



Home Office

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

'An inspection into Failed Right of Abode applications and referral for enforcement action'

The Home Office thanks the Independent Chief Inspector (ICI) for the recommendations in his report into failed right of abode applications and referral for enforcement action.

It is recognised that in the past there was some inconsistency in processes for referring the relevant sub-set of Right of Abode refusals for enforcement action. Building on an updated process already implemented on 20 January 2016, the Home Office has now further revised and agreed an effective process to refer all relevant Right of Abode refusals from UKVI to Immigration Enforcement from 1 September 2016 where the applicant is not already British or does not have extant leave at the time of the decision. This process will place such cases on the same footing as the standard arrangements which apply when a normal application for leave to remain is refused.

Most customers who apply for Right of Abode do so correctly and are given a Certificate of Entitlement. As the ICI highlights, from 2005 to 2015, 18% of applications were refused but once those who were already British and/or held British passports at the time of decision are excluded from applications made in country, this figure is reduced to 11%. Of the remainder some of these applicants will not have sent the appropriate evidence to demonstrate their right to abode which is a statutory right which a person either has or does not have. Other applicants who have been in the UK for a number of years may have a right to stay here under another immigration route. However it is recognised that there is a limited cohort of applicants who have been refused a Right of Abode application and also have no basis of leave to remain and as such enforcement action should be pursued.

The Home Office has responded robustly to the inconsistencies highlighted in this report and has already implemented improvements. These include agreeing a consistent referral process when enforcement is appropriate and better highlighting for relevant action those cases where there is evidence of deception. All Right of Abode caseworkers have been trained in these revised processes and all appropriate historical refusal decisions where the applicant has not regularised their stay or left the UK are being reviewed and then referred for enforcement action where appropriate.

The Home Office accepts the three recommendations in this report.

The Home Office response to the recommendations that the Home Office should:

Recommendation 1: Ensure that individuals refused Right of Abode applications without leave at the time of refusal flow into the Migrant Refusal Pool (MRP) for enforcement action to be progressed where appropriate.

1.1 Accepted; already implemented.

1.2 The Home Office agrees that such referrals of refusal decisions need to be made in a consistent way. From 1 September 2016 all refused Right of Abode cases where the applicant is not already British or does not have extant leave at the time of the decision will be referred into the Migration Refusal Pool in line with existing practice for others refused leave to remain.

Recommendation 2: Ensure that the referral process for refused cases that are suitable for enforcement action, in particular absconders or long-term overstayers, is aligned with guidance, and that cases referred to the Right of Abode Team by Removals Casework (where enforcement action is already underway) are referred back on completion.

2.1 Accepted; already implemented.

2.2 The referral process is now aligned with the guidance.

Recommendation 3: Where there is evidence of deception having been used to attempt to obtain a Certificate of Entitlement to Right of Abode, ensure that this information is available to caseworkers throughout Home Office, including Her Majesty's Passport Office (HMPO), when considering any future applications e.g. for a visa or UK passport

3.1 Accepted; implemented in part.

3.2 The Home Office has a process in place to highlight where there is evidence of deception more prominently on visa systems. The system used within HMPO is separate and options that would allow for this information to be effectively shared and utilised by HMPO colleagues will be explored and the most appropriate implemented.