



Border Force

The Border Force response to the Independent Chief Inspector's report:

“An inspection of the use of Border Force customs examination powers to search baggage in the absence of passengers”

December 2013

Border Force thanks the Independent Chief Inspector (ICI) for this report.

The examination of baggage when the owner is not present (as permitted by Section 159 of the Customs and Excise Management Act 1979) is one of a range of ways Border Force officers who are designated as customs officials identify goods which are liable to forfeiture. Border Force welcomes the ICI's view that, whilst this may be an intrusive power, these searches are necessary to protect UK border security, and they are being conducted by Border Force proportionately and with high overall success rates.

Border Force has found this report particularly useful in informing the development of a new assurance framework and operational standards which will be implemented at all frontline locations from April 2014 and which will provide a structured capability to address the issues, such as record keeping and management assurance, raised in this and other recent reports.

Border Force accepts all four of the Chief Inspector's recommendations. Three will be implemented by April 2014 and the remaining more complex recommendation will be the subject of a dedicated new project.

The response to the recommendations.

1. Recommendation 1:

Ensures that

- **urgent guidance updates are issued and communicated via consistent means;**
- **substantive guidance is updated as soon as possible after urgent updates are issued;**
and
- **urgent updates are withdrawn from staff access once substantive guidance is amended (but are retained for corporate memory purposes).**

1.1 Accepted.

1.2 Border Force has made improvements to the standards and accessibility of guidance in recent months, both through a joint guidance project with HMRC and also through the National Operations Command Centre processes. Border Force is now prioritising this, and further activity, in the form of a new project which will, over the next 12 months;

- quality assure current guidance;
- improve the management and communication processes for urgent updates;
- improve the issues of accessibility raised by this report.

This will build on existing work with HMRC to enable Border Force to more easily access all relevant customs guidance and identify any further changes required to the processes for issuing urgent updates.

2. Recommendation 2:

Ensures that the training delivered to staff is consistent, and that local managers are made aware of, and follow, nationally agreed standards when instructing staff in the performance of their duties.

2.1 Accepted.

2.2 The issue highlighted by the Chief Inspector relates to inconsistency in completion of notebooks, both in terms of what is required to be recorded and of the standards to be met in their completion. Border Force will address this by:

- reviewing all Border Force training course material to ensure notebook usage is covered effectively in line with CPIA 1996 regulations;
- producing updated guidance for managers to cascade to their teams on the use of notebooks and ensuring that operational training officers are fully up to date with national guidance and standards;
- ensuring that the new Border Force operational assurance standards and checks reinforce current instructions on the use of notebooks.

This activity will be complete by April 2014. Thereafter the Operational Assurance Directorate will assure compliance.

2.3 The Border Force Operational Assurance Directorate will test compliance against notebook guidance as part of its 2014/15 assurance schedule and standards spot checks.

3. Recommendation 3:

Negotiates with HMRC (the owners of the Code of Practice) to ensure that the Code of Practice for s159 searches is revised to more-accurately portray the activities that are undertaken by staff, within the legislation.

3.1 Accepted

3.2 The ICI's concerns relate to reference within the Code of Practice to techniques that do not require s159 authorisation.

3.3 Border Force and HMRC have agreed to review the code jointly and make any necessary clarifications to portray more accurately the activities that are undertaken by Border Force staff. The code will be reviewed and the new version published by 31 March 2014. The use of X-ray equipment, scanners, specialised probes, detector dogs and searches by hand which are referenced within the code all fall within the wider remit of an s159 examination. However, unless items are opened these examinations do not need to be authorised and recorded because they are not intrusive to passenger property. The updated Code of Practice will make this differentiation clear.

4. Recommendation 4:

Updates its guidance for s159 baggage searches to include details on how to handle confidential material, and how joint operations are undertaken.

4.1 Accepted

4.2 Border Force is pleased to note that the inspection did not find evidence of any specific operational difficulties in relation to the handling of confidential material or to any joint activity authorised as part of s159 examinations. The guidance is intended to deal primarily with the frontline role of Border Force officers in relation to s159 examinations. However in order to provide guidance as comprehensive as possible it will now be expanded in line with the recommendation within this report. Whilst it is the intention of Border Force to provide written guidance in respect of all operational circumstances likely to be encountered, where any such circumstances have not been experienced previously or could not have been anticipated there are 24/7 command and control structures in place to ensure that real-time advice and support is always available.

4.3 Border Force and HMRC will now jointly review the instructions to clarify how any confidential material should be handled and to set out what action may be taken as part of a joint operation. This will make it clear that s159 can only be used in support of another agency's functions when it would be incidental to the exercise of Border Force powers in relation to a general customs or customs revenue matter, i.e. where there is a valid customs reason to examine the baggage in its own right. The instructions will be reviewed and the new version published by 31 March 2014.