



**INDEPENDENT CHIEF INSPECTOR**

**OF THE UK BORDER AGENCY**

**REPORT JULY 2008—SEPTEMBER 2009**



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Independent Chief Inspector of the  
UK Border Agency report for the  
period July 2008 to September 2009

Presented to Parliament pursuant to  
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# 1. Foreword



**From John Vine CBE QPM, Independent Chief Inspector of the UK Border Agency**

It gives me great pleasure to present my first annual report as the Independent Chief Inspector of the UK Border Agency (UKBA). I was appointed to the role by the then Home Secretary, Jacqui Smith MP, in April 2008 and took up post on 7 July 2008.

The responsibility of establishing an entirely new inspectorate has, unsurprisingly, thrown up many challenges, particularly as it sits within an area of public policy that is under constant and high-profile scrutiny. Personally, I have found the experience of the past year, though demanding, to be extremely stimulating and I am privileged to have the opportunity of taking this important work forward.

From the beginning, I have attached considerable importance to ensuring that my Inspectorate is seen to be completely independent. I also expect that the

recommendations I make within my inspection reports will be implemented as soon as possible.

To promote good practice and identify areas for improvement I want, and need, to have a constructive relationship with the UKBA. I am, therefore, delighted to report that I have received excellent co-operation from the Chief Executive, Lin Homer, and her senior managers, and have been afforded every courtesy by UKBA staff during my visits.

I have also been keen to work closely and build relationships with the many stakeholders who have a particular interest in the functions of the UKBA. I have welcomed input, in formulating my programme of inspection, from organisations and individuals who share the common purpose of improving UKBA services.

With a fully functioning independent Inspectorate now firmly in place, I have been able to begin the process of scrutinising a range of UKBA operations, both in the UK and overseas. I am delighted that in a relatively short period of time we have developed a robust inspection model to work to, while recognising that our structure and approach will continue to evolve as we inspect more areas of UKBA activity.

This has been, I believe, a year of considerable achievement. The invaluable support of my colleagues within the Inspectorate, their enthusiasm and eagerness to help improve service delivery in the UKBA, gives me the confidence to believe that we have begun to deliver what Parliament intended when it created this post.

**JOHN VINE CBE QPM**

**INDEPENDENT CHIEF INSPECTOR OF  
THE UK BORDER AGENCY**

## 2. About us

2.1 The role of the Independent Chief Inspector of the UK Border Agency was established by the UK Borders Act 2007 to examine the efficiency and effectiveness of the UKBA. The initial remit was to consider immigration, asylum and nationality issues, but was subsequently widened in 2009 when the Borders, Citizenship and Immigration Act 2009 gave the Chief Inspector additional powers to look at border customs functions and contractors employed by the Agency.

### OUR PURPOSE

We work to ensure independent scrutiny of the work of the UKBA, providing confidence and assurance as to its effectiveness and efficiency.



## OUR VISION

To see that the UKBA delivers fair, consistent and respectful services, acting as a catalyst for improvement.

## OUR VALUES

- High quality, rigorous and respected
- Fair and transparent
- Delivery focused
- Frank and straightforward
- Impartial and objective



## 3. The year in review

3.1 I am delighted to report back on some of the key activities undertaken by me and the new Inspectorate over the course of the last year.

### SETTING UP THE OFFICE OF THE INDEPENDENT CHIEF INSPECTOR

3.2 The early months of any inspectorate's life are understandably taken up with fundamental tasks necessary to establish a working office, and this Inspectorate was no exception.

3.3 Acquiring accommodation, recruiting staff, developing basic office systems and agreeing working arrangements with the Home Office occupied much of my first few months in post. In this respect I am grateful for the support I received from the Home Office Sponsor Team.

3.4 Selecting inspection staff with the right skills and competencies took up much time and energy, but was a sound investment for the future of the Inspectorate and in helping to develop a distinct organisational culture and practice. It will, of course, take time to refine our approach to inspection and learn from experience, but I am confident that we have recruited high-calibre staff with the ability to drive our work forward in an effective way.

3.5 A substantial part of the year was involved in developing a programme for a series of pilot and full-scale inspections to be undertaken during 2008/09. As required by statute, I consulted the Home Secretary on my proposals and subsequently published my first inspection plan in April 2009. A copy is available on my website ([www.ociukba.homeoffice.gov.uk](http://www.ociukba.homeoffice.gov.uk)).

3.6 I was also pleased that the Home Secretary agreed to my request for the resources needed to establish a credible Inspectorate and fulfil my plan for 2009/10. We now have firm foundations upon which to build an inspection programme for the years ahead.





## ESTABLISHING WORKING RELATIONSHIPS

- 3.7 The work of the UKBA is of intense interest to the public and a wide range of stakeholders who have a legitimate interest in its work and effectiveness.
- 3.8 Over the course of the last year, I have met with over 150 stakeholders who have involvement in, and impact on, the day-to-day operation of the UKBA. These ranged from the passenger and freight carrier industries through to organisations with a particular interest in the welfare of those seeking to stay in the UK.
- 3.9 I appeared twice before the Home Affairs Select Committee – in November 2008 and July 2009. I welcomed both appearances as opportunities to set out how I intended to build the Inspectorate and take forward my inspection programme. While the questioning was always challenging, I found it invaluable in helping me to focus on the issues that Parliament and the public find of most concern and I look forward to maintaining an open relationship with the Committee and other MPs.
- 3.10 Among my most memorable visits was a trip to the surgery of Andrew Dismore MP where I was able to see at first hand the extraordinary range of immigration issues that can arise.
- 3.11 I consider that such meetings and discussions are crucial in building up an understanding of the work of the Agency and how it impacts on the wider community. I fully intend to continue building these relationships over the coming year.
- 3.12 However, I am also keen to hear ideas from others and I welcome any well-evidenced proposal for inspection from stakeholders. I don't have the resources to look at every issue that is raised, but any evidence provided will be added to my growing information base for future inspections. As part of this approach, I set up a Refugee and Asylum Forum comprised of representatives from some of the key organisations with an interest in these issues. This group will meet three times a year and I intend it to be an open forum with clear results. If it is successful I would like to set up a similar group for migration issues.

“I want the Inspectorate to play a key role in making a real difference to the efficiency of the United Kingdom’s border security.”

## ESTABLISHING THE

## INSPECTION PROGRAMME

3.13 As the first appointee to this post, I was in the enviable position of having very much a blank canvas in establishing my programme of work. However, this has also provided its own challenges.

3.14 I want the Inspectorate to play a key role in making a real difference to the efficiency of the UK’s border security and immigration practice. So, where possible, I have tried to build upon the work of a number of monitoring and advisory bodies that existed until my appointment. Some of these have been included within my remit, including the Race Monitor, the Certification Monitor, the Independent Monitor for Entry Clearance, the Advisory Panel on Country Information and the Complaints Audit Committee.

I would like to pay a particular tribute to my immediate predecessors: Mary Coussey, Sarah Woodhouse, Linda Costelloe Baker, Khalid Koser, Ann Barker, Ram Gidoomal and Paul Acres. Their work has provided a useful basis for the Inspectorate in key areas of performance. Equally importantly, their constructive approach during the transition period over the past months was personally appreciated.

3.15 I also examined good practice from other regulatory oversight bodies in order to inform my inspection approach. However, while this was useful, I took the view from the outset that my approach would necessarily be shaped by the complexity of border and immigration matters and that it should have a strong customer focus.



## 2008/09 INSPECTIONS

3.16 My colleagues and I undertook six inspections this year:

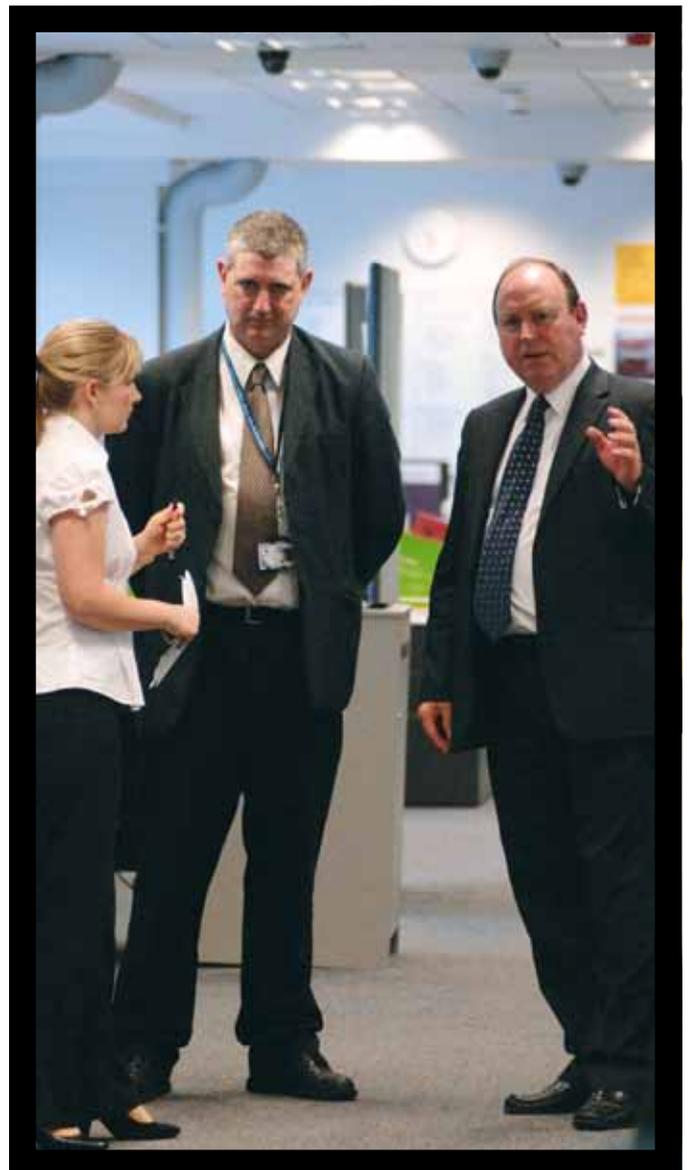
- three pilot inspections to test my general approach – non-suspensive appeals, the port of Harwich, and freight searching at the juxtaposed controls in Calais and Coquelles;
- two overseas inspections of the visa offices in Rome and Abuja; and
- an unannounced inspection of the Liverpool asylum screening unit.

Details of these are set out later in this report.

3.17 My pilot inspections were designed to test our inspection methodology and general approach, and to enable the UKBA to experience being inspected. This approach worked well and so far there have been no significant disagreements between my Inspectorate and senior management of the Agency about findings of fact. I have also been pleased by the UKBA's constructive approach to my findings, and willingness to adopt my recommendations.

3.18 Overall, although my findings have been based on a limited number of scrutinies thus far, I have been impressed by the commitment of staff in the UKBA. They have a difficult job, whether employed overseas, at points of entry to the UK, or in one of the Agency's centres in Croydon or elsewhere across the UK.

3.19 In addition, the UKBA itself is very new as an integrated entity and, not surprisingly therefore, I have identified that the integration of UKvisas, Customs and Immigration staff has raised some important issues for the Chief Executive and her board, particularly about terms and conditions of employment and local management arrangements.



“I was disappointed to find that the civil penalty powers given to the Agency by Parliament ... are not being fully used.”



3.20 The provision of data and information is key to any inspectorate performing its role effectively. I am pleased to note that I have experienced no reluctance from UKBA staff to accede to requests for information from me and my colleagues within the Inspectorate. However, over the last year there has been some variability in the availability and format of information from the various parts of the UKBA, and my team will continue to work with the Agency to ensure greater consistency of approach. This is very much at the heart of my terms of reference and I shall be looking to ensure consistency of adherence to rules and standards.

3.21 The inspection programme highlighted that complaints handling is still an issue under development within the Agency. In some of my early work, I encountered significant variance in the awareness of complaints procedures among staff and a lack of availability of up-to-date guidance for staff and users of the Agency's services.

3.22 I inherited work previously undertaken by the Complaints Audit Committee (CAC) in monitoring the handling of complaints. One of my first acts as Chief Inspector was to support the CAC in completing its work. This led to the publication of its final annual report in November 2008. The report made many recommendations for improvement, which is why I have examined complaints handling in every inspection undertaken thus far. I will undertake a full thematic inspection of the issue this year and I look forward to seeing how much progress has been made across the Agency as a whole.

#### PILOT INSPECTIONS

3.23 My inspection of Harwich highlighted that the port is generally well run and staff are committed to their work. At the same time, they are exercised by the issue of how their terms and conditions of employment may be changed as a result of changes to the UKBA. This has the potential, in my view, to affect the efficiency and effectiveness of the new Agency.



3.24 My report on freight searching at Calais and Coquelles paints a picture of professional front-line staff whose work is often conducted under difficult conditions and who see at first hand the human side to UKBA duties in maintaining border security. While I praise them for their work in detecting persons concealed in freight vehicles, I was disappointed to find that the civil penalty powers given to the Agency by Parliament, and designed to give the UKBA a powerful tool to deter and prevent illegal entry to the UK, are not being fully used.

3.25 I was also disturbed to discover conditions in which migrants are being held in transitional holding facilities. The UKBA should review this arrangement urgently and find other, more humane, ways of holding migrants until they are transferred into properly supervised detention.

3.26 In the non-suspensive appeals inspection, I was impressed to note that staff had a very strong understanding of national and local targets and a real focus on achieving them. At the same time, I was reassured by the emphasis that staff placed on flexibility and ‘getting it right’. I was particularly pleased to see that the UKBA has accepted my recommendation to publish the figures of those subject to this procedure. There is, in my view, no reason not to publish and be open with information in the public interest in such matters.

“I found that staff demonstrated a professional and caring approach and were courteous and respectful to customers irrespective of their status.”

## OVERSEAS INSPECTIONS

- 3.27 In addition to my existing work, the Home Secretary appointed me as Independent Monitor for Entry Clearance in April this year after the retirement of the previous monitor. As part of that role, I undertook two inspections of overseas visa offices this year – in Rome and Abuja. Although my remit covers all UKBA work overseas, I restricted my inspections to a consideration of cases where refusal to grant entry carried limited rights of appeal against those decisions, in order to ensure the most effective transition from the previous oversight regime.
- 3.28 Overall, I found that more work needed to be done to improve the online application process and guidance, in order to make it easier to navigate and understand for those using it.
- 3.29 In Abuja, the volume of applications, together with target-driven performance, had an adverse impact on the ability of staff to provide the fullest consideration of applications. I noted that decision quality was poor, as was the standard of refusal notices. This had a negative impact on the value for money received by customers.

## UNANNOUNCED INSPECTIONS

- 3.30 I undertook an unannounced inspection of the asylum screening unit in Liverpool in July. Generally, I found that staff demonstrated a professional and caring approach and were courteous and respectful to customers irrespective of their status.
- 3.31 Staff received training on dealing with children and young people, and demonstrated skill in handling a customer who presented as vulnerable and distressed. I was impressed by an innovative pre-screening initiative to provide customers with an audio presentation of useful information regarding the screening process while they waited, which was also well received by customers.
- 3.32 However, I found the accommodation to be inadequate. It was extremely cramped, and dirty. Signage and other information were out of date and I was concerned to find that an applicant with a young child was left to wait for almost six hours without being seen.
- 3.33 I am pleased that the UKBA has taken my concerns seriously and I have been advised that my recommendations will be taken forward.

## SUMMARY

- 3.34 While I believe that excellent progress has been made in the short history of this Inspectorate, our impact on the culture and practice of the UKBA will increase with every inspection and I will continue to seek improvement in service delivery as a consequence.

## 4. Plan of work 2008/09

4.1 Upon taking up post I was clear that the main objectives I would need to meet this year were to:

- recruit and train a high-quality team of staff;
- establish a model for inspection;
- establish programmes for inspection against set criteria;
- deliver effective joint working with other inspection bodies;
- undertake a pilot inspection programme; and
- begin the formal inspection programme.



## 5. Recruiting and training high-quality staff

5.1 I started with an office of only two people, and therefore I needed to quickly start the process of recruiting staff to build the organisation. In particular, it was important to recruit inspectors so that they could be trained in order to start delivering on our statutory requirement to inspect the Agency.

5.2 At the time of writing, we have in place 32 staff, made up of inspection staff, analysis staff and support staff. I want to ensure that my team is organised in the best possible way to produce high-quality inspection reports, within an appropriate timeframe to maximise the usefulness of the inspection and the recommendations made.

During 2009/10, I will continue with the development of our organisational structures as well as our information management systems and training programme, in order to ensure that all my staff have the necessary skills to deliver a high-quality performance.

5.3 I want to ensure that equality and diversity principles are integral to the way that we conduct inspections as well as during our day-to-day relations with each other and our stakeholders. Equality and diversity will be a 'golden thread' that runs through all our inspections and is an area where I intend that our own performance will be able to withstand rigorous review.



## 6. Establishing a model for inspection

### THE AGENCY

- 6.1 The UKBA was established last year as an executive agency and was formed by amalgamating the Border and Immigration Agency, UKvisas and the border customs functions of Her Majesty's Revenue and Customs.
- 6.2 The Agency was set up to protect the UK's border and national interests, to tackle border tax fraud, smuggling and immigration crime, and to implement fast and fair decisions relating to travel to and from the UK.
- 6.3 In order to carry out its functions, the UKBA employs 25,000 staff who are primarily based in the UK across 11 regions (split between six geographical regions dealing with general immigration matters and five border force regions). The Agency also maintains a presence in another 135 countries which are divided into five international regions.
- a new, independent inspectorate would drive improvement in the immigration system to provide confidence to the public and to Parliament that it was working efficiently and effectively;
  - any problems within the system would be addressed in a way consistent with the Government's policies and objectives; and
  - the new body would rationalise inspection activity and reduce the burden arising from the existing scheme of multiple oversight bodies.
- 6.7 The role of Chief Inspector of the UK Border Agency was established under statute in 2007 to deliver these aims.

### THE LEGISLATIVE FRAMEWORK

- 6.8 Sections 48–56 of the UK Borders Act 2007 set out the legislative framework for the inspection of the work of the UKBA. In short, the Act:
- requires the Secretary of State to appoint a Chief Inspector to evaluate the efficiency and effectiveness of the UKBA in dealing with asylum, immigration and nationality matters;
  - extends the Chief Inspector's remit to cover all UKBA staff, both in the UK and overseas;
  - requires the Chief Inspector to publish an annual report which the Secretary of State places before Parliament;
  - does not permit the Chief Inspector to investigate individual cases but allows him to use such cases as evidence for wider inspections;

### THE NEED FOR INSPECTION

- 6.4 Prior to 2008, there were a number of bodies that monitored, inspected or advised on specific aspects of the immigration system.
- 6.5 In 2007, the Home Office announced proposals to create a new, independent body to inspect the work done by the then Immigration and Nationality Directorate.
- 6.6 The main aims behind this proposal were that:

- allows the Secretary of State to require the Chief Inspector to carry out an investigation into any matter regarding asylum, immigration and nationality matters; and
- requires the Chief Inspector to consult the Secretary of State regarding his inspection plans, but this does not prevent him working outside the plans where he regards this as appropriate.

6.9 Her Majesty's Chief Inspector of Prisons has a statutory responsibility for inspecting those places in which people are detained under the immigration legislation, such as immigration removal centres and short-term holding facilities, as well as escort arrangements.

6.10 In addition, the 2007 Act abolished the statutory roles of:

- the Certification (or Non-Suspensive Appeals) Monitor;
- the Race Monitor; and
- the Advisory Panel on Country Information (APCI)

and gave the Chief Inspector responsibility for monitoring the handling of complaints, which had the effect of abolishing the non-statutory Complaints Audit Committee.

6.11 The fact that these roles were included within my statutory remit showed that they perform a crucial role in providing assurance to Parliament and the wider public about the performance of the UKBA.

6.12 It was therefore important for me to ensure that the work of all these previous functions was incorporated into my broader work programme as quickly and effectively as possible.

- **Certification Monitor** – the work previously covered by this role was considered in my pilot inspection programme and some early findings are set out in 'Establishing the inspection programme' below. Non-suspensive appeals are an important part of the asylum process and will be considered, where appropriate, in the core programme. It is my intention to revisit this specific area in the near future.

- **Race Monitor** – I have a wide remit to look at how the UKBA meets its commitments under UK discrimination law. Diversity issues will be considered in every inspection. This will include assessments of how the UKBA meets its responsibility to ensure that its exemptions under Section 19D of the Race Relations Act 1976 are operated fairly and appropriately.

- **Advisory Panel on Country Information** – the APCI was responsible for reviewing Country of Origin Information (COI) reports. These are produced by the UKBA and are used by decision-makers and legal advisers in asylum cases. I regard timely, good-quality and impartial country information as being crucial in contributing towards a fair asylum system in the UK. I have established a new Independent Advisory Group on Country Information (IAGCI), under the chairmanship of Dr Khalid Koser, to fulfil the function previously undertaken by the APCI:

- The membership of the IAGCI combines independent experts and representatives from relevant UK and international organisations. The group meets three times a year and reports directly to me. The group's current membership and terms of reference are set out at Annex B.
- The IAGCI also reviews the content of all UKBA COI relating to countries designated, or proposed for designation, for the Non-Suspensive Appeals (NSA) list.
- In its first year, the IAGCI has reviewed four COI reports (Kurdistan Regional Government Area of Iraq, India, Pakistan and Zimbabwe) and two COI key documents (South Korea and Kosovo).
- Full minutes of every meeting are published on my website, along with the terms of reference, working methods and membership of the IAGCI.
- **Complaints Audit Committee** – I assumed responsibility for the Complaints Audit Committee in July 2008 and I published its final report in November 2008 (a copy is available on the Home Office website at [www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/cacreports](http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/cacreports)). This is a crucial area and a key measure of how the wider public view the efficiency and effectiveness of the UKBA. In the immediate future I will look at complaints handling by the UKBA as part of my thematic programme and I will report on this in 2010. Every inspection I carry out will cover complaints handling to at least some extent.

“I regard timely, good-quality and impartial country information as being crucial in contributing towards a fair asylum system in the UK.”

- 6.13** With the retirement of Linda Costelloe Baker in April 2009, I was appointed to the role of the Independent Monitor for Entry Clearance (for cases with limited rights of appeal). In order to maintain the level of oversight that my predecessor had provided for the Agency, I put in place transition arrangements that took into account existing methodology and the most recent inspection programme, and I used these as the basis for our inspections of Rome and Abuja.
- 6.14** I will be developing this work further by taking into account my wider remit to look at the full range of UKBA activity overseas.

## NEW RESPONSIBILITIES

- 6.15** The Borders, Citizenship and Immigration Act 2009, which received Royal Assent in July 2009, has expanded the role of the Chief Inspector to cover the customs functions undertaken by the UKBA, as well as a general power to inspect contractors employed by the Agency. My inspection plans will be reviewed to take into account these additional functions.

## 7. Establishing the inspection programme

- 7.1 My main duties in this role will be to provide an assessment of the efficiency and effectiveness of all aspects of UKBA work, as well as any specific issues that arise at the request of the Secretary of State. I will be measuring the Agency primarily against its own performance indicators; however, I will also be assessing whether these indicators are appropriate and are helping to drive improvement within the organisation.
- 7.2 I have wanted to develop a comprehensive end-to-end analysis of the UKBA that will allow me to inspect, in detail, as much of the Agency's work as possible. It is clear, however, that the work of the UKBA means that a 'one-size-fits-all' approach to inspecting the Agency would not be practical. This has meant that I could not simply adopt the approach of another existing inspectorate.
- 7.3 The Inspectorate has looked at a number of other inspection and monitoring bodies while developing a set of methodologies for inspection, which have been designed to cover the full range of UKBA activities such as: casework, enforcement and front-line decision-making.
- 7.4 We have developed a 'core' regional programme that is intended to provide our main coverage of the Agency's work both in the UK and overseas. To support this programme we will run cross-cutting thematic inspections and a programme of unannounced inspections.

### CORE INSPECTION PROGRAMME

- 7.5 The Core Inspection Programme will allow the Inspectorate to assess any aspect of UKBA business. It will be carried out using Core Inspection Criteria against which performance will be assessed. These Criteria are structured into four broad strands: Outcomes, Processes, Impact, and Leadership and Management. They are designed to be applied across the whole of the Agency, including its overseas operations. These Criteria are set out in detail on my website.
- 7.6 Not all the Criteria will be applicable to every inspection. The Criteria to be used will be made available to the Agency in advance – except for unannounced inspections, where the Criteria will be made available to the Agency at the time of inspection. However, there are a number of areas that will be applicable regardless of the type of inspection being carried out. These 'golden threads' will run through each of my inspections:

- protecting the public;
- equality and diversity; and
- customer service (including complaints handling).

## 8. Joint inspections

### THEMATIC INSPECTION PROGRAMME

7.7 The Thematic Inspection Programme has been designed to inspect broader themes and topics that cut across the work of the Agency, such as intelligence or information handling. On occasion this may involve working with another inspectorate or regulator. I will choose the themes for inspection by assessing them against a number of tests, including the level of importance attached to them by Parliament, the public and stakeholders, as well as the level of previous inspection or monitoring and the degree of improvement that I believe an inspection will prompt.

### UNANNOUNCED INSPECTIONS

7.8 I will use unannounced (or short-notice) inspections where I believe that these will best provide public confidence and assurance in the Agency's performance and where there are important and sensitive issues around the welfare of vulnerable people. This does not dilute my commitment to transparency or rigour. I will use the criteria developed for the wider inspection programme to deliver these inspections.

- 8.1 A number of oversight bodies retain an interest in monitoring the performance of the UKBA. Although I have not yet undertaken a joint inspection with another body, in line with the Government's policy of closer working between the inspectors of public services, I will – depending on our respective organisations' inspection plans – aim to undertake at least one joint piece of work with another body during the next year.
- 8.2 More generally, I was grateful for the opportunity afforded us by various public bodies to comment on reports they produced over the past year. I strongly believe that such connections enhance the work of our respective organisations.



## 9. Refining the inspection programme

9.1 The Inspectorate has undertaken six inspections in the past year: three pilot inspections; two full inspections of the visa offices in Rome and Abuja; and an unannounced inspection of the asylum screening unit in Liverpool.

### PILOT INSPECTIONS

9.2 Given that this is the first year of the Inspectorate and that my team was using new methodologies and inspection criteria, it was important to use pilot inspections to test and refine our approach. In particular, clarity was needed on:

- how the inspection process worked against the criteria;
- the effectiveness of internal processes, including linkages between the analytical and inspection teams; and
- the effectiveness of communication with the UKBA.

9.3 Lessons learned from these inspections have been crucial in enabling my team to adapt quickly to ensure the most effective use of resources and achieve the best results.

9.4 In agreement with Home Office ministers, I have not published full reports on the pilot inspections, as I was using them to test internal processes as much as the performance of the UKBA. I did not consider it appropriate for a full-scale assessment, including detailed reports, using methods that had not been tested and validated. However, I did agree to publish the emerging findings from the inspections in this annual report. The UKBA has accepted the vast majority of my findings and I look forward to seeing them being taken forward.

9.5 The pilot programme was designed to cover a wide range of UKBA activity and to reflect the approaches that will be taken in the Core and Thematic Inspection Programmes. It focused on three areas:

- non-suspensive appeals;
- the port of Harwich; and
- freight searching at juxtaposed controls in Calais and Coquelles.

9.6 Details of the inspections and the emerging findings arising from them are set out in the following chapters.



## 10. Pilot thematic inspection of non-suspensive appeals: April–August 2009

### BACKGROUND

- 10.1 The non-suspensive appeals process is an important part of the asylum landscape. Whereas the majority of people whose claims for protection are refused can appeal to the independent Asylum and Immigration Tribunal before removal, this is not the case when claims are certified as clearly unfounded.
- 10.2 For this reason, the certification powers were very controversial when they were introduced. The powers meant there was a risk that an applicant could have to return to their country to face ill treatment, torture or persecution before the decision could be reviewed by the Asylum and Immigration Tribunal. In view of these concerns, ministers required that decisions would need to be approved by a second pair of eyes before they were issued to the applicant. In addition, and in view of the continuing concerns, ministers proposed an amendment which required the appointment of a 'Certification Monitor' to monitor the use of the certification powers. The Certification Monitor issued two reports, the last of which was published on 27 April 2006. This role is now part of my statutory remit.
- 10.3 The Secretary of State can certify a claim as clearly unfounded in two situations. Firstly, where an asylum claim is made by a person able to reside in a state or part of a specified state, the Secretary of State must certify the claim unless they are satisfied that the claim is not clearly unfounded. The reference to 'part of a state' provides the Secretary of State with flexibility. It is possible to designate only certain geographical parts of a country; or to designate that only claims from males are to be certified as clearly unfounded. This recognises the different situation faced by women in some countries. The specified states or parts of states are frequently referred to as 'designated states'. Secondly, the Secretary of State can certify any claim, irrespective of whether the person is able to reside in a designated state, if they are satisfied that the claim is clearly unfounded.
- 10.4 The UKBA regards the ability to certify claims as clearly unfounded as one of the factors contributing to the overall reduction in the number of asylum applications from a high of 84,000 in 2002 to 23,430 in 2007.

“We were surprised that the number of cases certified as clearly unfounded was not published.”

## THE INSPECTION

10.5 The inspection considered the operation by the UKBA of the powers to certify asylum and human rights claims: in particular, to inspect whether decisions to certify are made accurately and consistently in accordance with legislation and guidance; the procedures for operating these powers, including information obtained from, and provided to, customers; and the management of risk and overall treatment of customers. It did not extend to an examination of the quality of country information, any assessment of the reasons for including specific states or parts of states designated under Section 94(4) of the Nationality, Immigration and Asylum Act 2002, or an assessment of detention facilities.

10.6 We assessed the operation of non-suspensive appeals against criteria covering four key themes:

- high-level outcomes of the business;
- processes and procedures, including quality of decision-making and consistency of approach;
- impact on people subject to the UKBA's services; and
- management and leadership.

10.7 We carried out an initial assessment of policy and procedural guidance and analysed statistical information before assessing a random sample of 60 case files (one of which was a duplicate) in Croydon.

10.8 We then interviewed 30 members of staff: case owners and senior caseworkers responsible for recommending and approving decisions to certify cases as clearly unfounded; workflow managers and team leaders; staff responsible for managing judicial reviews and for issuing guidance on non-suspensive appeals; members of the NSA Oversight Team; and senior managers. As part of this process we undertook staff interviews at Harmondsworth and Yarl's Wood immigration removal centres and interviewed members of the asylum team in Leeds. We also observed asylum interviews at Harmondsworth.



## FINDINGS

10.9 According to management information provided by the UKBA, the number of cases certified as clearly unfounded since 2006 can be seen in Figure 1 below.

<b>Calendar year</b> <sup>1</sup>	Total asylum applications	<b>Financial year</b>	Number of certified 'designated' decisions made in financial year <sup>3</sup>	Number of certified 'case by case' decisions made in financial year <sup>3</sup>	Total number of certified decisions per financial year <sup>3</sup>
<b>2006</b>	23,610	<b>2006/07</b>	799	71	870
<b>2007</b>	23,430	<b>2007/08</b>	641	85	726
<b>2008</b> <sup>2</sup>	Figures unavailable at time of inspection	<b>2008/09</b>	430	109	539

Figure 1: Asylum applications per calendar year, decisions to certify (by type) and financial year

<sup>1</sup> Figures taken from the Home Office's Research Development Statistics Directorate: [www.homeoffice.gov.uk/rds/pdfs08/hosb1108.pdf](http://www.homeoffice.gov.uk/rds/pdfs08/hosb1108.pdf)

<sup>2</sup> Figures for the number of asylum applications made in 2008 have not yet been released.

<sup>3</sup> The data on decisions to certify is based on the UKBA's records of the 'first case outcome' - i.e. the date when the decision to certify was made, not when the application was made.

- 10.10 We were surprised that the number of cases certified as clearly unfounded was not published. This may reflect the fact that non-suspensive appeals have become embedded in the overall approach to concluding asylum cases; but, given the nature of this power, I believe it would be helpful for Parliament and those organisations with a particular interest in asylum to see how often it is used.
- 10.11 Non-suspensive appeal cases contributed to the overall target for concluding asylum cases contained in the Government's Public Service Agreement 3. A series of stepping stones are in place to meet this target: 60 per cent of applications by December 2008; 75 per cent by December 2009; and 90 per cent by December 2010. There was clearly a very strong understanding among staff of both these national and local targets and a real focus on achieving them. This focus was impressive, but we were equally reassured by the emphasis staff placed on flexibility and 'getting it right'. Given the aim of increasing the overall conclusion rate for completion to 75 per cent within six months (by December 2009), it is important that case owners have the confidence to delay decisions in individual cases where necessary. We were also pleased to see that all staff recognised it would be inappropriate to set a target to certify a certain number of cases each year.
- 10.12 In terms of the overall use of the power, we were struck by the uncertainty surrounding the use of case-by-case certification and believe that the UKBA should assess whether it is being used effectively. While the number of cases certified on a case-by-case basis increased in 2008/09, there remains a sense among staff that, in the context of the number of asylum applications that are received, the power could be used more. We believe that the UKBA could begin to assess this in a very clear way by requiring case owners to record on file their consideration of whether a case is clearly unfounded.
- 10.13 We do have concerns about the recording of information in respect of appeals and judicial reviews. We would expect the UKBA to consistently monitor the number of successful appeals and judicial reviews, and the number of decisions to certify cases as clearly unfounded that are withdrawn. This would enable managers to identify trends more clearly and to consider whether additional training or guidance may be necessary. It would also enable senior managers to be directly involved in any individual case where an appeal is successful. That said, there was no evidence that an appeal had been allowed in the last two years. There was evidence that the overwhelming majority of applications for permission to apply for judicial review are refused.

- 10.14 We did see clear evidence that case owners assessed the sufficiency of protection and internal relocation when considering claims and we noted that, although the length of reasons for refusal letters varied, they were tailored appropriately to the individual case. We were pleased to see that a 'second pair of eyes check' had been carried out in all but one of the cases the team sampled, and that all staff interviewed understood the importance of this. However, the fact that the team identified one case where there was no evidence of this procedure having been followed is of concern.
- 10.15 We noted that out-of-date guidance was contained on the UKBA website. This is clearly unacceptable and confusing for anyone seeking to understand the process. It also brings with it a risk that incorrect decisions could be made. There is more that the UKBA could do to ensure that case owners understand when guidance will be updated following court judgments. We recognise that the implications are not always immediately clear, and that there will often need to be discussions with legal advisers and other government departments. The risk is that, without better communication about what will be issued and when, particular asylum teams will 'go it alone' and inconsistent approaches may develop.
- 10.16 The Non-Suspensive Appeals Oversight Team established by the UKBA has found it difficult to provide the strategic oversight, co-ordination of training and expert advice necessary. We note that the team is now back to full strength and that work is underway to clarify the role of the team and communicate this to each region. We also note that case conferences, which bring together lead individuals in each region, have re-started and are scheduled to continue.
- 10.17 Staff demonstrated a very clear commitment to addressing the needs of applicants during interviews. There was a clear willingness to respond to requests for interviewers and interpreters of a particular gender, and the interviews enabled applicants to provide additional information they believed was relevant to their claim.
- 10.18 Our view is that a relatively minor change to procedures would allow the UKBA to confirm whether private representatives intend to attend interviews. By requesting confirmation from them, delays to the start of interviews would be avoided.
- 10.19 Although there were variations in the dress code adopted by case owners when interviewing applicants, we found no evidence that this created any difficulties for applicants. However, in the context of the standards set out in the UKBA Customer Service Strategy (available on the UKBA website), it would be beneficial for guidance to be provided to case owners and managers to avoid uncertainty and to ensure a consistent approach.

“We were pleased to see the confidence staff felt about raising risks with managers in formal and informal settings.”

10.20 We were pleased to see the confidence staff felt about raising risks with managers in formal and informal settings. Managers should ensure that this supportive and open environment continues with clear encouragement to staff to highlight any concerns.

10.21 The United Nations High Commissioner for Refugees (UNHCR) had identified a potential risk that staff working in a detained fast-track environment would become ‘case-hardened’. This is a difficult issue. The pride that staff took in decision-making was very apparent and the belief that they could continue to make objective decisions was clear. At the same time, it would be unwise to dismiss altogether the potential for an individual to become hardened due to the particular types of case they were assessing.

10.22 Therefore the decision to begin rotating staff between detained and non-detained settings seemed to us a sensible and proportionate response.

10.23 The recruitment timescales for new staff presents a clear risk to the efficient operation of non-suspensive appeals. If posts are not filled, there will be increased pressure on case owners and on those required to make checks as a second pair of eyes. There is a clear need to either reconsider recruitment processes to shorten the time taken or, in recognition of the likely timescale, to plan more effectively for the likelihood of staff moving on. We do not underestimate the difficulty of this but believe that greater planning would reduce the risks of unfilled vacancies and the consequent impact on productivity.



# 11. Pilot inspection of the port of Harwich: April–August 2009

## BACKGROUND

- 11.1 The UKBA operations at Harwich International Port were selected as one of the pilot inspections, as it is one of the busiest sea ports in the UK with a mixture of both freight and passenger traffic. It was also selected because of its status as one of five flagship ports within the UK Border Force where customs and immigration operations have been integrated, thus providing the opportunity for me to view and assess progress towards integration.<sup>4</sup>
- 11.2 The overall objective of the inspection was to assess the efficiency and effectiveness of the UKBA at Harwich International Port and to make recommendations for improvements. The inspection focused on a selection of aspects from our core criteria.
- 11.3 As the statutory remit did not (at the time of inspection) include the authority to inspect UKBA customs functions, the inspection did not cover these at Harwich. However, the exercise of immigration functions by customs officers was included in the scope of the inspection. The inspection also assessed the effectiveness of the integration of customs and immigration functions.

## THE INSPECTION

- 11.4 A range of methods were used during the inspection, including: analysis of documentary evidence and management information; observation of service delivery at the primary arrivals control; 15 interviews with staff and managers; five focus groups with employees; a survey of all staff, with a response rate of 60 per cent (80 staff); a customer survey of three different arrivals at the port, with a total of 38 customers taking part; and interviews with a range of stakeholders in the lead-up to the inspection, including ferry operators, the port operator at Harwich, local police, trades unions and Home Office staff support groups.

<sup>4</sup> At the time of inspection, immigration and customs staff were working together in advance of the formal transfer of functions from Her Majesty's Revenue and Customs to the UKBA.

## FINDINGS

- 11.5 We found that Harwich was well managed and that it was operating efficiently and effectively, particularly given the recent changes it had experienced. There was evidence that managers at the port were visible, confident, engaged and motivated. Generally, staff and management had a clear focus on strategic objectives, and employees were provided with clear objectives for their work.
- 11.6 With regard to outcomes, management information provided by the UKBA for the financial year 2008/09 indicated that, with one exception, the Agency's Key Performance Indicators (KPIs) were met at Harwich. Evidence collected from observing and interviewing staff and managers supported this.
- 11.7 We did have concerns, however, with regard to the fact that Harwich does not operate a separate queueing time target for European Economic Area (EEA) and non-EEA passengers. The UKBA operates queueing time targets which specify that 95 per cent of EEA passengers do not wait longer than 25 minutes. The target for non-EEA passengers is 45 minutes. These targets, however, are subject to agreement with the local port operator. No separate queue is operated for EEA passengers at Harwich. We believe that this provides an inconsistency with the national UKBA approach.
- 11.8 It was also less than clear from the information provided by the UKBA whether Harwich had in fact met the 45-minute target for non-EEA passengers. No information was provided on the
- number of queues which met, or did not meet, this target, although the UKBA informed us that it was 'invariably met'. In addition, we also had concerns about how the UKBA centrally monitored and verified the accuracy and consistency of the data provided by ports in relation to queueing times for passengers.
- 11.9 The inspection uncovered concerns about three areas of potential vulnerability at an operational level which, in our view, could potentially pose a risk to the security of the border. The first related to an open barrier at the third lane of the freight primary arrivals control, which we were concerned could potentially provide an opportunity for a vehicle to evade the border control.
- 11.10 The second related to the disembarkation and embarkation of foot passengers. There was a lack of clarity among staff on who had responsibility for ensuring that all foot passengers disembarked a ship and passed through the primary arrivals control.<sup>5</sup>
- 11.11 The third potential vulnerability related to unstaffed or remote 'satellite' ports. A number of staff expressed concern that unstaffed satellite ports within the East Anglia Command presented a risk to the border control because there was no UKBA presence there. It was noted, however, that these ports were in fact low risk in terms of risk to the UK border. The overall risk of small ports was regularly reviewed as part of the well-established risk management arrangements.

<sup>5</sup> Legally, it is the responsibility of the ship's captain to ensure that all passengers are presented to UKBA officers at the border control. However, there had been occasions where UKBA officers were not present at the control to meet some passengers who had been delayed disembarking the ship. The ferry operator had been required to contact the UKBA to ensure that passengers were examined.

“We found that Harwich was well managed and that it was operating efficiently and effectively, particularly given the recent changes it had experienced.”

- 11.12** We regarded the levels of customer service provided at Harwich as generally good. The team observed that UKBA staff at Harwich conducted their business in a professional and courteous manner and were committed to ensuring a good level of customer service. This was supported by the results from the customer survey undertaken by the inspection team. There was good awareness of the UKBA Customer Strategy among staff, although the majority openly disputed the validity of the term ‘customer’, which they did not feel accurately described UKBA service users. Staff were of the view that ‘passengers’ would be a more accurate description.
- 11.13** One area for potential improvement was in collecting feedback from customers about the services provided by the UKBA. There was no evidence to show that feedback was sought regularly at a local level, although the UKBA does seek feedback at a national level. Similarly, there was little evidence to suggest that the UKBA regularly and formally evaluated the impact of its services and processes at Harwich or sought ways to improve services.
- 11.14** We were informed that Harwich received very few formal complaints in relation to immigration functions, with none received in the 2008/09 financial year. In the past year, all complaints at Harwich were regarded as minor service-related complaints and, as such, were resolved informally. However, there was no system for recording such complaints and the outcomes. This meant that there was no management information available on the causes of informal service-related complaints at Harwich, which hindered the ability of the UKBA to use such information to improve its effectiveness.
- 11.15** When discussing the efficiency and effectiveness of Harwich, the main focus of staff, management, stakeholders and partners was in relation to the integration of customs and immigration functions. The benefits of integration to the efficient and effective running of the port were evident and there was evidence from staff and management that positive progress had been made towards it. Staff stated that the UKBA at Harwich was more efficient as a result of integration, citing the following benefits: single point of entry for customers; increase in the sharing of intelligence; improved relations between customs and immigration officers; customs officers being able to speak to 100 per cent of passengers; and resource flexibility of staff and accommodation. However, it was not apparent that any analysis of the quoted benefits and savings had been undertaken at Harwich, or whether that information was being used to inform the pace of future roll-out of integration. It was our view that a full analysis of all efficiencies and savings would be beneficial for the UKBA as integration is rolled out further across the Agency.
- 11.16** Staff were clearly focused on integration and understood the overall reasons for the change. They were positive about the longer-term benefits but less so about what they felt was a lack of consultation and communication about why the change programme had been sequenced in the way it had.

“... staff at Harwich delivered policies and practices that ensured no unlawful or inappropriate discrimination.”

**11.17** On the whole, change management at the port was effective and had led to improvements in the quality of service. Management had set a clear vision of the overall concept of integration, which had, to date, been driven through to realisation. It was clear that, as a ‘flagship’ and ‘model’ port, integration was at the forefront of the staff’s minds. Overall, they were positive about the longer-term benefits.

**11.18** It was clear that there were a number of barriers to further progress. The most important to staff on the ground was the resolution of terms and conditions, but others include the integration of systems and procedures (particularly financial systems); cultural barriers between legacy customs and immigration staff; and further roll-out of training.

**11.19** There was evidence of effective joint working with local delivery partners and external stakeholders. With regard to internal stakeholders, regular meetings were held between the trades unions and UKBA local management. There was evidence of regular meetings with senior management.

**11.20** There was a general awareness of equality and diversity issues, and senior management were committed to these. Our observations of the primary arrivals control satisfied us that staff at Harwich delivered policies and practices that ensured...no unlawful or inappropriate discrimination and that there was equal access for all to the UKBA services. We did have concerns, however, about a general lack of understanding from most staff and managers about the purpose, need and use of Equality Impact Assessments.

## 12. Pilot inspection of freight searching at the juxtaposed controls in Calais and Coquelles: May–August 2009

### BACKGROUND

- 12.1 The UKBA operates juxtaposed controls at eight locations in mainland Europe. These controls are part of European Operations, a division of the Border Force, with responsibility for reducing the threat posed by people attempting to enter the UK illegally.
- 12.2 Juxtaposed controls are a reciprocal arrangement between countries whereby each country carries out frontier controls in the other country. UKBA staff work within an agreed British Control Zone in the overseas port. At a juxtaposed control, if a passenger is refused entry to the UK, wishes to claim asylum or is a known offender, they are handed over to the French or Belgian authorities. They do not go through UK procedures.
- 12.3 Illegal entry to the UK in freight is a key strategic risk for the UKBA, and Calais and Coquelles remain focal points for those seeking to enter the UK by illegal means. Both ports and the surrounding areas remain very much in the media spotlight, with significant public, political and stakeholder interest.

### THE INSPECTION

- 12.4 The purpose of this inspection was to assess the efficiency and effectiveness of freight searching operations in Calais and Coquelles, while at the same time examining how effective the UKBA had been in applying civil penalty legislation.
- 12.5 The inspection was organised into three distinct phases:
- Analysis of management and performance data from the UKBA.
  - Sampling of 98 civil penalty case files during the course of a week at the Civil Penalty Central Administration Unit (CPCAU).
  - On-site inspection in Northern France, observing freight-searching operations at both ports, interviewing staff and conducting focus groups.

## FINDINGS

### Freight searching

- 12.6 Management information provided by the UKBA showed an increase in the numbers of people detected at Calais and Coquelles over the last three years, rising from 4,241 at both ports in 2006/07 to 8,058 in 2008/09.
- 12.7 Staff told the inspection team they were achieving greater success in detecting people trying to get to the UK illegally. Interviews with staff and observations of their activities confirmed they were committed to doing the best job they could, despite limited resources and sometimes difficult working conditions.
- 12.8 The UKBA used a variety of searching methods, including visual searches, carbon dioxide detectors and heartbeat detectors. We found that staff were knowledgeable about, and had received training in, the different types of search methods available to them, and made best use of them to maximise both the effectiveness and the number of searches.
- 12.9 We observed that in all interactions with freight drivers and with people found concealed in freight vehicles, UKBA staff and contractors were courteous, professional and respectful. Staff also treated individuals politely and with an appropriate level of care.
- 12.10 We noted that the working relationships that the UKBA had developed with its contractors at Calais and Coquelles were working well. They were observed to be effective and focused on maximising the efficiency and effectiveness of freight searching.
- 12.11 There were two holding facilities at Calais where people were placed if they had been found in freight vehicles. A short-term holding facility was operated by Group 4 Securicor. It was used by the UKBA to formally hand into detention people who had been detected in freight vehicles, following completion of Home Office form IS91 (detention authority). A transitional holding facility was operated by Eamus Cork Solutions and was used by the UKBA to temporarily detain people detected in freight vehicles, pending completion by UKBA staff of the IS91.
- 12.12 The transitional holding facility was a caged area within a former searching shed. The only facilities available were 18 chairs, four mattresses and two portable toilets. We did not observe any heating, food or water being provided. To put the detention situation into perspective, on the morning of one of our observations, UKBA staff had successfully detected 43 people concealed in or on vehicles between 06.30 and 10.15. This caused problems in detaining people. As the morning progressed, we saw the transitional holding facility fill up to capacity. The persons detained together included women and a young male who claimed to be under the age of 18.
- 12.13 We recognise the requirement to have sufficient holding facilities at Calais, especially given the considerable increase in the numbers of people detected. We further understand that efforts have been made by the UKBA to obtain sufficient accommodation. However, we consider that the UKBA should take immediate steps to improve the conditions for the people held within the transitional holding facility. We have made Her Majesty's Chief Inspector of Prisons, who has responsibility for inspecting immigration detention facilities, aware of our concerns about this area.

12.14 We found there was a shortage of basic equipment available to staff, including torches, cameras and bolt-cutters. The accommodation at Calais was also very limited – in terms of both the space and facilities available for staff and customers.

12.15 Information technology systems were slow and a shortage of personal computers available for staff limited the amount of work they were able to do. This was a particular problem because staff required access to computer-based material when completing the necessary administrative processes when people were detected in freight vehicles.

12.16 We observed that search lanes had to be closed when staff found people within freight. There were not enough staff available to operate the search lanes and deal with the people found. Staff confirmed this was a regular occurrence. This meant that hard-sided vehicles were not searched.

12.17 We found that stated business targets were difficult to quantify and measure. We also noted that operational staff were largely unaware of the targets they were working to. We found that large amounts of data were collected by different units for differing purposes, and that this data was not always consistent and did not provide a clear picture of the performance of the UKBA.

### **Civil penalties**

12.18 Civil penalty legislation is set out in the Immigration and Asylum Act 1999, as amended by the Nationality, Immigration and Asylum Act 2002 (Schedule 8, Carriers' Liability). It was introduced in 2000 and provides the power to issue civil penalties and detain vehicles, ships or aircraft as security until all charges for the carriage of illegal entrants have been paid.

12.19 The Act requires the Secretary of State to issue a code of practice, made under Section 33 of the Immigration and Asylum Act 1999 (the 1999 Act), setting out the procedures that should be followed by persons such as road hauliers, to prevent their vehicles being used for the purpose of clandestine entry. Where it is alleged that a person is liable for such a penalty, it is a defence for them to show that:

- they did not know and had no reasonable grounds for suspecting that a clandestine entrant was, or might be, concealed in the transporter;
- there was an effective system in operation in relation to the transporter to prevent the carriage of clandestine entrants; or
- on the occasion concerned, the person or persons responsible for operating that system did so properly.

12.20 We found that staff working at CPCAU displayed a high level of commitment to and professionalism in their work. They were knowledgeable about the civil penalty scheme and worked hard to overcome the challenges they faced, particularly in connection with problems relating to:

- a lack of visible leadership from senior management;
- insufficient performance targets to drive civil penalty activity across all areas of European Operations;
- various backlogs of work caused by insufficient resources; and
- information technology.

12.21 We found that the UKBA delivered a large increase in the number and value of penalties that were issued in 2008/09. However, the expected increase in income that should have followed this trend was not realised.

12.22 We saw little effective leadership or accountability for the civil penalty process within the UKBA. There was no overarching civil penalty strategy in place and key performance targets had not been set to drive performance in this area. This resulted in the deterrent effect of the civil penalty legislation being severely curtailed. For example, we found that:

- ineffective oversight of the civil penalty scheme at senior management level had resulted in regular backlogs of work since 2005, affecting most, if not all, parts of the civil penalty process;
- there was no effective debt recovery strategy in place to chase unpaid debts; and
- the power to impound freight vehicles owned by freight companies that failed to pay fines was severely underused.

12.23 The UKBA had not undertaken any assessment of the effectiveness of the civil penalty scheme. The legislation was introduced in 2000, but I am of the view that it had not been effectively managed since 2005.

12.24 The UKBA made the inspection team aware of its draft haulier strategy document at the time of inspection. This set out a number of steps that were being considered to support more effective working with the haulage industry, to counter the increasing number of people who attempt to evade border security by entering the UK through concealment in freight vehicles. Perhaps one of the most important issues raised in the strategy was the need to conduct a 'full examination of the operational requirements in respect of civil penalty legislation, evaluation of the impact of the current policy since its inception and introduce policy where required'.

12.25 Section 36 of the Immigration and Asylum Act 1999 set out the power to detain freight vehicles in connection with civil penalties issued under Section 32 (penalty for carrying clandestine entrants). Hauliers or drivers who fail to pay outstanding civil penalties can, therefore, have their freight vehicles seized by the UKBA. The power to seize freight vehicles should therefore be a major deterrent to those who fail to secure their freight vehicles appropriately, or who are engaged in illegal immigration activity. However, we found this work was not being effectively resourced by the UKBA. The inspection team was told at the time of the inspection that:

“We saw little effective leadership or accountability for the civil penalty process within the UKBA.”

- there were approximately 600 companies on the vehicle seizure list (oldest recorded incident: 10 August 2002; most recent recorded incident: 15 September 2008);
  - penalties totalling nearly £1.5 million were outstanding, yet little (if any) action was being taken to seize vehicles;
  - no haulage companies or drivers had been added to this list since 16 September 2008; and
  - no vehicle had been seized since December 2008 (with the exception of a special operation at South Mimms service station in May 2009 – see below).
- 12.26 We were told that of the 31 vehicles detained between April and December 2008, all bar one had paid the full outstanding penalty within two days. We were also informed of a special two-week operation at South Mimms service station in May 2009, when 17 vehicles were impounded and £50,000 in unpaid fines were recovered on the same day as the vehicles were seized.
- 12.27 In our view, these cases demonstrate that implementation of the seizure powers can be effective in recovering financial penalties, and are likely to encourage those penalised to improve security on their vehicles – particularly when other factors are taken into account (impact on transport operations and customer deliveries). It was surprising, therefore, to find that the UKBA seized only 31 and 46 vehicles in 2006/07 and 2007/08 respectively.
- 12.28 The deterrent factor was further curtailed by the practice adopted primarily at Calais, where the majority of civil penalties were deferred. This process was introduced in July 2004 and allowed juxtaposed ports to defer civil penalty action in certain cases – generally when resources were not available to conduct interviews with the haulier and driver at the time of the incident.
- 12.29 We also found that in October 2007 a backlog of deferred penalty cases were dealt with by sending out warning letters, rather than applying a civil penalty. While this helped to clear a backlog, another was soon created and an opportunity was lost for the application of a consistent message that non-compliance would be punished.
- 12.30 We noted that no performance targets had been set for civil penalties, for example setting out:
- the number of fines that should be levied at ports;
  - the number of vehicles that should be seized;
  - revenue generation and/or debt collection; and
  - processing times (other than those set out in the legislative framework).
- 12.31 We found that the lack of performance targets meant there was not a consistent approach to civil penalty action across European Operations.

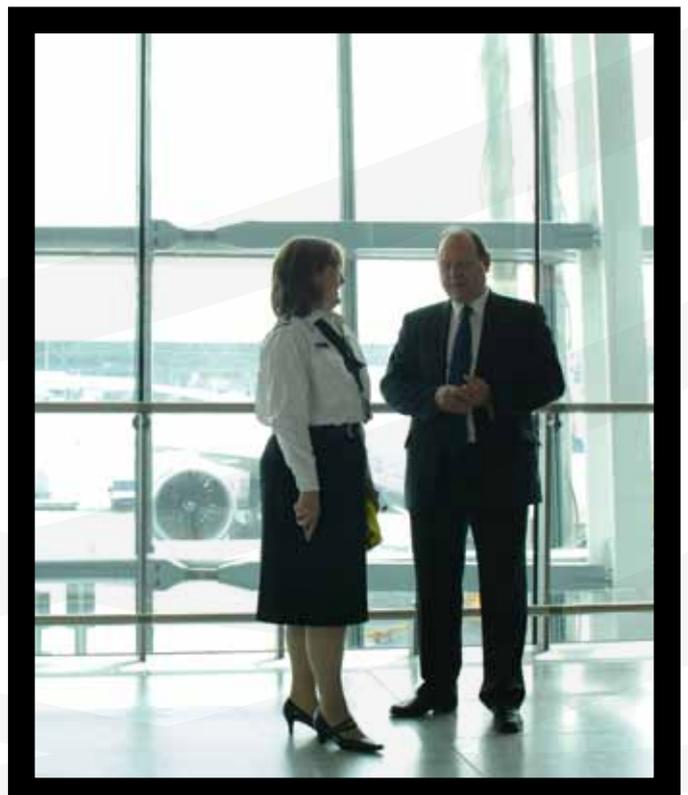
12.32 At the time of the inspection at CPCAUC, we found that there were a number of backlogs in existence. CPCAUC staff told the team that there were various contributory factors causing these backlogs. These included having insufficient resources; the need to duplicate information on two different IT systems and the poor quality of files submitted by ports. As a result staff said they spent a disproportionate amount of time establishing correct information and reissuing initial letters.

12.33 The findings from the sampling of civil penalty cases supported what staff had told us about backlogs of work. I consider that these delays impacted adversely against the underlying principles of the civil penalty scheme.

12.34 We also examined 51 cases where decisions had been taken not to issue civil penalties. We found that in eight cases (16 per cent of the sample) civil penalty action was not taken due to staffing constraints. In one of these cases we noted that the company had come to the previous attention of the UKBA and had 'numerous IS11D actions against it'. I was surprised that a case of this type had not had civil penalty action taken, preferably at the time of the incident or later using the deferred penalty process.

12.35 Staff at CPCAUC told us of persistent and continuing problems relating to the quality of civil penalty files submitted to them by ports. We were told that file consistency was a real problem and caused duplication and extra work for CPCAUC staff. Staff also advised that, in some cases, they had conceded civil penalty cases because of poor evidence collection at either Calais or Coquelles. They also noted that training for port staff on civil penalty policy/procedures was provided by CPCAUC, but that this had been stopped at the beginning of 2009, due to pressure of other work.

12.36 We found no evidence to show that quality reviews were undertaken in relation to the civil penalty scheme, either to identify opportunities for improvement or to ensure consistent application of the scheme.



## 13. The formal inspection programme

13.1 This year I began my formal inspection programme by carrying out inspections of two overseas visa offices and an unannounced inspection of the Liverpool asylum screening unit (ASU). While the overseas inspections followed the approach taken by the previous Independent Monitor for Entry Clearance, for the inspection of the Liverpool ASU I utilised the approach and criteria developed for the pilot programme.

### OVERSEAS INSPECTION PROGRAMME

13.2 In April this year, I was appointed by the Home Secretary to the role of the Independent Monitor with responsibility for reviewing decisions in entry clearance cases with limited rights of appeal. This followed the retirement of the previous Independent Monitor, Linda Costelloe Baker.

13.3 To ensure a seamless handover, we developed a transitional programme of overseas inspection work. This took into account the methodology used by the previous Independent Monitor, while recognising my aim to carry out more comprehensive scrutiny of visa posts as part of my core programme of inspection. The first two inspections undertaken were in Rome and Abuja.

13.4 I was keen to ensure that both inspections should cover the impact on people who are subject to UKBA services. This element of work was drawn directly from my core inspection criteria and was the first phase in moving from the remit of the Independent Monitor to my wider remit as the Chief Inspector of the UKBA, as set out in the UK Borders Act 2007.

### ROME

13.5 The on-site inspection of the visa office in Rome was carried out between 1 and 5 June 2009. Initially, the inspection team sampled 100 files of applications that were refused – with limited rights of appeal – between 1 December 2008 and 28 February 2009. They also considered the customer journey, including a visit to the visa application centre, and interviewed staff working at the post.

13.6 We found that, on the whole, entry clearance staff were experienced and committed to delivering a good service to customers. We also noted that decision quality and information provision were generally impartial and consistent.

13.7 However, the inspection did uncover some areas that needed to be developed. We identified that more work needed to be done to improve the online application process – to make it easier for customers to navigate – and to resolve conflicting information on the supporting documentation that is necessary for a visa application.

13.8 I also took the view that the management of complaint handling in Rome needed to improve. Figure 2 sets out the recommendations I made in relation to Rome, together with the UKBA's response.

Rome inspection	
Chief Inspector's recommendations	UKBA response
UKBA manages processing times more effectively to ensure that it meets stated customer service targets	Accepted
UKBA puts in place effective contingency arrangements so that performance is not adversely affected by staff shortages	Accepted
UKBA takes action to advise customers when its processing times significantly miss its customer service targets	Accepted
UKBA improves the navigation and design of its websites so that visa customers can find relevant information easily	Accepted
UKBA removes conflicting information about supporting documentation so that customers are clear about what they need to provide	Accepted and implemented
UKBA reviews its refund policy in connection with cases where customer service failures are significant	Accepted
UKBA regularly reviews the issues raised on the commercial partner's website to ensure that customer enquiries and complaints are: <ul style="list-style-type: none"> <li>• categorised appropriately;</li> <li>• handled in accordance with UKBA policy; and</li> <li>• monitored so that customer feedback is analysed and used to improve the service it provides</li> </ul>	Accepted
UKBA ensures that the refusal notice template meets customer needs by eradicating unnecessary page breaks and is formatted properly	Accepted and implemented

Figure 2: Summary of recommendations arising from the inspection of Rome and the UKBA response

## ABUJA

- 13.9** The on-site inspection of the Abuja visa office took place between 6 and 10 July 2009. As with Rome, my inspection team undertook a sample of files relating to refusals with limited rights of appeal. They also visited the local visa application centre and interviewed staff working at the post.
- 13.10** Again, we found that entry clearance staff in Abuja were experienced and committed. However, the volume of applications, together with target-driven performance, had a negative impact on the ability of staff to provide the fullest consideration of applications. We noted that decision quality was poor, as was the standard of refusal notices. This did not, in my view, represent good value for money to customers who had paid for this service.
- 13.11** We noted that more work needed to be done to improve the online application process and guidance to make it easier to navigate (and understand) for customers. Information about supporting documentation also needed to be clarified to ensure that customers were clear about what was required and in what format.
- 13.12** We identified that the quality assurance of decision-making needed to be improved, as did the management of complaint handling. This would ensure that customer service issues are dealt with promptly and monitored so that customer feedback is analysed and used to improve the service.
- 13.13** We discovered that a decision had been taken locally to record all applications as non-straightforward cases because of the IT problems the post experienced. In taking this decision, Abuja was not adhering to published guidance on customer service targets. I recommended that, with immediate effect, staff should record cases in accordance with published guidance.
- 13.14** Figure 3 sets out the recommendations I made in relation to Abuja, together with the response of the UKBA to my recommendations.

Abuja inspection	
Chief Inspector's recommendations	UKBA response
UKBA reviews the daily targets for consideration of applications	Accepted
UKBA uses the entry clearance manager review guidance tools to quality-assure issues and refusals of entry clearance	Accepted
UKBA monitors refusal rates and provides more feedback to entry clearance officers to improve consistency of decision-making	Accepted
UKBA allows no local exceptions in how staff record case category. This will ensure that customer service targets are accurate	Accepted
UKBA reviews and clarifies information on provision of supporting documentation so that customers are aware of what they need to provide	Accepted
UKBA introduces a quality assurance process for correspondence handling	Accepted
UKBA improves the design of its websites so that visa customers can find relevant information easily	Accepted

Figure 3: Summary of recommendations arising from the inspection of Abuja and the UKBA response

13.15 The full reports detailing my inspections of Rome and Abuja were published earlier this year and can be accessed at my website.

**UNANNOUNCED INSPECTION**

13.16 The inspection of the Liverpool ASU was the first in a programme of unannounced inspections that is intended to run in parallel with the overall inspection programme. The inspection report is available on the website.

13.17 The ASU is a centre run by the UKBA where a person is registered as an asylum applicant and begins the process of applying for asylum. Anyone claiming asylum in the UK must first be 'screened' by an immigration officer. Screening is the process of establishing an individual's name, age and nationality. The process also considers how an asylum applicant reached the UK, as it may be the case that the UK Government has no responsibility for considering their asylum claim. This inspection focused on the ASU in Liverpool. There is also an ASU in Croydon.

13.18 Due to the unannounced nature of this inspection, we arrived at the ASU in Liverpool on the morning of the inspection and we announced our presence to the senior manager on-site. There was no warning to the UKBA in advance of our visit other than a reminder that an unannounced visit was likely in the near future at some location.

“Signage and other information were out of date and there were torn posters on the wall.”

- 13.19 We inspected the operation of the Liverpool ASU against my inspection criteria. As a crucial part of this process, the team carried out a thorough initial pre-site assessment of the policy and procedural guidance available on the UKBA’s intranet and internet sites. It also reviewed the information the UKBA makes available to customers on its website.
- 13.20 While on-site, we toured the ASU to gain an understanding of its end-to-end processes; observed a number of ASU processes in action, including call-up interviews, biometrics, screening interviews, and a detention area; interviewed a variety of managers and staff; conducted staff focus groups; and carried out a survey of a significant number of randomly selected customers in the ASU.
- 13.21 Generally, we found that staff demonstrated empathy, professionalism and a caring approach, and were courteous and respectful to customers – irrespective of their status.
- 13.22 We noted that staff were trained on how to deal with children and young people, and demonstrated skill in handling a customer who presented as vulnerable and distressed. We were impressed by an innovative pre-screening initiative to provide customers with an audio presentation of useful information regarding the screening process while they waited, which was also well received by customers.
- 13.23 However, there were some significant problems. We found the accommodation to be inadequate – it was extremely cramped and dirty. Signage and other information were out of date and there were torn posters on the wall.
- 13.24 An applicant with a young child was left to wait all day without being interviewed. We noted that there was noise and disruption around the interview areas, and one of the inspection team witnessed a member of staff using their mobile phone while undertaking an interview.
- 13.25 A list of the recommendations arising from the inspection and the UKBA response are set out in Figure 4.

Chief Inspector's recommendations	UKBA response
UKBA introduces a formal monitoring system to facilitate effective queue management and ensure that customer queueing and waiting times are as short as possible	Accepted
UKBA reviews its provision of information to customers, particularly about the time they are likely to have to wait	Accepted
UKBA takes immediate steps to make improvements to its ASU accommodation and facilities in order to bring these up to an acceptable standard for customers and staff. In particular, to address: <ul style="list-style-type: none"> <li>• privacy for customers; and</li> <li>• the needs of children</li> </ul>	Accepted
UKBA ensures that information on display is up to date, consistent with current UKBA branding and relevant	Accepted

Figure 4: Summary of recommendations arising from the inspection of the Liverpool ASU and the UKBA response

## 14. The year ahead

- 14.1 The year ahead will bring new challenges. The Inspectorate will be looking at the work in Wales and the South West, and the North West. We will also be carrying out thematic inspections in the areas of asylum, customer service (including complaints handling), enforcement, the points based system and intelligence. Overseas, we will look at the visa offices in Kuala Lumpur and Chennai initially, and will widen our approach to consider the full range of activities undertaken by the Agency overseas. Alongside this programme, we will carry out further unannounced inspections as joint work with other inspectorates.
- 14.2 We will also develop and operate a Quality Assurance Strategy. This will include canvassing the views of those inspected as to the quality of our engagement and the impact of our reports and other work.

## 15. Corporate issues

### FINANCE

- 15.1 We were allocated a budget by the Home Office which reflected the fact that we were working in a part financial year, with associated set-up costs to reflect a smaller team and a restricted inspection programme. The team administers a budget provided by the Home Office to cover expenditure on staff salaries, a significant amount of travel and subsistence, and other items such as office equipment, stationery, training and publications. The budget did not contain a provision for services such as IT, communications and accommodation, which were provided by the Home Office during our first financial year.

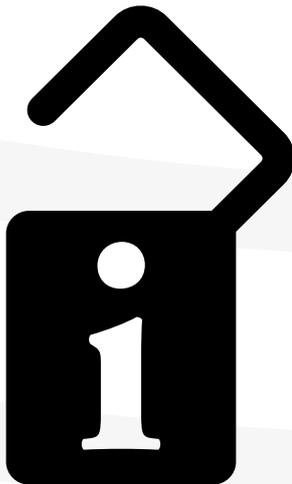
#### Cost for the Independent Chief Inspector 2008/09

Staffing costs (including Chief Inspector)	£327,748.64
Non-staff running costs	£277,287.58
<b>Total</b>	<b>£605,036.22</b>

<b>Independent Chief Inspector of the UKBA staff (as of 30 September 2009)</b>	
<b>Chief Inspector</b>	John Vine
<b>Personal Assistant</b>	Yvonne Henry
<b>Private Secretary</b>	John Cramer
<b>Assistant Chief Inspectors</b>	Garry Cullen: lead responsibility for core programme overseas Alexander Fraser: lead responsibility for strategy and policy Trish Hampton: lead responsibility for core programme UK Mark Voce: lead responsibility for thematic programme
<b>Inspectors</b>	Lorraine Auld, Gareth Elks, Fiona Jack, Jake McClure and Ian Tyldesley
<b>Inspection Officers</b>	Steven Embrey-Jones, Douglas Harrison, Denise Hotham, Michelle McPhillips, Nirav Shah and Chris Thompson
<b>Analysis Team</b>	Rachel Pennant, Susanne Chan, Ryan Dee and Aalia Shamji
<b>HR and Finance</b>	Lesley Smart, Alex Cheatle, Charmaine Figueira and Akinfolajimi Makinwa
<b>Inspection Support Services</b>	Akua Brew-Abekah, Alex Marinkovic, Yogesh Patel and Sandra White-Rennie
<b>Communications</b>	Mark Fenwick (from the Central Office of Information)
<b>Secondments from other government departments</b>	Ellie Roy (from the Home Office) – Senior Consultant (until March 2009) Kate White (from Her Majesty’s Inspectorate of Probation) – Senior Policy Advisor (until August 2009) Paul McFadden (from the Scottish Government) Kishor Mistry (from the Home Office) (until September 2009)

## FREEDOM OF INFORMATION

15.2 The Freedom of Information Act 2000 obliges public bodies to make available to members of the public, on request, information held by them on particular topics - unless that information is of a category exempted by the Act. During the period covered by this report we have had no requests.



## COMMUNICATIONS

15.3 Given the intense general interest in immigration matters, communicating effectively to a wide range of audiences has been and will continue to be an important aspect of my work.

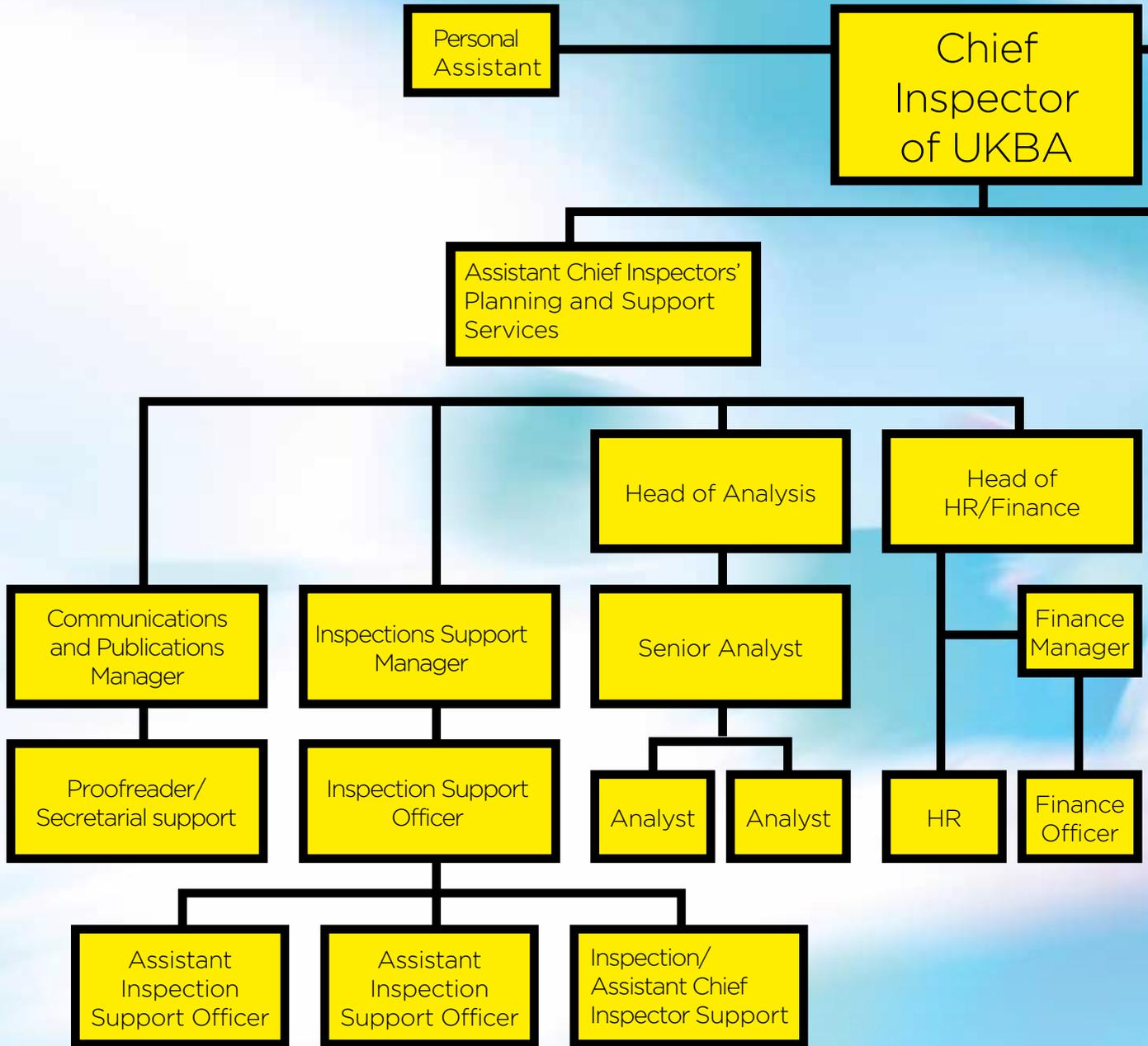
15.4 I have established a website which sets out our business and holds the documents that we have published (such as our inspection reports, the Inspection Plan and the Core Criteria). It also holds the minutes of meetings of the IAGCI and the Refugee and Asylum Forum. We will develop the website over the coming months to enhance its functionality.

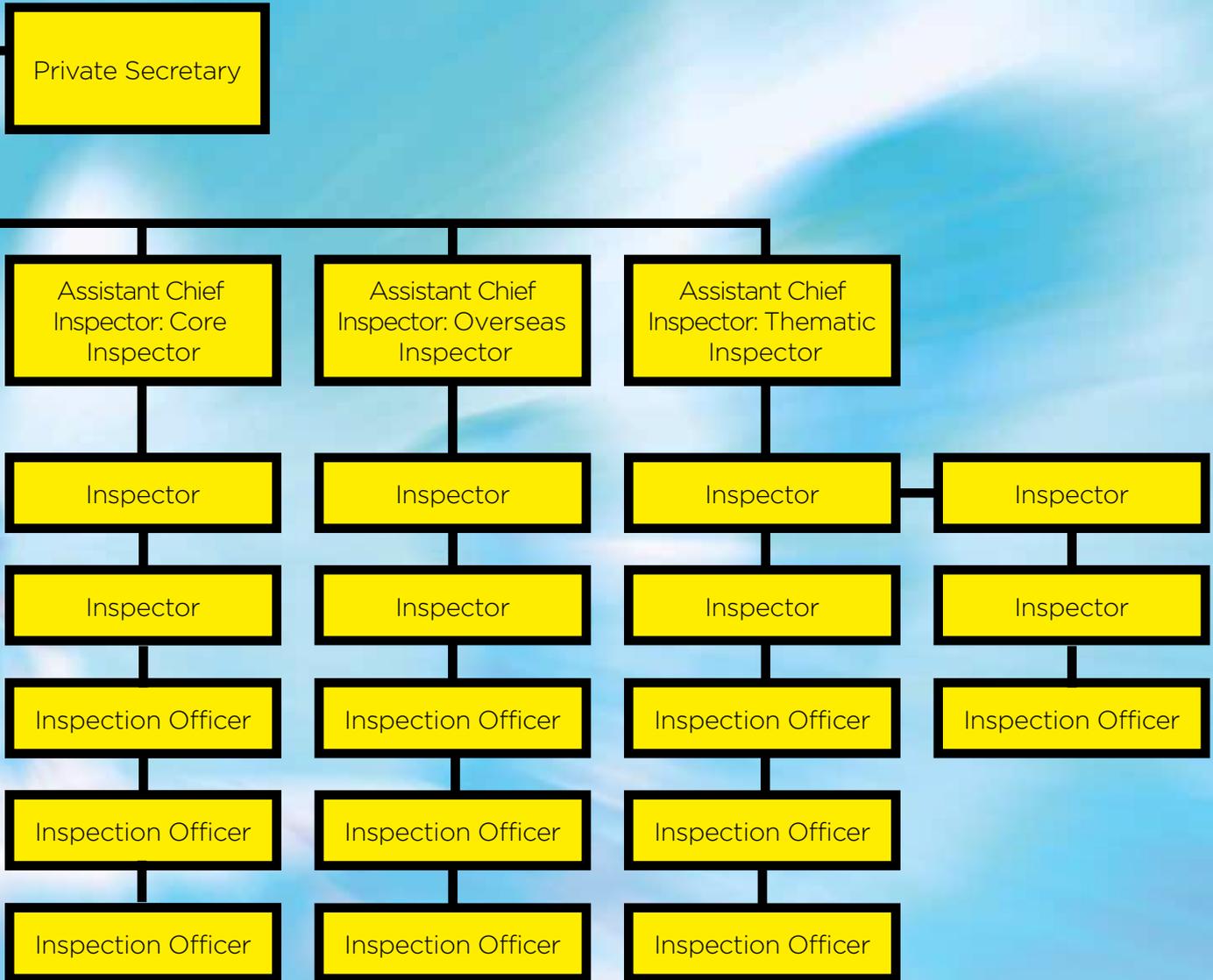
15.5 I have published newsletters which are designed to update stakeholders on our progress, and these have been well received. I have also produced a leaflet for stakeholders that provides a short synopsis of our remit and activities.

15.6 I have adopted the title 'Independent Chief Inspector of the UKBA' and I have a distinctive logo and brand presence. I will continue to work on our branding and house style in the coming year.



**INDEPENDENT CHIEF INSPECTOR OF THE UKBA STRUCTURE (AS OF 30 SEPTEMBER 2009)**





## Annex A

### GOVERNMENT'S POLICY ON

### INSPECTION IN THE PUBLIC SERVICE

(Taken from *Inspecting for Improvement*, in July 2003)

1. The **purpose of improvement**. There should be an explicit concern on the part of inspectors to contribute to the improvement of the service being inspected. This should guide the focus, method, reporting and follow-up of inspection. In framing recommendations, an inspector should recognise good performance and address any failure appropriately. Inspection should aim to generate data and intelligence that enable departments more quickly to calibrate the progress of reform in their sectors and make appropriate adjustments.
2. A **focus on outcomes**, which means considering service delivery to the end users of the services rather than concentrating on internal management arrangements.
3. A **user perspective**. Inspection should be delivered with a clear focus on the experience of those for whom the service is provided, as well as on internal management arrangements. Inspection should encourage innovation and diversity and not be solely compliance-based.
4. **Proportionate to risk**. Over time, inspectors should modify the extent of future inspection according to the quality of performance by the service provider. For example, good performers should undergo less inspection, so that resources are concentrated on areas of greatest risk.
5. Inspectors should encourage **rigorous self-assessment** by managers. Inspectors should challenge the outcomes of managers' self-assessments, take them into account in the inspection process, and provide a comparative benchmark.
6. Inspectors should use **impartial evidence**. Evidence, whether quantitative or qualitative, should be validated and credible.
7. Inspectors should disclose the **criteria** they use to form judgements.
8. Inspectors should be **open** about their processes, willing to take any complaints seriously, and able to demonstrate a robust quality assurance process.
9. Inspection should have regard to **value for money**, their own included:
  - Inspection looks to see that there are arrangements in place to deliver the service efficiently and effectively.
  - Inspection itself should be able to demonstrate that it delivers benefits commensurate with its cost, including the cost to those inspected.
  - Inspectorates should ensure that they have the capacity to work together on cross-cutting issues, in the interests of greater cost-effectiveness and reducing the burden on those inspected.
10. Inspectors should continually learn from experience, in order to become increasingly effective. This can be done by assessing their own impact on the service provider's ability to improve and by sharing best practice with other inspectors.

# Annex B

## INDEPENDENT ADVISORY GROUP ON

### COUNTRY INFORMATION (IAGCI)

#### Membership

Dr Khalid Koser  
(Chair)

Dr Laura Hammond  
(School of Oriental and African Studies)

Mr Andrew Jordan  
(Asylum and Immigration Tribunal)

Ms Alexandra McDowall  
(UNHCR, London)

Dr Christopher McDowell  
(City University)

Mr Jerome Sabety  
(UNHCR, Geneva)

Dr Gottfried Zuercher  
(International Centre for  
Migration Policy Development)

Representative of the UKBA

Mr Garry Cullen  
Office of the Chief Inspector of the UKBA

Independent experts chosen by the  
IAGCI Chair in consultation with the  
Chief Inspector of the UKBA

Members are appointed for  
a two-year term

## TERMS OF REFERENCE

To review the content of all country of origin information (COI) produced by the UKBA (including reports, key documents and other products) to help ensure that this is as accurate, balanced, impartial and up to date as possible. COI is understood as information used in procedures that assess claims of individuals to refugee status or to other forms of international and humanitarian protection. It should help to answer questions by decision-makers and legal advisers about the legal, political, human rights, cultural, economic and social situation – as well as the humanitarian situation in countries of origin.

To review the relevance, format and ‘user-friendliness’ of COI material produced by the UKBA.

To review the sources, methods of research, and quality control used by the UKBA to help ensure that these support the production of COI material which is as accurate, balanced, impartial and up to date as possible.

To review the content of all UKBA COI material relating to countries designated or proposed for designation for the NSA list.

It is not the function of the IAGCI to endorse any UKBA material or procedures, including NSA designation.

The IAGCI will be represented by one member at the Chief Inspector of the UKBA’s Refugee and Asylum Forum.

## REPORTING

The IAGCI reports directly to the Chief Inspector of the UKBA.

A report will be submitted after each meeting of the IAGCI to the Chief Inspector of the UKBA, containing recommendations for changes to the COI material reviewed during the meeting, along with any recommendations on wider issues.

An annual report will be prepared by the IAGCI for the Chief Inspector of the UKBA as a contribution to his annual report to Parliament.

## MEETINGS

The IAGCI will normally meet three times per year.

The IAGCI may meet additionally in response to a request by the Chief Inspector of the UKBA, for example to consider COI material for countries proposed for designation for the NSA list, or to support asylum inspections by the Chief Inspector.

The agenda for meetings will be determined by the IAGCI Chair, in consultation with the UKBA and the Office of the Chief Inspector of the UKBA.

Logistical support for meetings will be provided by the Office of the Chief Inspector of the UKBA in consultation with the IAGCI Chair, including preparing and dispatching the agenda and background documents for meetings, venue logistics, processing of travel claims by IAGCI members, and production of meeting minutes for approval by the IAGCI Chair.

Approved minutes of IAGCI meetings will be posted on the website of the Chief Inspector of the UKBA.

## COMMISSIONING REVIEWS

Countries and topics for review by the IAGCI will be agreed in consultation with the UKBA, with approval by the Chief Inspector of the UKBA.

A call for reviewers will be posted on the website of the Chief Inspector of the UKBA, and applications reviewed by the IAGCI Chair in consultation with the Office of the Chief Inspector of the UKBA.

Reviews will be commissioned, funded and managed by the Office of the Chief Inspector of the UKBA.

An initial assessment of reviews will be undertaken by the IAGCI Chair before submission to the UKBA in time for the preparation of a response for presentation at the next meeting of the IAGCI.

At the discretion of the Chair, reviewers may be invited to attend meetings of the IAGCI to present their reviews.

Approved reviews will be posted on the website of the Chief Inspector of the UKBA.

Members of the IAGCI will not undertake reviews.



