



Home Office

# **The Home Office response to the Independent Chief Inspector of Borders and Immigration's report:**

## **An Inspection of Administrative Reviews**

**May - December 2019**

## **The Home Office thanks the Independent Chief Inspector of Borders and Immigration (ICIBI) for his report.**

The Home Office is grateful to the ICIBI for the effort he and his team have devoted to this inspection.

The Home Office is pleased the report recognises Administrative Review Unit (ARU) reviewers are generally effective at identifying and correcting “objective” errors’, and ‘Inspectors found the ARU letters ... were well written, factually accurate and engaged all the points raised by applicants in their application’.

The Home Office is also pleased the report acknowledged the assistance given to applicants applying under the EU Settlement Scheme (EUSS) and the ‘good collaboration’ between the ARU and EUSS policy and decision-making areas.

The report is right to highlight the areas for further improvement with the administrative review process; the recording and reporting of administrative review data and consideration of potential changes to administrative review policy and practice.

The Home Office has noted the comments concerning some port practices and Border Force is already working with port managers to address the Independent Chief Inspector’s concerns.

The ICIBI made 5 recommendations, some with multiple parts. To ensure clarity on what the Department is accepting and to assist with monitoring implementation, recommendation 1 is addressed in 5 sections (1a to 1e).

Of the ICIBI’s five recommendations, we accept two, partially accept two and do not accept one.

## The Home Office response to the recommendations:

### The Home Office should:

1. **(a) Ensure that all data and information relevant to demonstrating how the Administrative Review (AR) system is working, including related Pre-Action Protocol (PAPs) or Judicial Review (JR) data, is routinely captured and analysed, and used to affect the continuous improvement of both ARs and original immigration decisions.**
  - 1.1 **Accepted**
  - 1.2 The Administrative Review Unit (ARU) will continue to develop and enhance its own databases and record keeping in order to capture information pertinent to the administrative review system. Furthermore, the Atlas casework database under development is expected to provide relevant data and information pertaining to the administrative review system. Development of Atlas for in-country casework is imminent and expected to be fully operational in late 2020. Atlas development for International casework is medium term, with an expected implementation date of 2021.
  - 1.3 **(b) Ensure that guidance and instructions to caseworkers (including Border Force officers) responsible for making eligible decisions mandate the minimum recording standards/data requirements in respect of their decisions, actions and reasons/justifications.**
  - 1.4 **Accepted**
  - 1.5 Operational units, in conjunction with Policy colleagues, will review current guidance and implement changes to improve the recording of data on existing databases. The Atlas casework database will provide new requirements for the recording of data. Guidance and instructions for using Atlas will be updated accordingly.
  - 1.6 **(c) Publish quarterly performance data for Administrative Reviews (AR), covering as a minimum: the numbers of in country, overseas, at the border and EU Settlement Scheme ARs received; the outcomes (including numbers of ARs declared invalid, with a breakdown of the main reasons); and processing times (having first published the Customer Service Standard (CSS))**
  - 1.7 **Partially Accepted**
  - 1.8 The Home Office will consider the publication of data and service standards on administrative reviews following the full implementation of the Atlas casework database by end of 2021.
  - 1.9 **(d) Publish (periodically) the details of improvements made to policies, guidance and original decision-making practice as a result of the lessons learned from Administrative Reviews (AR), first ensuring that feedback mechanisms are effective (timely, specific, and auditable);**
  - 1.10 **Partially Accepted**
  - 1.11 The Home Office recognises the benefit of effective internal feedback and is committed to ensuring the existing ARU feedback mechanisms are maintained and enhanced. As part of the feedback process and with immediate effect, Admin Review will collate

information regarding changes made as a result of feedback provided. The recommendation has been partially accepted, as such feedback may contain sensitive information that is not suitable for the public domain.

**1.12 (e) Review the quality assurance regimes for all types of eligible decision, ensuring that where dip sampling is used the sample size is sufficient to provide a high ( $\geq$  95%) level of confidence, and that where decisions rely on a credibility assessment 100% are quality assured by a manager before the decision is dispatched.**

### **1.13 Partially Accepted**

**1.14** The UKVI Operational Assurance Strategy is currently being reviewed in line with recommendations made in the Windrush Lessons Learnt Review. The findings of the ICIBI in this inspection will also be considered as part of this review.

**1.15** The current UKVI Operational Assurance Strategy mandates the minimum volume of sampling is 2% of decisions made. The strategy also states the 2% sample must contain a representative quantity from the full range of decisions made. The 2% value was introduced in 2014 following consultation with what was then called 'Home Office Science'. Their analysis of the decision types, volumes and subsequent decision to suggest 2% was set against a confidence level of 95%.

**1.16** The training of UKVI decision makers includes formal training followed by a period of mentoring which includes a 100% check of their decisions. Only when a case worker consistently meets the required standard is the number of checks against them reduced to fall in line with the 2% random sampling required by the UKVI Operational Assurance Strategy.

**1.17** The resource requirement to deliver a full Quality Assurance check on 100% of eligible decisions where credibility is a factor is considered to be disproportionate and could impact negatively on current service standards. UKVI will however consider increasing the volume of Second Pair of Eyes (SPOE) checks using a risk-based approach.

**2. Review Administrative Review (AR) guidance (and training), and guidance relating to eligible decisions, and ensure that the directions given to reviewers and to original decision makers (including Border Force officers in both cases) are clear and consistent, paying particular attention to:**

**a. deadlines for valid AR applications, including the limits of any reviewer discretion;**

**b. the use, recording and management oversight of AR waivers;**

**c. the completeness of AR and original decision letters, which should contain the details of all of the evidence relied upon to reach the decision, including the verbatim transcript of interviews, where relevant;**

**d. the timescale(s) for reconsiderations following an AR, which should recognise the applicant's reasonable expectation of a correct "original" decision within the shortest possible time, rather than having to restart the process as if they were a new applicant;**

**e. refunds, both the amount and the timeliness of reimbursement;**

**f. identification and signposting of formal complaints.**

### **2.1 Accepted**

- 2.2** Home Office Policy are committed to a wider simplification project. This will include a review of the administrative review policies, processes and guidance. Our aim is for consolidated and simplified Rules to be in force from January 2021. Following this review, new guidance will be issued. The Administrative Review Unit and Border Force will liaise with policy colleagues to ensure the delivery of effective training to support changes made as a result of the simplification project.
- 3. Create a single, dedicated unit within Border Force to deal with all at the border Administrative Reviews (AR), responsible to a nominated Border Force Senior Civil Servant (SCS) and with formal reporting lines to the Appeals, Litigation and Administrative Reviews (ALAR) SCS regarding at the border AR performance.**
- 3.1 Partially Accepted**
- 3.2** Border Force will establish a dedicated unit as part of the National Casework Forum that will deal with all at the border administrative reviews, by the end of 2020/21. The unit will be wholly independent of operational managers involved in the initial decision making process. Whilst this is being established, Border Force will conduct additional assurance of its administrative review cases to ensure compliance with guidance.
- 3.3** The recommendation is only partially accepted. Whilst we expect the dedicated Border Force Administrative Review Unit to work closely with ARU, we do not agree there should be formal reporting lines to the SCS in charge of that unit. We will, however, keep this under review.
- 4. Conduct and publish a full evaluation of the Administrative Review (AR) system, baselined against the “Objectives” and “Appraisal (Cost and Benefits)” set out in the 2013 ‘Impact Assessment of Reforming Immigration Appeal Rights’ and other official statements made during the passage of the Immigration Bill 2014, and including:**
- a. a list of actions (with owners and timescales) required to deliver what was originally intended;**
- b. consideration of potential changes to AR policy and practice, whether overall or specific to certain routes, that would improve the customer experience, including (but not limited to) empowering the AR reviewer to consider fresh evidence, particularly where the eligible decision involved an assessment of the applicant’ credibility.**
- 4.1 Accepted**
- 4.2** The Department is conducting an evaluation on the effectiveness of the implementation of admin review, the scoping stage is nearing completion and the aim is to complete the evaluation by end of summer 2020. In addition, as part of the wider simplification project consideration will be given to changes that will improve the customer experience.
- 5. Present to the BICS Board a detailed (not simply statistical) quarterly report on the Administrative Review (AR) system, covering how in-country, overseas, at the border and EU Settlement Scheme ARs are working, the issues raised and lessons learned, risks and proposed actions (including by areas responsible for making eligible decisions).**

## **5.1 Not accepted**

- 5.2** The Department acknowledges the importance of an effective Administrative Review system and will consider how to best report on its performance and to what forum. As the ICIBI has noted performance in ARU is already closely monitored by various boards within UKVI, and the creation of a dedicated Border Force Unit will also allow for better oversight. Given the range of topics and operational areas the BICS board covers, and the need to retain flexibility to focus on emerging issues, we do not accept the recommendation as drafted. We will, however, further consider how management information on, and learning from, Administrative Reviews is included in wider discussions about system performance.