



Home Office

**The Home Office response to the
Independent Chief Inspector's report:**

**'An Inspection of How the Home Office
Tackles Illegal Working'**

October 2014 – March 2015

The Home Office thanks the Independent Chief Inspector for his report.

Illegal working is one element of a wider, hidden, illicit economy. Access to our labour market is a key pull factor for illegal migration to the UK and businesses that provide employment to illegal migrants create a strong incentive to remain here illegally. We are therefore grateful to the Chief Inspector for his inspection into this important area of work.

The report makes a number of positive findings. We are grateful that the Chief Inspector recognises the success of our approach to promote compliance with employers in communities under Operation Skybreaker, and more generally, the greater engagement we have with businesses. As well as helping increase compliance, these initiatives are helping us better understand to what extent we can encourage employers, and those working illegally, to comply with the rules. The report also recognises our work to improve assurance processes, management information and policy and guidance on how our teams operate.

This inspection started in summer 2014 and the file sampling relates to cases that are now up to two years old. We are grateful to the Chief Inspector for identifying where our operational practices were not functioning properly but as an organisation, Immigration Enforcement has professionalised significantly since this inspection and will continue to do this as part of wider departmental transformation.

We are pleased the Chief Inspector recognises that much improvement work was already underway, such as the ongoing review and rewriting of Immigration Enforcement's instructions and guidance, including the information relating to illegal working. We expect the overall rewrite work to be completed by March 2016. We set out in detail below the further progress we have made and we are grateful to the Chief Inspector for identifying additional areas for us to focus on over the coming months.

More broadly, since the inspection we have developed a new, more coherent illegal working strategy which focuses on increasing sector-wide compliance; using communication, engagement and enforcement activity to increase employer responsibilities and to deter employers from using illegal migrant labour. We are already limiting illegal migrants' access to bank accounts, benefits and social support, revoking driving licences, imposing NHS charges and right to rent checks – all of which make it much harder for illegal migrants to stay here. The new Immigration Bill, currently going through Parliament, will strengthen these powers by creating an offence of illegal working and enabling illegal workers to have their earnings seized. And whilst our work has always been intelligence-led, we have identified a number of new employment sectors where we believe illegal working to be taking place, but where intelligence has traditionally been limited.

The ongoing Operation Magnify, where we work proactively with partners to develop better intelligence to target sectors such as construction, care and cleaning, shows how we are diversifying the range of our enforcement work. We will also use the data we will get from Exit Checks to target activity in a more effective way. In parallel, our work to better understand the factors that influence employers to comply with the law allows us to segment employers and target our approach with cross-government partners.

In summary, the Home Office fully accepts seven of the Chief Inspector's eight recommendations and does not accept recommendation two; the Home Office response to each recommendation is below.

1. Recommendation 1: Use the evaluation of Operation Skybreaker, and the 'Better Business Compliance Partnerships', to identify what quantitative and qualitative data needs to be captured routinely in order to be able to 'baseline' and assess the relative effectiveness of future initiatives or changes in strategy and/or operational priorities in illegal working.

1.1. Accepted

1.2. Testing new initiatives and new ways of increasing compliance is critical for Immigration Enforcement and our partners to enable us to continue to provide an effective and pervasive response to illegal working. Operation Skybreaker was a valuable tool and a worthy test initiative to establish to what extent individuals and businesses will comply.

1.3. We recognise that we need more analysis to create a more robust baseline. However, the inherent illicit nature of illegal working, and the variances between sectors and Industries, can make it difficult to measure the relative compliance of employers. We are using Operation Magnify, however, which focuses on increasing sector-wide compliance, to build on the analysis we did on Skybreaker.

1.4. To further analyse the impact of our initiatives, we are already working with Home Office Science to develop an evaluation methodology which will sample and measure compliance levels before and after our campaign activity. We expect to further develop and test this approach, with the intention of quantifying the effect of activity on compliance with immigration employment requirements in the sector, using our campaign activity throughout 2016.

2. Recommendation 2: Produce information and advice for businesses in the first language of the business owners and managers most encountered during compliance and enforcement visits, both to hand out and made available online.

2.1. Not Accepted

2.2 The Home Office does not agree that it should produce materials in a range of languages to business owners operating in the UK.

2.3 In response to requests from stakeholders the Home Office has already worked to significantly improve the material available to support employers carry out the right to work checks. Online guidance has been simplified including providing an online checking tool and a package of materials created for employers to facilitate compliance. Further to this, we are working with other government departments and intermediaries to explore what other channels we can use to remind employers to undertake right to work checks.

3. Recommendation 3: Review the content of notes, guidance and training provided to staff fielding employment calls to the Sponsor, Employer and Education Helpline, and the assurance mechanisms for checking that callers are being given the correct information and advice.

3.1. Accepted

3.2. UK Visas and Immigration (UKVI) already regularly review both training and guidance to ensure that the information given to customers is accurate. Additionally, contact centre agents are subject to regular quality assessments to ensure that we are providing a good service. UKVI has requested sight of the case studies from ILPA and offered to meet to

discuss their specific concerns. We will consider any concerns or evidence they have of incorrect advice being given should it be forthcoming.

4. Recommendation 4: Review, and where necessary revise, its operational guidance in relation to illegal working to ensure that it is aligned with all relevant legislation, and is clear in terms of what is required from officers at each stage of an operation from the Tasking & Coordination Group (TCG) decision to take action, through planning, to operational deployment and any follow-up.

4.1 Accepted

4.2 As the Independent Chief Inspector notes in his report, we are currently in the process of completely rewriting the enforcement instructions and guidance, including the information pertaining to illegal working. We expect this work to be completed by March 2016.

4.3 Practices relating to illegal working are contained in one complete chapter of our operational guidance. The processes concerning wider operational practice, including expectations around Tasking and Coordination Group (TCG) meetings, are also under review as part of the same work. We were pleased to note that when the inspection team attended a TCG meeting, they heard detailed discussions concerning the reasons for accepting and rejecting work that was presented for action.

4.4 We have already taken steps to improve the recording of TCG decisions. Cases adopted in line with priorities will be recorded and, where cases are not adopted, a record will be made of the rationale. We have introduced a 'minimum standard' for tasking meetings, which includes the requirement to record and retain for audit the rationale for decision making where cases presented are not adopted.

5. Recommendation 5: Review, and where necessary revise, its training and supervision (including mentoring) of Immigration Enforcement (IE) officers deployed on illegal working operations to ensure that it is comprehensive, consistent and fit for purpose.

5.1 Accepted

5.2 Training and mentoring for ICE teams is designed to cover illegal working operations as well as the wide range of other operational visits conducted.

5.3 A review and rewrite of the initial on-entry training material for operational staff, the 'Assistant Immigration Officer to Immigration Officer Pathway', was already underway during the inspection and has now been completed. The review ensured that training focuses on current business need and that training materials cover in detail the use of powers and professional requirements of an officer when deployed on operations, including illegal working visits. Our mentoring package has also been reviewed and updated to ensure consistent guidance to mentors, to facilitate a consistent mentoring approach across the country.

5.4 Furthermore, since October 2014, all ICE arrest officers have been required to undertake mandatory technical refresher training as part of their yearly physical arrest refresher. This classroom-based training covers a number of areas including powers, seizure of cash and personal belongings and pocket notebook procedure.

5.5 The Business Embedded Trainers (BET) network has been reviewed and additional BET resource identified to deliver training locally within ICE teams, but with central oversight.

The BETs will also input to the drafting of new training material. The BETs are operational officers delivering within their own teams, with the process managed by National ICE Capabilities Team (NICT) for oversight and consistency checking.

- 5.6 NICT is continuing to develop a virtual training library, accessible by all BETs. All ICE training material will be held within the library. Following structural changes during the course of this inspection, operational guidance is now also owned by NICT. The bringing together of guidance and training into one command facilitates the consistency across teaching and guidance used for reference.
- 5.7 Before this inspection began, pocket notebook training had begun rollout across the country. During the inspection and in response to some of its interim findings, we have also developed a specific Singh v Hammond training package. All staff have received that Singh v Hammond training, and will have received the PNB training by the end of this year.

6. Recommendation 6: Ensure that all policies and guidance relevant to illegal working are readily accessible to IE officers, including online. Ensure that the resources and mechanisms required to provide continuing assurance that policies and guidance are understood and are being applied correctly and consistently are in place locally and centrally.

6.1. Accepted

- 6.2 As the Chief Inspector recognises, we are currently in the process of completely rewriting the enforcement instructions and guidance, including the information pertaining to illegal working. As part of this rewrite we conducted user interviews which provided honest feedback about the difficulties faced in effectively searching and accessing guidance. We have used this feedback to develop the future architecture of the guidance, with a cleaner structure, consistent use of headings and better search/navigation.
- 6.3 We are also changing the platform used to maintain guidance to a web-based platform. Again, this will improve our ability to link between pieces of guidance and navigate quickly and effectively. It will also be compatible with the mobile technology our officers use in the field to support real-time access. We expect to complete this work by March 2016.
- 6.4 During the period of this inspection, the Immigration Enforcement assurance function was reviewed with the support of Home Office Internal Audit Unit. The result has been a structural change which has allowed us to be more responsive to issues identified on the frontline as well as having an element of independent oversight of the work of ICE teams.
- 6.5 Within the ICE 'first line' or local assurance process, we have increased the number of assurance verification visits across all ICE teams. This will provide a much greater source of information to assess compliance, as well as to inform improvement and training needs. The number of people involved in assurance has increased nationally; we have already started seconding ICE CIOs to the assurance and verification team on a rolling basis and using ICE HMIs to support individual visits, both with the intention of increasing skill levels and awareness and taking learning back to their own teams.
- 6.6 Assurance records now show an increase to 99% compliance for notebook etiquette since the Chief Inspector's January to June 2014 file sample. To facilitate swifter identification of issues, managers are now conducting mandatory personal notebook checks at-least-monthly against set criteria, with a focus on quality. Compliance will be

assured during verification visits, providing the ability to ensure responsibility with both officers and their managers.

- 6.7 The first line assurance process also works to identify areas of key operational risk to ICE business and undertaking linked reviews, to ensure emerging issues are identified early and the relevant learning or messaging is put in place.
- 6.8 The second line assurance process will oversee the governance of assurance and join up requirements for policy changes, guidance and training. The second line also has responsibility for risk analysis as part of Immigration Enforcement's wider risk management framework, which will in turn make sure any risks and issues have the appropriate response.
- 6.9 The formal second line assurance programme includes independent review of the effectiveness of verification visits, with the first scheduled for March 2016.

7. Recommendation 7: Improve communication between ICE teams, crime teams, and the Civil Penalties Compliance Team and ensure that their priorities and working practices are complementary.

7.1 Accepted

- 7.2 All teams in Immigration Enforcement work to a consistent set of national priorities. Priorities are set and agreed at National Tasking Boards attended by the relevant directors.
- 7.3 We do not agree that the example case selected by the Chief Inspector was a missed opportunity for Immigration Enforcement. A criminal investigation was already underway before the Inspector's file sample; prosecutions have been brought in relation to five individuals with a trial due to begin in December 2015.
- 7.4 Since the inspection, a restructure of Immigration Enforcement has seen the Crime and ICE teams moved into a command under a single Senior Director. This will bring the two areas closer and a working group has been established to review working practices and hand off processes.

8. Recommendation 8: Ensure that ICE teams have the skills, experience and capacity to pursue criminal investigations and prosecutions of local non-compliant employers where appropriate

8.1 Accepted

- 8.2 In his report, the Chief Inspector has recognised the training investment made in introducing a prosecution capability into ICE teams, as well as the increase in Level 1 criminal investigations this year.
- 8.3 Prosecution activity is just one of an ICE team's functions. ICE activity, including illegal working, will continue to be undertaken in line with the wider priorities of Immigration Enforcement. Our routine response to employers found to be employing illegal workers without a statutory excuse is to follow the civil penalty process, and this accounts for the majority of instances we encounter. Where the circumstances of a case are sufficient to warrant a criminal investigation, this will be considered in line with other priorities and demands on resource.

- 8.4 The bringing together of ICE and Crime teams into one command has prompted a review of the overall demand for Level 1 prosecution activity. The number of ICE officers trained in conducting criminal investigations will be subject to continued review.