



Home Office

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

'An inspection of the Rights of European Citizens and their Spouses to come to the UK; inspecting the Application Process and the Tackling of Abuse'

October 2013 – January 2014

The Home Office thanks the Independent Chief Inspector (ICI) for his report and was pleased to note the positive findings made. We were particularly pleased that the ICI recognises that the decisions were reasonable in over 89% of the refusals sampled and that “Staff were alive to the risks of fraudulent applications and the use of deception,” with effective processes in place for identifying deception.

We were also pleased to note his recognition of the introduction of interviews as an additional tool for probing applications based on a suspected sham marriage and of the initiative to build closer understanding between casework and enforcement.

UK Visas and Immigration (UKVI) and Immigration Enforcement work closely to gather intelligence and take action against those seeking to abuse the system, refusing applications based on deception and seeking to remove those involved from the United Kingdom, as well as prosecuting individuals and organised crime groups involved in the organisation of sham marriages. We have introduced changes to the Immigration (European Economic Area) Regulations 2006 to enhance our ability to tackle the abuse of free movement rights, including through sham marriage. We are piloting a series of sham marriage hubs across the country, with enforcement, crime and intelligence staff, who will employ a range of approaches to tackle the abuse and associated criminality. Operation Mellor continues to pull together caseworkers, intelligence staff and Immigration Compliance and Enforcement Teams to drive improvements and co-ordinate activity.

The Home Office is committed to tackling abuse of the immigration system and this is central to the Immigration Act, which received Royal Assent on 14 May 2014 and which will ensure our immigration system is fair to British citizens and legitimate migrants and tougher on those with no right to be here. The Immigration Act will significantly enhance the way in which, through Border Force, Immigration Enforcement and UKVI, we undertake our work to secure the border and enforce the immigration rules while continuing to attract the brightest and the best. In particular, the Immigration Act will introduce a new referral and investigation scheme providing the Home Office with more time to identify and investigate suspected sham marriages and civil partnerships and prevent them gaining an immigration advantage.

In relation to the ICI’s comments regarding the slow recruitment and subsequent development of the Intelligence National Thematic Hub in Liverpool, the need to select staff fairly and then have them appropriately security cleared necessarily makes recruitment of a new team of 28 a slow process. All staff have now been selected, with 17 currently in post and the remainder awaiting security clearance. The team is now dealing with all section 24 / 24A reports, which are submitted by registration officials where there are reasonable grounds to suspect a sham marriage or civil partnership, and is progressing investigations arising from European Casework.

The Home Office has taken on board the ICI’s recommendations in his report on the short notice inspection of a sham marriage enforcement operation. We are working closely with registration officials to identify sham marriage activity at the earliest point, taking steps to ensure that our staff are adequately resourced to conduct operations and our resources are deployed appropriately.

We welcome the positive tone of this report which recognises the progress made in these key areas by eliminating backlogs and the award of the Customer Service Excellence standard. We also recognise the ongoing need to improve and welcome the recommendations in this report. We have already made progress in implementing some of the ICI's recommendations, several of which are being taken forward as part of our continuous improvement programme.

The Home Office fully accepts six of the ten recommendations, accepts a further two in part and the remaining two are not accepted for the reasons explained in this report.

The Home Office response to the recommendations:

1. Decides all linked applications for registration certificates and residence cards in a timely manner.

1.1 Accepted; already implemented.

1.2 As recognised in the report, European Casework has made considerable progress in eliminating backlogs. We accept that joint applications for registration certificates (EEA1s) and residence cards (EEA2s) were delayed at the time of the inspection file sample last year but all workable European cases are now being decided in a timely manner.

1.3. Current Management Information shows that for cases raised from 2014 onwards, the decision is made for workable European applications in less than 6.5 weeks. Certain applications may be deemed unworkable where we suspect fraud, deception or that a marriage is one of convenience and are therefore subject to added levels of scrutiny.

1.4 All applications are monitored closely to progress them to decision in a timely manner and where there is an identifiable need to scrutinise certain applications more closely, we will take the requisite time to do so. UKVI's vision is to be recognised as a globally trusted operation delivering excellent customer service and accurate decisions that keep the UK safe and secure.

1.5 As numbers of applications and available casework resources fluctuate, we will continue to examine the time it takes for our customers to receive their decisions and take the relevant steps to deliver in line with our vision.

2. Ensures that residence card applications that require additional scrutiny are identified upon receipt and decided on the basis of all relevant evidence.

2.1 Accepted in part; already implemented.

2.2 Service level improvements and reductions in outstanding applications have reduced the time from application to decision and this allows more time to write out for further evidence where we deem it appropriate. We are also able to refer cases for interview in greater volumes as resource has been increased and interview times reduced.

2.3 We are conducting a number of pilots to establish an evidence base where the system is abused and to aid the interview process, in applications where we require further information. This will help to identify applications which will require additional scrutiny at the earliest point, allowing work to be appropriately streamed and the relevant evidence obtained prior to taking a decision on the application.

2.4 We are not fully accepting this recommendation as at present there is limited evidence upon which to identify cases upon receipt and therefore we consider the appropriate level of scrutiny lies in the hands of the caseworker/senior caseworkers.

3. Makes the application process as clear as possible within the constraints of the European Directive.

3.1 Accepted.

3.2 The Home Office are currently undertaking a full-scale review of all EEA application forms. This review will include:

- the ease with which customers can access applications forms for EEA documentation online;
- simplification of forms, including ensuring forms are clear as to what level of evidence is required for EEA documentation to be issued; and
- viability of submitting application forms online.

All amendments to the forms will be made within the constraints provided for by Directive 2004/38/EC ('the Free Movement Directive').

4. Analyses existing records to discover if those naturalised as EEA nationals are disproportionately represented in abuse of free movement rights.

4.1 Not accepted.

4.2 This recommendation is not accepted as we do not believe that the Home Office has sufficient data, or the means to obtain it, on the citizenship history of the EEA nationals in our existing records. However, we will look to explore this point further in order to identify whether there is a genuine risk posed that would justify the investment in resources that would be required to progress meaningful analysis in this area. In addition, the on-going work to develop an evidence base to better stream applications (mentioned in the report in relation to Recommendation 2) may provide us with sufficient information to analyse this point further, and identify other potential trends.

5. Speedily removes those who sponsor, or seek to benefit from, marriages of convenience.

5.1 Accepted; implemented in part.

5.2 The Home Office will seek to prosecute those engaging in sham marriage where sufficient evidence exists. Where possible, we will seek to remove those who are removable at the earliest opportunity. Last minute applications or representations,

appeals and documentation barriers can take this outside our control. However, we are constantly working with partners to improve these processes and undertake removal at the earliest opportunity. Immigration Enforcement is already working closely with colleagues in UKVI to deal with representations and barriers more effectively when raised at the point of removal and has introduced a hotline to European casework specialists. Under Operation Mellor, Immigration Enforcement is looking across its teams to identify why delays occur in the removal of those engaging in sham marriage and taking action to tackle those delays at all stages.

5.3 The Home Office amended the Immigration (European Economic Area) Regulations 2006 on 1 January 2014 to facilitate the removal of EEA nationals found to have abused their right of residence. This has enabled our frontline enforcement teams to take removal action against EEA nationals who are found to be entering into, or facilitating, sham marriages.

6. Collects comprehensive and robust management information on all aspects of European casework.

6.1 **Accepted in part.**

6.2 The Home Office will work to determine whether improvements to the capturing of data around European casework can be implemented, and will work to develop new management information where possible. The response to Recommendation 7 highlights steps already taken in the operational casework area to promote best practice on record-keeping and as our data analysis of risk factors increases, we will look to improve our collection management information even further.

6.3 An improved link between the enforcement data systems and casework data systems has been introduced, although linking records between systems still relies on correct input of data by operational teams. The Home Office will seek to develop management information that makes use of these improved systems.

6.4 There are no current plans to publish more detailed information relating to European casework in Home Office Migration Statistics. However, the Home Office will review the existing publication of transparency data relating to European casework.

7. Retains an adequate record of the reasons for its decisions in both issue and refusal cases.

7.1 **Accepted; already implemented.**

7.2 European Casework uses electronic minute sheets to record its decisions in a consistent and reviewable manner. Customers who are refused documentation under the European Regulations receive a detailed letter to explain the reasons for the refusal. The ICI found that 78% of records on our database were acceptable.

- 7.3 It is accepted that the electronic consideration notes relating to customers who were issued with European documentation were not as comprehensive in comparison to notes recorded for refusals. From an audit perspective the need for parity in the consideration process has been fully recognised. To address this, the business has continued to build upon the interactive minute which was developed to aid the comprehensive consideration of all cases to their appropriate resolution. UKVI are committed to transparency and consistency of record-keeping so this approach ensures that information relating to the subsequent issue of documentation are now, rightly, equally as comprehensive as refusal minutes.
- 7.4 The consideration minute is regarded as a living document and, as such, revisions are made to reflect any procedural or regulatory change. Aside from the revisions prompted by the latter, we intend to review these minute sheets annually as a minimum.
- 7.5 Guidance has been issued to all staff to ensure caseworkers are aware of the importance of good record-keeping and to promote best practice. We also intend to work with colleagues to explore the feasibility of improving our capability to enhance our record-keeping electronically in line with Recommendation 6.

8. Retains a record of the reasons for requesting marriage interviews and uses this information to ensure that appropriate cases are selected for interview.

8.1 Accepted; partially implemented.

8.2 The reasons for requesting marriage interviews are manually recorded and kept on file. Since the inspection, we have already issued instructions to caseworkers that the reason for requesting interviews should now also be recorded electronically on our database.

8.3 We also intend to work with colleagues to explore the feasibility of improving our capability to enhance our record-keeping electronically in line with Recommendation 6 as we agree that this will enhance our analysis of the interview referral system.

9. Ensures that couples are spoken to and observed together where the relationship is suspected to be one of convenience.

9.1 Accepted; already implemented.

9.2 The interview team have piloted a test to observe how couples relate to one another and to ensure they are able to effectively communicate with one another. This is undertaken when couples attend their interview. This has proved effective and is now part of standard procedures where it is indicated that this is appropriate.

9.3 At the time of the Inspector's visit, it was common practice for interviewers to talk to couples prior to the start of the interview. This process has now been adopted as standard procedure and our process manual has been updated to reflect this.

10. Pilots pastoral/home visits being undertaken by non-enforcement staff who are experienced in interviewing.

10.1 **Not accepted.**

10.2 There have been great improvements in the tasking of pastoral visits by Immigration Compliance and Enforcement teams, which is resulting in arrests and these visits can uncover other intelligence of value. Each case needs to be considered on its individual merit and tasked accordingly. At present, neither arrest-trained nor non-arrest trained staff are deployable to implement this particular recommendation. The undoubted value of using arrest-trained staff in such visits is our ability to act when other offenders are located at these premises. There are often links to organised crime groups within sham marriage activity so need to field an appropriate tactical response to each case. We will continue to explore all options but do not consider this recommendation is appropriate at this time.