources

6.105 During interviews with Home Office and DfE staff, there was universal agreement that the data-checking arrangements were well-managed.

Communication

6.106 The Home Office and DfE had an agreed process map for resolving duplicate requests and detailing exactly how the departments would record the number of requests made and the results for statistical purposes. This had been workshopped by the relevant business areas in both departments after the Minister of State for School Standards and Minister for Equalities had had to return to the House of Commons in November 2017 to correct figures he had provided in October 2017.⁶³ The agreed departmental statistics, up to end September 2017, are available on the gov.uk website.

Evaluation

6.107 Home Office interviewees told inspectors that the data provided by the DfE assisted them in re-connecting with and safeguarding children, and in re-establishing compliant reporting by migrant families with no right to remain in the UK.

6.108 In November 2016, Operation BORTZ was formally closed. The NTB agreed that IE's data sharing with DfE should become BAU. The meeting was presented with statistics⁶⁴ for January and September 2016 that showed:

2,403 illegal migrant child records had been shared with DfE, resulting in 498 matches against the school census, of which:

- 46 applications had been made to regularise leave
- 150 new contact addresses had been obtained, supporting 238 family cases being either re-issued with enforcement notices, set up on reporting restrictions or attempted re-establish contact activities
- Safeguarding concerns and activities have led to 59 cases being alerted to Social Services

63 In response to Parliamentary Questions PQ48634, PQ48635 and PQ52645.

64 The statistical information provided for the NTB meeting was derived from locally-held management information at that time. It was intended for internal use only. A subsequent review of statistical information identified some inaccuracies in the data held regarding the number of cases shared and matched with DfE, following which the two departments agreed to use one central register when quoting figures so that they remained statistically aligned. At the factual accuracy stage, DfE reported that the correct figures for the period in question were 2,397 records shared and 500 matches.

- 25 family cases had been referred for a pastoral visit
- 1 child and a parent had made a voluntary return.

Review and revision

- 6.109 In October 2016, the two departments had signed an amended version of the process MoU. This removed the ‘Nationality’ data field from the referral to avoid any suggestion that information about nationality was being shared. At the same time, the data-sharing process moved from **ad hoc** manual searches for individuals to an automated monthly batch process.
- 6.110 Since late 2016, the RP team had submitted the collated Home Office requests to DfE on the penultimate Friday of every month. The process MoU allows 10 working days for the return of the results to the Home Office. In practice, the results were normally received on the last Tuesday or Wednesday of every month.
- 6.111 Home Office staff told inspectors that the rate of matching of referrals had been higher when the DfE staff were doing checks manually before the process moved to a three-point automated check.⁶⁵ While not advocating a return to manual checking, several Home Office interviewees suggested that a two-point check would increase the number of matches without compromising the integrity of the process. They said they had raised this with IE’s Interventions and Sanctions Directorate (ISD) and with policy colleagues.
- 6.112 At the time of the inspection, the MoU limited the number of requests the Home Office was permitted to make per month, including urgent **ad hoc** requests where there were safeguarding or welfare concerns, to 300. If the Home Office expected it might need to make more than 300 requests in any month it needed to contact DfE. Since Operation BORTZ ended, this had happened only once, in July 2017, when 309 requests were submitted.
- 6.113 In March 2017, a separate MoU was drafted for IE checks. As at June 2018, the draft was at version 2.3 and yet to be signed off by either party. DfE interviewees told inspectors that the draft had been approved by the Minister of State for School Standards.

Example 8: Entitlement to state-funded education (UKVI and DfE BAU)

Background

- 6.114 The Home Office informed inspectors that “There are no routine immigration checks on entitlement to state education. Schools can report to the Home Office if a parent attempts to enrol a child with a visit visa or a private education visa, or with no lawful status.” The Home Office however receives enquiries about entitlement to state-funded education from schools, from Local Education Authorities (LEA), and directly from the child’s parents or guardians.
- 6.115 Until 2013, status checks on the child’s parents were undertaken by the Status Verification, Enquiries and Checking Service (SVEC).⁶⁶ However, due to security concerns, SVEC responded only to schools with a secure .gov.uk email address. In 2013, IE’s newly-formed Interventions and Sanctions Directorate (ISD) established a process with DfE and Local Authorities to

⁶⁵ Three fields in the search request – name (either forename and surname or middle name and surname), date of birth and postcode – must match the DfE data. If a match is made, DfE will return any home or school address it holds from the previous 5 years. If there is no match, DfE will confirm this in its response to the Home Office.

⁶⁶ Part of Immigration Checking and Enquiry Service (ICES).

respond to all such queries from schools and LEAs. Advice was sought from the Home Office’s Departmental Security Unit (DSU) and it was agreed that if ISD did not include the person’s name and identifying particulars in the replies to schools and LEAs, the immigration status could be provided.

Agreed objectives

- 6.116 Neither the Home Office nor DfE was able to produce any documentary evidence to show that the objectives for this collaboration had been formally discussed and agreed.

Defined processes

- 6.117 The collaboration is covered by an umbrella MoU between the Home Office and DfE. It did not have its own specific MoU, and from interviews it was clear that the departments had not formally agreed a process map or methodology for dealing with enquiries. The DfE team responsible for this collaboration felt the overall approach was “**ad hoc**” and, as a result, inconsistent.
- 6.118 A joint Home Office – DfE web page on gov.uk provided guidance on access to state-funded education. This was first published by DfE in March 2014 and last updated in November 2017. The web page, which was co-drafted by BICS and DfE officials, directs schools and LEAs to refer enquiries to the Home Office via a dedicated email inbox. There is no signposting for parents or guardians wishing to make an enquiry.
- 6.119 Within ISD, enquiries are handled by the Data and Sanctions Team (DAST). DAST staff who deal with enquiries received via the dedicated inbox have clear instructions. Emails from members of the public receive a standard email response – see Figure 4.

Figure 4: DAST standard response to public enquiries

Thank you for your email.

The email address to which you have written is a Home Office service for Local Authorities and Schools only therefore we are unable to reply to your enquiry.

As your enquiry relates to school admissions we suggest that you visit the relevant pages on the Department for Education website at www.education.gov.uk or contact the relevant Local Authority.

For information regarding immigration status please check the Home Office website at www.gov.uk/government/organisations/uk-visas-and-immigration

Kind Regards

I&SD DfE Referrals

- 6.120 For enquiries received from a school or LEA, DAST runs checks on various Home Office systems. The Service Level Agreement (SLA) for responding to enquiries from schools and LEAs is 48 hrs. Where the parent has leave or holds a visa, the DAST response states the type and the period of validity. DAST does not comment on whether the child qualifies for state-funded education,

and team members told inspectors that this was for DfE to determine. The DfE staff interviewed stated that any child is legally entitled to a state education, regardless of their immigration status or that of their parents. The only reason a child would be denied a place at a school would be if that school was full.

Strategic leadership

- 6.121 Inspectors did not find any evidence that this BAU process was overseen or directed at a senior level in either department.

Committed resources

- 6.122 At the time of the inspection, DAST was receiving about 20 enquiries a month from schools and LEAs via the dedicated email inbox. The demand on DAST resources was therefore minimal. There was a quality assurance mechanism to monitor the quality of the returns sent to DfE, but inspectors found no evidence that this was being used. DfE interviewees said they dealt with two or three queries each month that had been redirected from the Home Office. However, they had no idea how many the Home Office dealt with directly.

Communication

- 6.123 The DfE team responsible for this collaboration told inspectors that their point of contact within the Home Office was a named individual working in Managed Migration (UKVI). They thought that if this individual left the partnership would effectively come to an end as the understanding and knowledge they had developed would disappear with them.
- 6.124 Inspectors found no evidence of internal Home Office communications instructing staff across BICS where to route any enquiries about state-funded education.

Evaluation

- 6.125 Inspectors found no evidence of performance or success measures, and it appeared that the process and outcomes had not been evaluated by the Home Office or by DfE at least since 2013 when ISD took responsibility for dealing with enquiries.

Review and revision

- 6.126 Similarly, other than the publication of guidance on access to state-funded education on gov.uk in 2014, and its updating in 2017, inspectors were not provided with any evidence of the process having been formally reviewed or revised.

Example 9: Entitlement to free school meals (UKVI and DfE BAU)

Background

- 6.127 A child in England may be entitled to free school meals if, amongst other income and support/allowance and tax credit criteria, their parent or guardian is in receipt of support under Section 95 of Part VI of the Immigration and Asylum Act 1999. This allows for provision of support to

asylum seekers and their dependants who appear to the Home Secretary to be destitute or likely to become destitute within a prescribed period.

- 6.128 A claim for free school meals must be made to the school or local authority on behalf of the child. Every LEA in England is able to access the Department for Education's Eligibility Checking System (ECS) to verify eligibility for free school meals on behalf of schools.
- 6.129 Children who are eligible for free school meals are also eligible for the Pupil Premium Grant, a wider ranging funding measure administered by the Education and Skills Funding Agency (ESFA).⁶⁷ Schools receive this additional funding for any pupil who has been entitled to free school meals at any point in the preceding 6 years.

Agreed objectives

- 6.130 As part of the evidence for this inspection, both the Home Office and DfE provided a copy of a process MoU entitled 'For establishing a framework of cooperation to support eligibility checking for free school meals, 2-year olds early education, and early years pupil premium'. The original MoU was signed in 2009. The latest version, V1-3, was dated 9 May 2016. This was headed with a UK Border Agency (UKBA) logo and front-page stencil, despite UKBA having ceased to exist in April 2013.

Defined processes

- 6.131 The eligibility check is performed by the LEA accessing DfE's Eligibility Checking System (ECS). The ECS is a centrally-held database, which contains data from three other government departments:
- HMRC data on individuals with income below a certain threshold
 - DWP data on individuals claiming specified support, allowances or credits
 - Home Office data on individuals eligible for Section 95 support
- 6.132 The data is uploaded by each department to ECS at scheduled intervals. The Home Office's process MoU with the DfE states that it will upload the relevant data on a weekly, batched basis. Within the Home Office, the Performance Reporting and Analysis Unit (PRAU) is responsible for compiling, checking and providing the Section 95 support data.
- 6.133 If an LEA cannot find a record of the parent or guardian on the ECS and that person is applying on the basis of being eligible for support under Section 95, the LEA can approach the ECS team and ask it to request the Home Office to validate the application. This additional checking does not appear to be covered in the process MoU, and DfE staff told inspectors that while the number of such enquiries was relatively low (2 or 3 per week) the Home Office could sometimes take more than a week to respond.
- 6.134 It was evident to inspectors that DfE staff felt frustrated with the Home Office over its handling of these validation checks, because:
- Requests had to be made using a form which the Home Office had created in early 2018 without consultation. (The ECS team had since amended the form to meet its needs, adding in a section asking for specific confirmation that the applicant is in receipt of support under Part VI of the Immigration and Asylum Act 1999)

⁶⁷ <https://www.gov.uk/government/organisations/education-and-skills-funding-agency>

- Despite this amendment to the form, the Home Office response routinely refers to the applicant's entitlement to support under the Immigration and Asylum Act 1999 but does not specify that this is under Part VI of the Act. (The ECS team has to resubmit the request for clarification, causing duplication of work and delays in resolving the application).
- Requests had to be sent to a generic inbox, so members of the ECS team had no named contact at the Home Office with whom they could liaise for updates or clarification.

Strategic leadership

6.135 In relation to the governance and oversight of this process the Home Office was asked for evidence of "any structure supporting BAU partnerships, for example, minutes of regular meetings (level of meetings, frequency and list of attendees)". BICs responded that "No regular meetings are held relating to this data sharing". No other evidence of strategic leadership was submitted.

Committed resources

6.136 DfE interviewees told inspectors that in 2016 there was a 4-month period during which the Home Office failed to upload any batch files. They were told that this was due to IT changes within the department's Asylum Support business area.

Communication

6.137 Between September 2017 and January 2018, the Home Office's Departmental Security Unit had had concerns about uploading data to DfE's system due to the DfE having dropped the 'gsi' ('government secure intranet') suffix from its email addresses. This had caused delays and uncertainty. The issue had since been resolved.

6.138 DfE interviewees described the working relationship with the Home Office in relation to free school meals eligibility checking as "non-existent".

Evaluation

6.139 While the number of eligibility checks being made by DfE is relatively small, for the DfE and for the children and their families each check has great significance.

Review and revision

6.140 In May 2018, the Home Office informed inspectors that: "An annual review was due in March 2018 but has not yet taken place as Asylum Support caseworking and data are currently in the process of transferring to a new technology platform, which will require changes to the MoU". No evidence was presented that this collaboration was being regularly monitored and developments appear to have been solely as the result of difficulties encountered rather than a more proactive approach of striving for best practice.

Overview of BICS collaboration with DfE

6.141 The three examples examined for this inspection presented a mixed picture of collaboration between BICS and DfE. The examples suggested that where the Home Office was the main beneficiary, as in the case of Operation BORTZ, it was ready to invest in making the relationship

work, including in agreeing, documenting, reviewing and revising processes, and ensuring that the DfE's needs were met alongside its own. Where the DfE, or its stakeholders (schools and LEAs), stood to benefit more, as with entitlement to state-funded education and free school meals checks, the collaboration was not working as effectively. Here, protocols and processes had not been formally agreed, there were inconsistencies and breakdowns in communication, the fault for which appeared to lie mostly with the Home Office.

BICS collaboration with DHSC

- 6.142 The inspection examined data sharing between the DHSC/NHS and IE in respect of 'NHS debtors', and Operation DINTEL, in which IE sought to use this data for compliance and enforcement purposes without further engagement with DHSC. The sharing of debtor data has not been affected by the suspension of proactive data sharing in April 2018.

Example 10: Sharing of 'NHS debtor' data (IE and DHSC/NHS BAU)

Background

- 6.143 Since 1982, the NHS has had a statutory obligation to make and recover charges for treating overseas visitors to the UK. Whether a patient is required to pay for treatment depends on whether they are 'ordinarily resident' in the UK and on the type of treatment. Some treatments, including accident and emergency care, are free to all patients, and some patients, such as refugees and asylum seekers, are exempt from charges. Most hospital care is chargeable.
- 6.144 Some charges for EEA nationals are recovered from the relevant state. But, for non-EEA nationals, or EEA nationals not covered by a reciprocal arrangement, relevant providers are required to recover the charge directly from the patient. In April 2015, new rules extended the charging regime to include non-EEA students and temporary migrants, who were required to pay an immigration health surcharge as part of their visa application.
- 6.145 A Public Accounts Committee (PAC) report, 'NHS treatment of overseas patients', published on 1 February 2017, noted that the performance of NHS Trusts in respect of charging varied considerably with "just 10 of the 154 acute and specialist hospital trusts" accounting for half of the charges to non-EEA visitors in 2015-16. The variations were not obviously explained by the "size, type and location" of Trusts.
- 6.146 In recommending various actions, the PAC concluded that the NHS was "not effectively identifying chargeable patients", in particular EEA nationals. NHS Improvement had told the Committee that this can be extremely difficult, because:

"there is no single document or piece of information, such as a passport or NHS number, that confirms whether or not a person should be charged for NHS treatment... some trusts ... are now requiring patients to prove their identity by showing passports and utility bills. However, these documents do not demonstrate entitlement to free NHS care. The biggest challenge is that there is no single easy way to prove entitlement."

6.147 Meanwhile, the Department of Health:

“highlighted that, working with the Home Office, it had tightened the residency criteria such that people from outside the EEA&S had to have indefinite leave to remain in the UK in order to be classified as ‘ordinarily resident’ and automatically entitled to free care.”

And that:

“trusts could link through to the Home Office system and a record of bad debt could be taken into account the next time a person applied for a visa.”

6.148 Against this background, inspectors sought to examine how collaboration between the Home Office and the DHSC/NHS was currently working in practice.

Agreed objectives

6.149 According to a senior manager from IE’s NHS Debtors Team (DT),⁶⁸ the process of reporting non-EEA nationals to the Home Office started in 2011. The relevant amendment to the Immigration Rules came into force on 31 October 2011 and applied to invoices raised for treatment provided by NHS hospitals from 1 November 2011 onwards. Initially, the scheme covered patients owing £1,000 after three months, but this was reduced to £500 after two months in April 2016.

6.150 The Explanatory Memorandum presented to Parliament on 11 March 2016 recorded:

“Following amendments to the Immigration Rules on 10 October 2011 (HC, 1511) migrants subject to immigration controls who have incurred a cumulative NHS debt of £1000 or more should normally be refused entry clearance and leave to enter or remain in the UK until the debt is cleared. The amendments to paragraph 320(22), 322(12) and 3.14 of Appendix V lower the threshold from £1000 to £500.”

6.151 The Department of Health had told the PAC that it “wanted to foster a culture where everybody who works in the NHS feels responsible not only for patient care, but also for financial rigour.” However, DHSC’s Costs Recovery Team (CRT) suggested to inspectors that there was “a fine line” between meeting Home Office objectives in terms of immigration controls and the provision of healthcare. In April 2018, CRT senior managers observed that “recently” the Home Office had stopped pushing beyond where DHSC was comfortable, showing greater understanding of where the “line” was. As a result, the relationship between the two departments had improved.

Defined processes

6.152 DT senior management explained that because the debtor reporting process had been incorporated into the Immigration Rules it did not require a specific MoU with DHSC.

6.153 The agreed process involved NHS Trusts completing a spreadsheet supplied by the Home Office and returning it each month to DHSC (or its equivalent in Scotland, Wales and Northern Ireland) to pass on to the Home Office. DT merged the spreadsheets into one consolidated spreadsheet, which it forwarded to the Home Office’s Managing Integrated Data Application Solutions (MIDAS) team. An automated process then added the debtor data (date of debt and invoice number) to the person’s CID record where one existed or created a new record where

⁶⁸ Part of the IE Data and Sanctions Team (DAST).

the person was not already known to the Home Office. Data could also be added manually if necessary. Any rejected data was passed back to the originating Trust via the DHSC (or equivalent).

- 6.154 Home Office guidance required that the person’s CID record was flagged ‘NHS Debtor’, and this should inform the decision about any future application for leave, whether to remain in or to enter the UK – see Figure 5. Any further details about the debt could be added in ‘CID Notes’.

Figure 5: CID categorisation of NHS debtors

‘Debt Outstanding’	Indicates that a new debt has been reported to the Home Office and debt has not been repaid or a payment arrangement agreed. This will prompt an upload to the Warnings Index (WI).
‘Repayment Arrangement’	Indicates that the individual has now entered into a payment arrangement with the NHS body and the debt has been removed from WI.
‘Defaulted – Debt still outstanding’	Indicates that the individual has defaulted on their payment arrangement and the debt has been re-reported to the Home Office for inclusion on the WI.
‘Debt repaid’	This indicates that the specific debt recorded has been paid in full and removed from WI.

Strategic leadership

- 6.155 Inspectors were told by the Home Office that there is ministerial interest in the debtor reporting process, which has been the subject of questions from MPs, but that the focus tended to be on the “bottom line figures” rather than about how the system was operating.

Committed resources

- 6.156 Each NHS Trust should have an Overseas Visitors Manager (OVM). According to the Home Office, the OVM is “an officer charged with identifying those who should be charged for accessing NHS treatments.” The inspection team interviewed three OVMs from three different Trusts, each of whom had their own way of working.
- 6.157 One explained that he received reports from the Trust’s Information Services Team with the details of patients who might not be entitled to free NHS treatment. His team then visited those patients in hospital, care considerations permitting, to discuss charging. The team did not warn the patients about the immigration consequences of failing to pay for their treatment, believing that most visitors to the UK had enough information when applying for a visa or entering the UK to understand that they were not entitled to free NHS treatment, and most signed a declaration to that effect. Each month, the OVM received a blank spreadsheet from the Home Office to report the details of NHS debtors, which he filled in with non-clinical data only and returned via DHSC.
- 6.158 The second OVM worked closely with the hospital admissions staff, with whom she was collocated, and with a member of the finance team who was focused on debt recovery, to identify patients who were not eligible for free treatment wherever possible before they were admitted and received treatment. This had been effective both in turning away individuals who did not require urgent treatment (a clinical decision made and signed off by a doctor) and who

did not want to pay upfront, and in obtaining payment upfront. The member of the finance team completed the Home Office return around the 20th of each month including patients where the debt had reached 56 days in the prior period.

- 6.159 The third OVM was part of an Overseas Business Team, based at the Trust's Private Patient Unit. The team included another OVM, plus an administrative officer who acted as an Overseas Visitor Officer. This OVM had been in post for many years, and described the set-up as an "historic arrangement, which had always worked well".

Communication

- 6.160 Since 2016, following a pilot involving the London Boroughs of Lewisham and Southwark, the Home Office has run a telephone helpline enabling registered Trusts to check the immigration status of patients and determine whether they should be charged for treatment. The Immigration Enforcement Checking and Advisory Service (IECAS) helpline is staffed from 09.00 to 17.00 Mondays to Fridays. Calls cost 80 pence per minute. As at 18 June 2018, 45 Trusts had signed individual MoU with the Home Office to use the service. IECAS management told inspectors that they received on average 50 calls a day.
- 6.161 IECAS was looking to develop scripts for the Home Office staff answering calls but told inspectors that NHS staff also needed some training on immigration documentation, which OVMs could help with, in order to reduce their reliance on advice from Home Office staff. Meanwhile, one of the OVMs interviewed said that it was difficult to get a straight answer from the telephone service about whether an individual was chargeable, and they were often told to "follow your guidance".⁶⁹
- 6.162 Another of the OVMs was impressed by the speed with which the Trust was able to run checks using the helpline. He contrasted this with the corresponding email service, which could take up to 5 working days to provide an email response, by which time the patient could have left the hospital.⁷⁰ One of the other OVMs interviewed also commented that the 5-day email checking service was of little use, and DHSC CRT senior management agreed that Trusts needed to be able to act swiftly when looking to recover debts.
- 6.163 The DT senior manager suggested that BICS could improve its engagement with OVMs via the Local Partnership Manager (LPM) network, whose role included to "work with the overseas patient teams within NHS trusts to promote and support the completion of the monthly Debtors Return."⁷¹ An LPM told inspectors that the Home Office already worked well with DHSC, and was keen to support the NHS in charging for treatment where patients were not entitled to free healthcare. However, the three OVMs had had different experiences of their LPMs.
- 6.164 In two of the three cases there was a good relationship with the LPM. One of these LPMs had visited the Trust a few times in the past six months, the other was in frequent contact by telephone and email. The third OVM did not have a relationship with his LPM, and did not know who he or she was, as the LPM had not visited the Trust in the several months the OVM had been in post. Since starting in the role, the OVM had had to provide training to NHS administrative staff about charging for treatment. He had had support from his team, but he felt the training would have been more effective if the LPM had been involved.

69 At the factual accuracy stage, the Home Office commented that "it is not the role of the Home Office to determine whether an individual patient is chargeable".

70 The email checking service is available to 28 government departments and agencies. NHS and DWP are the biggest users. It is open to all Trusts and receives about 120 emails a day from them, and the unit receives an average of 858 request each day from a variety of organisations. Requests are made using a template which was developed jointly by the Home Office and DHSC.

71 According to written evidence provided by the Home Office.

Evaluation

- 6.165 According to the DT senior manager there were about 160 NHS Trusts in England, that were supposed to send in returns.⁷² Home Office data showed that, between 1 February 2017 and 1 January 2018, an average of 77 Trusts were submitting returns through the debtor reporting process.⁷³ Inspectors heard from one of the OVMs that some months they were not able to submit a return due to pressure of other work. DHSC CRT senior management acknowledged that there were delays in gathering the debtor data.
- 6.166 Meanwhile, the quality of the returns varied enormously. For example, some included details of EU nationals, while in some cases mandatory information, such as date of birth, was missing. One of the OVMs said that his team often struggled to obtain information from patients, for example an address in their country of origin.
- 6.167 The effectiveness of debt collection varied between Trusts and between hospitals in the same Trust. One of the OVMs said that one of his hospital recovered three-quarters of all debts, while another recovered just over one third. Some patients claimed they did not have any means of paying or claimed not to speak or understand English. The OVM said that taking deposits in advance of providing treatment had helped the Trust's collection rates.
- 6.168 One of the OVMs highlighted an issue with checks at the border. If Border Force stops a passenger because of NHS debt, it can contact the relevant provider to see whether the debt has been settled, or for further clarification. Many of these stops occurred out of office hours and could not be resolved quickly. OVMs themselves were not available out of office hours. However, another told inspectors that there had been a number of occasions when they had been contacted by Border Force about an arriving passenger and the outstanding debt had been recovered before the individual was permitted to enter.

Review and revision

- 6.169 The debtors return is raised periodically at the Visitor and Migrant Cost Recovery Board⁷⁴ and within the DHSC Cost Recovery Support Team. The response rates and level of debt is reviewed and, according to the Home Office, it should inform future engagement by LPMs and the DHSC CRT.

Example 11: Operation DINTEL (IE)

Background

- 6.170 Operation DINTEL reviewed Home Office (CID) records of migrants with a debt to the NHS of £500 or more that had been outstanding for more than two months. It was conceived as a 'Proof of Concept' exercise and came about as a result of discussions between Local Partnership Managers (LPMs) and Immigration Compliance and Enforcement (ICE) teams in two regions – the Midlands, and Yorkshire and Humberside.

⁷² The website for NHS Confederation (the membership body "for all organisations that plan, commission and provide NHS services") notes that in England as at July 2017 there were 135 acute non-specialist trusts (including 84 foundation trusts), 17 acute specialist trusts (including 16 foundation trusts), 54 mental health trusts (including 42 foundation trusts), and 35 community providers (11 NHS trusts, 6 foundation trusts, 17 social enterprises and 1 limited company). Meanwhile, Scotland has 14 regional NHS health boards and 7 Special NHS Boards, Northern Ireland has 5 geographical Health and Social Care Trusts, and Wales has 7 Local Health Boards and one all-Wales Trust offering specialist cancer care.

⁷³ At the factual accuracy stage, DHSC reported that the latest debtor returns had over 100 Trusts reporting.

⁷⁴ The Overseas Visitor and Migrant NHS Cost Recovery Programme has an objective to increase the revenues available to the NHS by introducing more effective practices to recover costs from visitors and migrants ineligible for free healthcare. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/589815/Ipsos_MORI_Cost_Recovery.pdf

Agreed objectives

6.171 The objective of the 'Proof of Concept' exercise was to assess the value of the NHS debtor data for immigration compliance and enforcement purposes (to encourage a debtor to comply with a repayment plan, to amend an individual's reporting restrictions, to encourage voluntary departure, or to detain on reporting) and for 'tidying up' of case records (for example, to check the accuracy of addresses).⁷⁵

Defined processes

6.172 The two regions each ran a pilot during March and April 2017, during which the regional LPMs worked with officers from their local ICE teams.

6.173 The Midlands region team worked through 61 cases and identified 25 for follow-up action. Of these 25:

- 1 agreed to enter the Voluntary Removal Scheme (VRS)⁷⁶
- 3 declined the VRS and submitted further applications to remain
- 2 left the UK and had visas refused because of their debts to the NHS
- 1 repaid the debt in full.

6.174 The Yorkshire and Humber region team worked through 77 cases and identified 26 for follow-up action. Of these 26:

- 2 agreed to enter the VRS
- 1 was issued with reporting conditions
- 1 was brought into the Emergency Travel Document (ETD) process⁷⁷
- 1 was refused a visa because of their NHS debt
- 4 were tasked for enforcement visits
- 12 had their departures from the UK confirmed through checks with the National Border Targeting Centre (NBTC).

Strategic leadership

6.175 The pilot was authorised by the IE Assistant Director (Grade 7) responsible for the two LPMs.

Committed resources

6.176 Following the pilot, the two LPMs were keen to extend the exercise. One of the LPMs and the Assistant Director (AD) presented the results of the pilot to the IE Regional Tasking Board (RTB) meeting on 5 July 2017. Inspectors were informed that "Due to the small size of the operation, and limited evidence that it should be a priority workstream, it was not put up to the National Tasking Board to extend this nationally". However, in July 2017, the idea (now named Operation

⁷⁵The BAU process for adding NHS debtor information to Home Office (CID) records is explained at para 6.153. At the factual accuracy stage, the Home Office commented that this "additional case information ... would not be flagged automatically to relevant internal teams".

⁷⁶The Home Office VRS unit provides support and assistance to individuals who wish to depart the UK. This can include assistance to secure employment or educational opportunities in their country of origin. (FN from Reporting and Offender Management system report).

⁷⁷Obtaining biographical information at interview in order to submit an application for a travel document from the relevant Embassy or High Commission.

DINTEL) was rolled out beyond the two original regions on a voluntary basis, dependent on the priorities and resource capacity of local ICE teams.

- 6.177 For Operation DINTEL, the Intervention and Sanctions Directorate (ISD) Performance Manager produced a report of NHS debtors for each region, which was presented on a spreadsheet with actions for the relevant ICE teams to consider. All ICE teams were encouraged to assess the debtor information and discuss it with their LPMs. The Tasking Brief for Operation DINTEL recorded:

“It is an offer ISD are making to ICE teams but allowing individual ICE leads to decide the way they will use the information. For instance, a team may decide to concentrate on specified nationalities (in terms of removability or harm) or run a targeted exercise to locate offenders for a charter flight. The exercise may be a source of work for officers currently unable to undertake visits or be delegated to operation support teams.”

Communication

- 6.178 For the pilot, there was no engagement with relevant NHS Trusts about the debtor data. The Home Office took the view that as the data was already recorded on CID the Home Office now “owned” it.
- 6.179 When inspectors spoke to two senior managers from DHSC’s Cost Recovery Team they did not recognise the name ‘Operation DINTEL’ and had not been made aware of this stream of work. The Home Office explained that the allocation of an operation name had been for internal Home Office use only, in order to track activity by the participating ICE teams.

Evaluation

- 6.180 In March 2018, the two LPMs who had conducted the pilot carried out a 6-month review of Operation DINTEL. Seven ICE teams had participated: East of England, East Midlands, Merseyside, Scotland, South London, Wales and West Midlands. The teams had reviewed 425 cases. Of these:
- 166 had been passed to Returns Preparation⁷⁸
 - 23 were accepted for enforcement visits or to detain on reporting, although none of these had resulted in arrests.
- 6.181 The review found that the operation had worked better in some locations than others; most of the ICE teams felt it was too resource intensive and that the information needed to be developed further to be operationally useful. Some favoured repeating the exercise periodically, whereas others preferred that the debtor information should become a BAU workstream.
- 6.182 Both LPMs felt that the operation had been a worthwhile exercise but understood that ICE teams had a lot of other things on their tasking lists. However, they believed that Operation DINTEL had demonstrated alternative ways to support traditional enforcement activities. An intervention by an ICE officer at the ‘debtor stage’ might not lead to arrest and removal, but it could lead to an action, such as the completion of an ETD interview, which advanced the case. It might also result in the repayment of the debt to the NHS.

⁷⁸ Part of IE’s Compliance and Returns team.

Review and revision

- 6.183 The LPMs recommended that their evaluation report should be circulated to the relevant operational teams to consider how best to identify cases of interest, and also highlighted a couple of lessons to be learnt.
- 6.184 The AD who had authorised the pilot considered that there was potential in the debtor dataset which needed to be explored further and told inspectors that this task remained with her team. She explained that the analysis of debtor data had been put on hold because of other priorities, but IE did want to see how the work could complement Returns Preparation. The AD did not know whether the DHSC had received any feedback on particular cases from the pilot but believed there would have been feedback in Midlands repayment case. If the exercise was ever tasked as a national operation a feedback mechanism would be created.

Overview of BICS collaboration with DHSC

- 6.185 Inspectors found that the process for NHS Trusts to report non-EEA debtors to the Home Office was clear and straightforward. However, Home Office data for 2017 showed that most Trusts were not submitting returns, some that were did not do so every month, while reporting varied in quality in terms of errors and omissions. With regard to confirming whether a person should be charged, the number of Trusts making use of the Home Office's Immigration Enforcement Checking and Advisory Service (IECAS) was low. In the case of email checks, the slow speed of response (5 days) may have been a factor, but this did not explain why only 45 Trusts had signed up to the telephone checking service by mid-2018.⁷⁹
- 6.186 It was evident that BICS needed to improve its communications with Trusts, both about the importance of reporting NHS debtor data and about the support it offers. Home Office Local Partnership Managers (LPMs) needed to be more active with Trusts' Overseas Visitors Managers (OVMs) in promoting the process and improving the rate and quality of returns. Meanwhile, ICES needed to improve response times for email enquiries so that these were a viable alternative to the telephone helpline, as well as encouraging more Trusts to sign up to using the latter.⁸⁰
- 6.187 The other challenge for the Home Office was to extract operational value from NHS debtor data. The inspection did not look at its use in denying entry to the UK to visa nationals with an outstanding debt. Operation DINTEL had focused on testing the value of the data to in-country ICE teams. While the results were modest, the instigators deserved credit for initiative and persistence. Their efforts meant at least IE made some use of the data. However, the decision not to task this work more widely, due to other ICE priorities, meant that the data's true potential as a compliant environment tool was not fully tested.

⁷⁹ At the factual accuracy stage, the Home Office commented that "many OVMs only need to use the email service for more difficult or exceptional cases, as Immigration Health Surcharge records are available to them via the Summary Care Record".

⁸⁰ At the factual accuracy stage, the Home Office commented that "both parties are seeking to move away from emails and telephone calls to direct access to relevant data".

Annex A – Role and remit of the Independent Chief Inspector

The role of the Independent Chief Inspector of Borders and Immigration (until 2012, the Chief Inspector of the UK Border Agency) was established by the UK Borders Act 2007. Sections 48-56 of the UK Borders Act 2007 (as amended) provide the legislative framework for the inspection of the efficiency and effectiveness of the performance of functions relating to immigration, asylum, nationality and customs by the Home Secretary and by any person exercising such functions on his behalf.

The legislation empowers the Independent Chief Inspector to monitor, report on and make recommendations about all such functions. However, functions exercised at removal centres, short-term holding facilities and under escort arrangements are excepted insofar as these are subject to inspection by Her Majesty's Chief Inspector of Prisons or Her Majesty's Inspectors of Constabulary (and equivalents in Scotland and Northern Ireland).

The legislation directs the Independent Chief Inspector to consider and make recommendations about, in particular:

- consistency of approach
- the practice and performance of listed persons compared to other persons doing similar activities
- the procedure in making decisions
- the treatment of claimants and applicants
- certification under section 94 of the Nationality, Immigration and Asylum act 2002 (c. 41) (unfounded claim)
- the law about discrimination in the exercise of functions, including reliance on section 19D of the Race Relations Act 1976 (c. 74) (exception for immigration functions)
- the procedure in relation to the exercise of enforcement powers (including powers of arrest, entry, search and seizure)
- practice and procedure in relation to the prevention, detection and investigation of offences
- the procedure in relation to the conduct of criminal proceedings
- whether customs functions have been appropriately exercised by the Secretary of State and the Director of Border Revenue
- the provision of information
- the handling of complaints; and
- the content of information about conditions in countries outside the United Kingdom, which the Secretary of State compiles and makes available, for purposes connected with immigration and asylum, to immigration officers and other officials.

In addition, the legislation enables the Secretary of State to request the Independent Chief Inspector to report to him in writing in relation to specified matters.

The legislation requires the Independent Chief Inspector to report in writing to the Secretary of State. The Secretary of State lays all reports before Parliament, which he is committed to do within eight weeks of receipt, subject to both Houses of Parliament being in session. Reports are published in full except for any material that the Secretary of State determines it is undesirable to publish for reasons of national security or where publication might jeopardise an individual's safety, in which case the legislation permits the Secretary of State to omit the relevant passages from the published report.

As soon as a report has been laid in Parliament, it is published on the Inspectorate's website, together with the Home Office's response to the report and recommendations.

Annex B – ICIBI’s expectations

Background and explanatory documents are easy to understand and use (e.g. Statements of Intent (both ministerial and managerial), Impact Assessments, Legislation, Policies, Guidance, Instructions, Strategies, Business Plans, intranet and GOV.UK pages, posters, leaflets etc.)

- They are written in plain, unambiguous English (with foreign language versions available, where appropriate)
- They are kept up to date
- They are readily accessible to anyone who needs to rely on them (with online signposting and links, wherever possible)

Processes are simple to follow and transparent

- They are IT-enabled and include input formatting to prevent users from making data entry errors
- Mandatory requirements, including the nature and extent of evidence required to support applications and claims, are clearly defined
- The potential for blockages and delays is designed out, wherever possible
- They are resourced to meet time and quality standards (including legal requirements, Service Level Agreements, published targets)

Anyone exercising an immigration, asylum, nationality or customs function on behalf of the Home Secretary is fully competent

- Individuals understand their role, responsibilities, accountabilities and powers
- Everyone receives the training they need for their current role and for their professional development, plus regular feedback on their performance
- Individuals and teams have the tools, support and leadership they need to perform efficiently, effectively and lawfully
- Everyone is making full use of their powers and capabilities, including to prevent, detect, investigate and, where appropriate, prosecute offences
- The workplace culture ensures that individuals feel able to raise concerns and issues without fear of the consequences

Decisions and actions are ‘right first time’

- They are demonstrably evidence-based or, where appropriate, intelligence-led
- They are made in accordance with relevant legislation and guidance
- They are reasonable (in light of the available evidence) and consistent

- They are recorded and communicated accurately, in the required format and detail, and can be readily retrieved (with due regard to data protection requirements)

Errors are identified, acknowledged and promptly ‘put right’

- Safeguards, management oversight, and quality assurance measures are in place, are tested and are seen to be effective
- Complaints are handled efficiently, effectively and consistently
- Lessons are learned and shared, including from administrative reviews and litigation
- There is a commitment to continuous improvement, including by the prompt implementation of recommendations from reviews, inspections and audits

Each immigration, asylum, nationality or customs function has a Home Office (BICS) ‘owner’

- The BICS ‘owner’ is accountable for
 - implementation of relevant policies and processes
 - performance (informed by routine collection and analysis of Management Information (MI) and data, and monitoring of agreed targets/deliverables/budgets)
 - resourcing (including workforce planning and capability development, including knowledge and information management)
 - managing risks (including maintaining a Risk Register)
 - communications, collaborations and deconfliction within the Home Office, with other government departments and agencies, and other affected bodies
 - effective monitoring and management of relevant contracted out services
 - stakeholder engagement (including customers, applicants, claimants and their representatives)

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