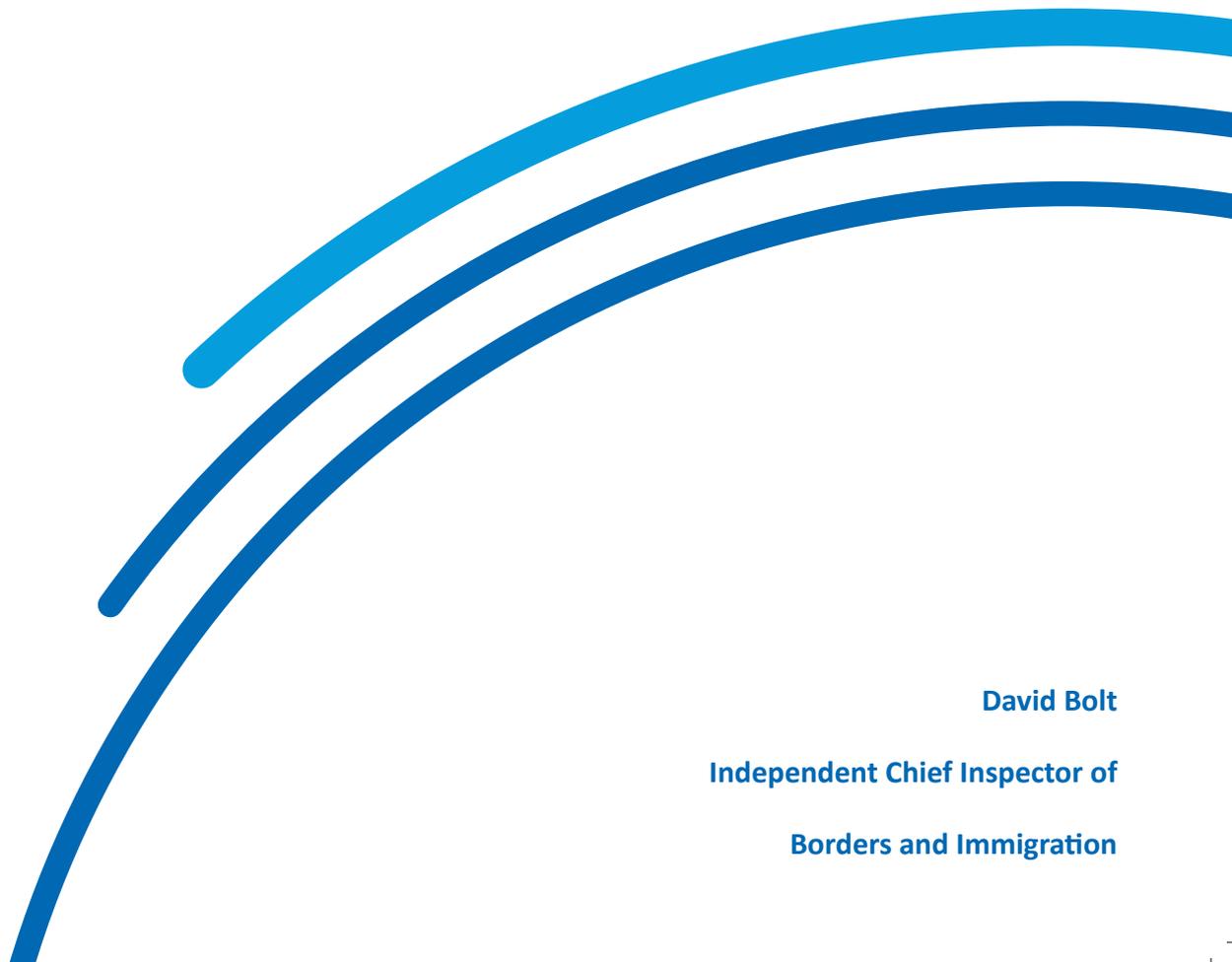




# An interim re-inspection of Family Reunion applications received at the Istanbul Entry Clearance Decision Making Centre

December 2016 – March 2017



David Bolt

Independent Chief Inspector of  
Borders and Immigration



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**December 2016 – March 2017**

Presented to Parliament pursuant to Section 50 (2) of the UK Borders Act 2007

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# Foreword

'An inspection of family reunion applications',<sup>1</sup> published in September 2016, made ten recommendations for improvements in the Home Office's handling of family reunion applications. The Home Office accepted all ten recommendations, and in its formal response<sup>2</sup> set out the actions it intended to take to improve performance.

One of the Entry Clearance Decision Making Centres (DMCs) whose casework was examined as part of the family reunion inspection was Istanbul. Along with Amman and Pretoria, Istanbul had the highest number of applicants and of refusals.

Between November 2016 and March 2017 the inspectorate carried out an inspection of entry clearance operations in Croydon and Istanbul.<sup>3</sup> This provided an opportunity to check on the progress made in Istanbul towards implementing the recommendations from the family reunion report.

This interim re-inspection found that Istanbul had improved its handling of family reunion applications. However, in two areas there appeared to have been little movement. These were access to interpreters to enable interviews of applicants to clarify points of detail, and the commissioning and funding of DNA tests. Interviews and DNA evidence have the potential to tip the 'balance of probabilities' argument, but the Home Office's default position still seemed to be to refuse applications rather than to defer a decision to obtain best evidence, which was inefficient and could be traumatic for applicants.

The inspectorate will carry out a more extensive re-inspection of the family reunion recommendations during 2017/18. Pending this, while noting that the Home Office has made progress in some areas, the ten recommendations remain open.

This report was sent to the Home Secretary on 26 May 2017.

**David Bolt**

**Independent Chief Inspector of Borders and Immigration**

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<sup>1</sup> <http://icinspector.independent.gov.uk/wp-content/uploads/2016/09/An-inspection-of-family-reunion-applications-January-to-May-2016.pdf>

<sup>2</sup> <https://www.gov.uk/government/publications/family-reunion-instruction>

<sup>3</sup> See separate inspection report 'An inspection of entry clearance operations in Croydon and Istanbul'.

# 1. Purpose and Scope

- 1.1 This interim re-inspection examined the progress made by the Istanbul DMC towards implementing the recommendations from 'An inspection of family reunion applications',<sup>4</sup> published in September 2016.
- 1.2 Three of the ten Recommendations from the family reunion inspection were excluded from scope of this re-inspection.<sup>5</sup> Two of these were for UK Visas and Immigration (UKVI) to implement rather than individual DMCs (in relation to the use of 'Review to Risk' for family reunion applications, and to guidance about supporting evidence). The third related specifically to Amman's historic handling of applications from Kuwaiti Bidoons.
- 1.3 All ten recommendations, together with UKVI's formal responses, are set out in full at Annex A.

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<sup>4</sup> <http://icinspector.independent.gov.uk/wp-content/uploads/2016/09/An-inspection-of-family-reunion-applications-January-to-May-2016.pdf>

<sup>5</sup> Recommendations 6, 9 and 10 were excluded.

## 2. Methodology

- 2.1 Inspectors examined a random sample of 58<sup>6</sup> family reunion application decisions (split equally between issues and refusals) made at Istanbul between 1 December 2016 and 28 February 2017. The examination focused on whether:
- retention of relevant supporting documents (or notes made by UKVI staff to record decisions) was sufficient
  - visa decisions were made consistently and against the correct criteria
  - assurance mechanisms were effective in supporting consistent decision making
  - guidance for applicants was sufficiently detailed to enable decision makers to reach an informed decision
- 2.2 Inspectors visited Istanbul between 20 and 24 February 2017 to observe, interview and hold focus groups with UKVI staff and managers as part of 'An inspection of entry clearance processing operations in Croydon and Istanbul (November 2016 – March 2017)'. The opportunity was taken during this visit to discuss the family reunion recommendations and review casework.
- 2.3 There were 14 family reunion applications within the file sample from Istanbul of settlement entry clearance applications that inspectors examined as part of 'An inspection of entry clearance processing operations in Croydon and Istanbul (November 2016 – March 2017)'. These were in addition to the 58 applications examined specifically for this re-inspection. The relevant findings from these 14 cases are included in this re-inspection report. These cases are also covered in the entry clearance inspection report.

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<sup>6</sup> The sample originally consisted of 60 cases, but two of the returned files were out of scope.

## 3. Conclusions

- 3.1 As this re-inspection was limited to Istanbul, and based on a small file sample, it would not be appropriate to use its findings to close any of the recommendations from 'An inspection of family reunion applications'. The inspectorate will carry out a more extensive re-inspection of the family reunion report recommendations during 2017/18. Pending this, its ten recommendations all remain open.
- 3.2 However, based on the re-inspection, some improvements had been made since the original inspection, specifically:
- family reunion guidance had be revised (in July 2016)
  - there were no longer delays in Istanbul obtaining copies of asylum screening and interview records held in the UK
  - evidence relied upon in either refusing or issuing applications was retained or, if not, it was referred to in the issue notes or refusal notices, with an explanation of the rationale for the decision
  - correct use was being made of 'General grounds for refusal'
  - 'exceptional circumstances' or 'compassionate factors' were being considered
  - Customer Service Standards were being met, or where cases were marked as 'complex' this was done in accordance with UKVI operational instructions
- 3.3 In some instances, the evidence of improvements was not conclusive, for example, where some Entry Clearance Manager (ECM) reviews had identified and remedied Entry Clearance Officer (ECO) errors, record keeping in relation to the reviews was poor. Given that inspectors found Entry Clearance Officers did not always give full consideration of all of the evidence submitted and that decision quality was mixed, more effort is needed to ensure that ECM reviews are effective and that the records show this to be the case.
- 3.4 There were two recommendations where there was no evidence of any progress by the time of the inspection: access to interpreters to enable interviews of applicants to clarify points of detail, and the commissioning and funding of DNA tests. Both lead to the inefficient, and for the applicant traumatic, default of refusing applications rather than deferring a decision to obtain best evidence.

## 4. Inspection Findings

### Interviews and supporting evidence

- 4.1 Recommendations 1 and 2 from the 2016 family reunion inspection identified 'quick wins' in relation to Home Office interviews.

#### Recommendation 1

In relation to the asylum screening and interview records, ensure that:

- Asylum caseworkers are aware of the importance of capturing details of the claimant's family members; and
- overhaul the process for retrieving interview records, so that they are made available in good time to whoever needs them

#### Recommendation 2

Ensure that interviewing of Family Reunion applicants and/or sponsors is a practicable option for Visa Sections by improving access to interpreters, and review and provide guidance regarding the use of interviews to ensure best practice is consistently applied.

- 4.2 The Home Office responded that best practice guidance for asylum caseworkers had been updated and circulated, emphasising the need to obtain full details of the claimant's family members during the asylum process and setting out why this is important. Pending a change to the caseworking system to allow decision makers to access relevant family details for themselves, 'the method of obtaining the relevant details is being reviewed, to ensure that delays are minimised.'
- 4.3 In respect of access to interpreters, UKVI was establishing a central interpretation capability. This would service a new UK-based team that would consider all family reunion applications. Prior to decision making being consolidated in the UK, regional management teams were looking at better ways of working together to assist with the provision of interpreting staff from one region to another. Updated family reunion guidance, published in July 2016, include best practice for interviews and masterclasses to explain the guidance and how to implement it were scheduled for autumn 2016.
- 4.4 From the file sampling of 58 recent Istanbul family reunion decisions, inspectors found that asylum caseworkers had captured the details of the sponsor's family members in the asylum screening and/or interview records. Where applicants had not included a copy of either record as part of their application (29 out of 58 cases) UKVI had provided copies from the UK. There was no noticeable delay in these records being retrieved, indicating that the Home Office had taken action to improve both the storage and retrieval of asylum interview records.

- 4.5 Little discernible progress had been made in ensuring that interviewing of family reunion applicants and/or sponsors was a practicable option for overseas DMCs by improving access to interpreters or through improved best practice guidance. Only one of the 58 sampled cases was deferred to allow a telephone interview of an applicant to take place, supported by an interpreter. Interview evidence was used to clarify the date that the relationship started, which was unclear from the application form. In this instance, the information resulted in a decision to issue a visa, demonstrating the value of interviews.
- 4.6 Inspectors identified other cases where interviews might have assisted the decision maker, particularly where discrepancies with dates were used to support refusal reasons. One involved a sponsor who had been in the UK for some years without relevant certificates, had forgotten the precise dates of his marriage and wife's date of birth. As a result, the ECO doubted that the relationship was genuine and subsisting, despite three children, born in 2005, 2008 and 2012.
- 4.7 The file sample included one refusal case where the validity of a marriage was challenged because the dates on the marriage contract and the marriage confirmation certificate did not match. Providing applicants and/or sponsors opportunities to clarify dates, especially marriage dates, can be helpful. Islamic marriages, for example, may have two dates, one the date of the religious ceremony and the other the date of the civil registration, the latter potentially much delayed in countries where there is ongoing turmoil.

## DNA evidence

- 4.8 Recommendation 3 dealt with the Home Office's failure to make effective use of DNA evidence.

### Recommendation 3

Review its approach to DNA evidence in family reunion cases, including:

- funding for commissioned DNA testing where the Home Office is unable to verify documents provided by the applicant; and
  - deferral rather than refusal where the absence of DNA evidence is the only barrier to issuing entry clearance; and
  - update guidance so that it accurately reflects the approach and applicants are clear in what circumstances they should provide DNA testing results with their application
- 4.9 Updated family reunion guidance published in July 2016 included specific details on the provision of DNA evidence. Meanwhile, the Home Office responded that the policy regarding DNA evidence was being reviewed and the outcome 'should be known by the end of the year'. The review would include consideration of allowing applications to be deferred to allow DNA evidence to be submitted, and if the Home Office should commission such testing.
- 4.10 The July 2016 guidance highlighted that the onus was on the applicant/sponsor to consider submitting a DNA test at their expense from an organisation accredited by the Ministry of Justice.<sup>7</sup> However, it did not state explicitly that applicants should consider providing DNA evidence in cases where they may have difficulty in providing other documents to demonstrate relationship, for example in the case described at paragraph 4.6 above.

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<sup>7</sup> The guidance states: "The onus is on the applicant and their sponsor to provide sufficient evidence to prove their relationship and satisfy the caseworker that they are related as claimed. As part of this, they may wish to submit a DNA test at their own expense and from an organisation accredited by the Ministry of Justice".

- 4.11 Inspectors saw no evidence that the Home Office had completed its review of the policy regarding DNA guidance. The latest family reunion guidance available on gov.uk remains the July 2016 update.
- 4.12 Examination of the 58 Istanbul sample files identified four applications where DNA evidence might have been used to demonstrate an enduring relationship, which on the 'balance of probabilities' should have been weighed alongside doubts about whether the relationship was 'subsisting' post-flight. None was deferred to allow for DNA evidence to be submitted. All involved children applying with their mothers, so consideration of safeguarding, welfare and the 'best interests' of the children should have been auditable in the notes.<sup>8</sup>
- 4.13 One of the four cases involved a Syrian woman with one child (born July 2015). It was her first application to be reunited with her husband. He had provided her details at his asylum interview and her application said she was willing to prove the relationship through a DNA test, but had insufficient income to purchase it.
- 4.14 UKVI did not accept the marriage, due to the poor quality of stamps on copies of official documents. However, the refusal notice recognised that "The ongoing civil war in Syrian means that many aspects of civil society are not functioning." The applicant was also refused for lack of proof that the marriage was subsisting, as no photographs showing the couple together were provided and communication records had not been translated.
- 4.15 UKVI told inspectors that it was unable to verify official documents in this case due to the ongoing warfare in Syria and that the onus remained on the applicant to provide DNA. However, the guidance stated that where the UK sponsor has confirmed family member details during the asylum process it is a strong indication that the applicant formed part of the pre-flight family unit. Neither the refusal notice nor the case notes showed any consideration of this factor.
- 4.16 The woman had since applied again, having obtained DNA evidence. At the time of the inspection, this application had not been assessed by an ECO.
- 4.17 In another case, an Iranian woman with two children (born 2007 and 2009) made a second application. The first decision maker had not been satisfied that the relationship was subsisting due to a lack of evidence submitted. The same refusal reason was given a second time, despite the fact that numerous family photographs covering a number of years had been supplied as part of social communication evidence. These photographs showed the sponsor with his wife and children before leaving Iran and while communicating via the internet after he had fled. Inspectors queried the decision as the images appeared to provide strong evidence of a subsisting relationship.
- 4.18 UKVI maintained there was no evidence of a subsisting relationship over a 13 year period between 2002 and 2015, and said it had expected more evidence for the second application. UKVI wrote: "It is acknowledged there are two children, however taking into account the significant period of time where there is no evidence of a subsisting relationship, having the two children would not be conclusive in evidencing a subsisting relationship. Satisfied the decision to refuse was correct on the balance of probabilities."
- 4.19 Inspectors considered that the UKVI response had ignored the fact that the social communications data provided significant evidence of post-flight contact over a period of years.

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<sup>8</sup> In the case of one of the child applicants, the refusal letter did refer to the child's 'best interests', arguing that because the child's mother had been refused it was in the child's best interests to be refused too so that they remained together. The same letter referred to the child's father (the sponsor) as her 'husband', apparently having copied and pasted this from the mother's refusal letter.

It had also failed to show that the ‘best interests’ of the two children had been considered. As well as being more customer-focused, in line with UKVI’s stated aim, deferral to allow for DNA evidence to be provided would have been the more efficient option as it would have avoided the additional effort of processing a second application.

- 4.20 The inspection of entry clearance operations in Croydon and Istanbul that ran in parallel to this re-inspection included four family reunion cases in its random sample of settlement applications where DNA evidence had been submitted and a visa had been issued.<sup>9</sup> All four illustrated the compelling nature of DNA evidence.
- 4.21 Two of these applications had previously been refused, and two were first-time applications. In one of the latter cases the decision maker noted concerns about recently issued copy documents (marriage certificate, family book extracts and civil status records) and no evidence of contact, which would normally attract refusal. However, the applicant had provided DNA evidence, which had tipped the balance in favour of issuing entry clearance. The decision maker noted that “even with doubts, DNA evidence and overriding concern of best interests of children would determine reunion in UK”.
- 4.22 In one of the two cases that had been previously refused, the ECO, responding to an ECM, commented that the evidence of contact was still limited, but the fact that the DNA test showed the mother shared the parentage of the six children with the sponsor gave credence that the relationship was genuine. The ECO concluded “Besides, since we have the DNA tests, there is little grounds to refuse the mother.”
- 4.23 There were two further cases amongst the sample of settlement cases for the entry clearance inspection where inspectors believed that DNA evidence would have helped to resolve doubts about the claimed relationships, but where the applications were refused rather than being deferred. Both had since submitted reapplications without DNA evidence. One had been issued, while the other was awaiting a decision at the time of the inspection.

## Decision Quality

- 4.24 Recommendations 4 focused on decision quality.

### Recommendation 4

In terms of decision making in Family Reunion cases:

- ensure that ECOs give full consideration to all available evidence;
- ensure that evidence relied upon in the decision is either retained or properly evidenced in the issue notes or refusal notice;
- ensure that the case record and/or refusal notice fully explains the rationale for the decision;
- ensure that ECM reviews are effective.

- 4.25 The Home Office response referred the updated family reunion guidance and the planned masterclasses “where policy experts discuss with decision makers how to approach the consideration of Family Reunion applications.” It was also reviewing guidance relating to ‘how decisions are recorded (issue note and refusal notices)’ which “will be issued to decision makers

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<sup>9</sup> In all, 14 applications from the sample of settlement applications examined by inspectors as part of ‘An Inspection of entry clearance operations in Croydon and Istanbul’ were family reunion applications.

later this year. This will make clear how to refer to evidence that has been considered, and which evidence needs to be retained.”

- 4.26 The response also referred to the fact that UKVI’s International Casework and Quality Assurance Team had been set up. Part of its remit was to introduce formal quality assurance processes, including feedback mechanisms to decision makers and their management teams. It concluded “A full analysis of the ECM review process is underway, and will focus on the effectiveness of it. Part of this will be formalising reviews of the quality of the process.”
- 4.27 Examination of the 58 sample cases showed that evidence relied upon in either refusing or issuing applications was retained or, if not, it was referred to in the issue notes or refusal notices, with an explanation of the rationale for the decision. However, it was not clear whether decision makers always gave full consideration to all available evidence.
- 4.28 Some decision makers appeared not to take account of the circumstances of applicants who had fled war-torn areas of Syria. The file sample included refusals of Syrian applicants because of a lack of original documents and photographs proving the relationship. This was in spite of the guidance stating “Caseworkers must be mindful of the difficulties that people may face in providing documentary evidence of their relationship or the fact that it is subsisting. Those fleeing conflict zones or dangerous situations may not have time to collect supporting documents and may not realise they would be required.”
- 4.29 Inspectors asked staff in Istanbul to explain how the above guidance was applied in the refusal cases citing lack of original documents and photographs. They said “It is entirely possible that the applicants are unaware of the need to submit such evidence with their applications and may not have detailed an explanation for why they have been unable to supply such evidence where it does not exist. Given the burden of proof remains with the applicant it is for them to set out how they meet the Rules and explain why such evidence may not exist. It is reasonable in such circumstances where the Rules are not met, for such applications to be refused and for the applicant to address those points either through an improved fresh application or through appeal.”
- 4.30 Rather than refuse the application, a decision maker who believes that an applicant was unaware that he, or more typically she, needed to submit original documents and photographs or provide a detailed explanation why they were not able to do so, has the option of deferring the application to allow the applicant to respond in writing or at interview.
- 4.31 In reality, even when more detailed information was provided with their application, inspectors found that decision makers failed to consider all of the facts together. Within the file sample, there were applicants who had explained in their application that a bombed or destroyed house meant they had none of the required paper evidence. One applicant described the loss of personal belongings, such as wedding photographs, on a traumatic journey to Turkey. Inspectors saw no evidence that these factors had been considered when deciding these cases. The visa post acknowledged these failures, and stated that it had re-circulated instructions to all ECOs about the need to consider such factors.
- 4.32 Twenty-four of the 58 sample files examined by inspectors had been subject to a mandatory ECM review. There was evidence that refusal notices were being reviewed for content and accuracy. In two cases, for example, the ECM identified errors with refusal notices and instructed ECOs to make necessary changes. But, inspectors also found one case that had had a review that had failed to spot errors. Overall, the effectiveness of ECM reviews was unclear as review notes were mostly generic rather than tailored to the individual case.

## ‘General grounds for refusal’, ‘exceptional circumstances’ or ‘compassionate factors’

- 4.33 Recommendation 5 sought to address concerns identified in the original family reunion inspection report in relation to the use of ‘general grounds for refusal’ and the failure of decision makers to use their discretion in relation to ‘exceptional circumstances’ or ‘compassionate factors’.

### Recommendation 5

In relation to family reunion applications, review, issue clear guidance, and ensure consistent application by decision makers of:

- ‘General grounds for refusal’ (paragraph 320 of the Immigration Rules) might apply
  - ‘exceptional circumstances’ or ‘compassionate factors’, in particular (but not limited to) when considering applications from spouses under the age of 18
- 4.34 The Home Office reported that the updated guidance (issued in July 2016) had clarified the use of ‘general grounds’ and ‘exceptional circumstances’ or ‘compassionate factors’. With regard to consideration of applications from spouses under 18 years of age guidance was “being reviewed and will be published later in the year.”
- 4.35 Inspectors identified two cases in the file sample where the decision maker considered Paragraph 320 of the Immigration Rules<sup>10</sup> ‘General grounds for refusal’, in relation to criminal convictions. Inspectors agreed with the decision to apply Paragraph 320 in one of the two cases, but not in the other. There were no other applications in the file sample where inspectors found that ‘general grounds for refusal’ should have been considered but was not.
- 4.36 ‘Exceptional circumstances’ or ‘compassionate factors’ were considered in three of the sample cases. None of the applicants was under 18. Two of the applications were issued, while the third was refused. The updated guidance was applied appropriately in all three cases. Inspectors did not identify any other cases where ‘exceptional circumstances’ or ‘compassionate factors’ should have been considered but were not.

## Timeliness of decisions

- 4.37 Recommendation 7 focused on delays in decision making, in particular delays caused when overseas visa posts had requested copies of asylum interviews from UKVI in the UK that had taken weeks to arrive, or in some cases never arrived.

### Recommendation 7

Review its internal processes, in particular the ‘hand offs’ between different functions, to reduce the time taken to deal with family reunion applications.

- 4.38 The Home Office response referred to plans “to consolidate decision making for Family Reunion applications into one team based in the UK” which would mean decision makers ‘will have easier access to the initial application of the Family Reunion sponsor, and this will help to reduce any unnecessary ‘hand offs’. Prior to decision making being consolidated in the UK, the current regional management teams are looking at better ways of handling these applications to ensure that cases are dealt with expediently, with the minimum of systemic delays.’

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<sup>10</sup> <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-9-grounds-for-refusal>

- 4.39 At the time of the re-inspection, Istanbul was still making family reunion application decisions. Inspectors did not ask about progress on creating a UK-based team, as this was out of scope. File sampling found that the delays identified in the 2016 inspection report had been resolved.
- 4.40 All 58 sample cases had been decided within UKVI's customer service standards for settlement applications.<sup>11</sup>

### Marking cases as 'complex'

- 4.41 Recommendation 8 referred to the process by which decision makers, subject to ECM approval, are able to mark an application as 'complex', which sets it outside the Customer Service Standards in terms of receipt to response time.

#### Recommendation 8

Ensure that family reunion applications are not wrongly recorded as 'complex' when delays are of the Home Office's making.

- 4.42 The Home Office responded that guidance was clear that cases must not be marked as 'complex' when the delays are of the Home Office's making. It stated that 'Performance against processing times is closely monitored, including the number and reasons for cases being marked as 'complex'. Regional directors have to account for these cases in performance discussions, and close scrutiny of complex cases is inbuilt into the performance reporting system. The instruction for staff regarding complex cases is being revised and will be reissued.'
- 4.43 Six of the 58 cases within the file sample had been marked as 'complex'. Three of the six were marked as 'complex' to permit security checks to be completed, two because the applicants' passports had not been submitted<sup>12</sup> and needed to be requested in order to insert vignettes,<sup>13</sup> and the sixth because agreement was sought to issue under 'exceptional circumstances'.
- 4.44 In each instance, marking as 'complex' was done in accordance with UKVI operational instructions. However, in the two cases involving 'vignettes' the applicants had paid an additional fee to retain their passports while the application was being processed and, when requested, had provided them within a week. In both cases the request for the passport was late into the 60-day Customer Service Standard, and had it been made earlier there would have been no need to mark the cases as 'complex'.

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<sup>11</sup> '95% of settlement applications decided within 12 weeks of the application date and 100% within 24 weeks of the application date (where 1 week is 5 working days).'

<sup>12</sup> Applicants can pay an additional fee to retain their passports while the application is processed.

<sup>13</sup> An entry clearance certificate (which takes the form of a sticker) containing conditions of and validity of leave issued, which is placed in an applicant's passport or travel document.

# Annex A: Full list of Recommendations and formal Home Office Responses from ‘An Inspection of Family Reunion Applications (January – May 2016)’

## **Recommendation 1**

In relation to the asylum screening and interview records, ensure that:

- Asylum caseworkers are aware of the importance of capturing details of the claimant’s family members; and
- overhaul the process for retrieving interview records, so that they are made available in good time to whoever needs them

## **Home Office Response: Accepted**

Best practice guidance for asylum caseworkers has been updated and circulated, emphasising the need to obtain full details of the claimant’s family members during the asylum process and setting out why this is important.

Work is underway to change the method of recording the details of the asylum claimant’s family members on the caseworking system in a way that will negate the need to obtain a file readover or copy of the interview record, as those considering Family Reunion applications will be able to see the details of the family members on the caseworking system.

For cases prior to this change, the method of obtaining the relevant details is being reviewed, to ensure that delays are minimised.

## **Recommendation 2**

Ensure that interviewing of family reunion applicants and/or sponsors is a practicable option for Visa Sections by improving access to interpreters, and review and provide guidance regarding the use of interviews to ensure best practice is consistently applied.

## **Home Office Response: Accepted**

UKVI is establishing a central interpretation capability. Plans are being formulated to consolidate decision making for Family Reunion applications into one team based in the UK. Once this has happened, decision makers will use this central interpretation capability where any interviews are deemed necessary. Prior to decision making being consolidated in the UK, the current regional management teams are looking at better ways of working together to assist with the provision of interpreting staff from one region to another.

The Family Reunion guidance that was published in July 2016 includes best practice for interviews. masterclasses explaining the guidance and how to implement it are scheduled for autumn 2016.

### **Recommendation 3**

Review its approach to DNA evidence in Family Reunion cases, including:

- funding for commissioned DNA testing where the Home Office is unable to verify documents provided by the applicant; and
  - deferral rather than refusal where the absence of DNA evidence is the only barrier to issuing entry clearance; and
  - update guidance so that it accurately reflects the approach and applicants are clear in what circumstances they should provide DNA testing results with their application.

### **Home Office Response: Accepted**

The Family Reunion guidance that was published in July 2016 includes specific detail on the provision of DNA evidence.

The policy regarding DNA evidence is being reviewed by the Home Office, and the outcome of the review should be known by the end of the year. Part of the review is the consideration of allowing applications to be deferred to allow DNA evidence to be submitted, and if the Home Office should commission such testing.

### **Recommendation 4**

In terms of decision making in Family Reunion cases:

- ensure that ECOs give full consideration to all available evidence;
- ensure that evidence relied upon in the decision is either retained or properly evidenced in the issue notes or refusal notice;
- ensure that the case record and/or refusal notice fully explains the rationale for the decision;
- ensure that ECM reviews are effective.

### **Home Office Response: Accepted**

Guidance on considering Family Reunion cases was published in July 2016, and has been circulated to all decision makers. masterclasses explaining the guidance and how to implement it are scheduled for autumn 2016. These masterclasses are where policy experts discuss with decision makers how to approach the consideration of Family Reunion applications.

Guidance relating to how decisions are recorded (issue note and refusal notices) is being reviewed and will be issued to decision makers later this year. This will make clear how to refer to evidence that has been considered, and which evidence needs to be retained.

UKVI's International Casework and Quality Assurance Team has been set up, and part of the team's remit is introducing formal quality assurance processes. These processes will include feedback mechanisms to decision makers and their management teams. This will be done using a formal digital process and will allow management teams to interrogate databases for information based on themes, posts and individuals.

A full analysis of the ECM review process is underway, and will focus on the effectiveness of it. Part of this will be formalising reviews of the quality of the process.

#### **Recommendation 5**

- In relation to Family Reunion applications, review, issue clear guidance, and ensure consistent application by decision makers of:
- ‘General grounds for refusal’ (paragraph 320 of the Immigration Rules) might apply;
- ‘exceptional circumstances’ or ‘compassionate factors’, in particular (but not limited to) when considering applications from spouses under the age of 18.

#### **Home Office Response: Accepted**

Guidance has been issued to decision makers to clarify that the General Grounds for Refusal apply to Family Reunion applications.

Guidance has been revised and published to more clearly explain how and when exceptional and compassionate circumstances are to be considered. Guidance on how to consider applications from spouses that are under 18 is currently being reviewed and will be published later in the year.

#### **Recommendation 6**

Reconsider whether assurance based on a ‘Review to Risk’ approach gives sufficient weight to the potential humanitarian protection consequences of Family Reunion refusals. In particular, ensure trends and issues associated with particular nationalities are identified and monitored.

#### **Home Office Response: Accepted**

The ‘Review to Risk’ strategies of the regional teams are refreshed regularly. In future reviews, more emphasis will be given to ensuring that part of these reviews includes a more holistic view of the cases to be reviewed. This will include better acknowledgment of the need to strike a balance between ensuring that those entitled to be reunited with family in the UK are allowed to do so, whilst refusing those that do not satisfy the rules. Regional teams have been tasked with carrying out more analysis of Family Reunion cases, to help ensure that this balance is right.

#### **Recommendation 7**

Review its internal processes, in particular the ‘hand offs’ between different functions, to reduce the time taken to deal with Family Reunion applications.

#### **Home Office Response: Accepted**

Plans are being formulated to consolidate decision making for Family Reunion applications into one team based in the UK. Once this has happened, decision makers will have easier access to the initial application of the Family Reunion sponsor, and this will help to reduce any unnecessary ‘hand offs’. Prior to decision making being consolidated in the UK, the current regional management teams are looking at better ways of handling these applications to ensure that cases are dealt with expediently, with the minimum of systemic delays.

### **Recommendation 8**

Ensure that Family Reunion applications are not wrongly recorded as 'complex' when delays are of the Home Office's making.

#### **Home Office Response: Accepted**

Guidance is clear that cases must not be marked as complex in these circumstances. It is being reviewed and will be reissued. Performance against processing times is closely monitored, including the number and reasons for cases being marked as 'complex'. Regional directors have to account for these cases in performance discussions, and close scrutiny of complex cases is inbuilt into the performance reporting system. The instruction for staff regarding complex cases is being revised and will be reissued.

### **Recommendation 9**

Reduce the number of Family Reunion appeals and reapplications by ensuring that guidance to applicants clearly signposts what evidence they should provide with their application, and getting the decision 'right first time'.

#### **Home Office Response: Accepted**

Guidance for Family Reunion applicants was updated and published in July 2016. It contains clear guidance on what evidence applicants can consider submitting with their application, and in common with all UKVI guidance it will be reviewed periodically to ensure that it is up to date and effective.

### **Recommendation 10**

In relation to those Kuwaiti Bidoon Family Reunion applications from 2013 – 2015 where the Home Office has not implemented the Judges' ruling or its own undertakings to issue entry clearance, ensure that it responds quickly when reasons for the delay are sought by those affected and that it provides as much information as it reasonably can, bearing in mind the sensitive nature of the investigation.

#### **Home Office Response: Accepted**

All of the applications highlighted in the report have now had a decision. If a similar situation were to happen now, these cases would fall into the 'complex case handling' arrangements, which includes contacting the applicants to explain what is happening with their application when there will be a delay in processing it.

# Annex B: Role and remit of the Independent Chief Inspector

The role of the Independent Chief Inspector of Borders and Immigration (until 2012, the Chief Inspector of the UK Border Agency) was established by the UK Borders Act 2007. Sections 48-56 of the UK Borders Act 2007 (as amended) provide the legislative framework for the inspection of the efficiency and effectiveness of the performance of functions relating to immigration, asylum, nationality and customs by the Home Secretary and by any person exercising such functions on her behalf.

The legislation empowers the Independent Chief Inspector to monitor, report on and make recommendations about all such functions. However, functions exercised at removal centres, short-term holding facilities and under escort arrangements are excepted insofar as these are subject to inspection by Her Majesty's Chief Inspector of Prisons or Her Majesty's Inspectors of Constabulary (and equivalents in Scotland and Northern Ireland).

The legislation directs the Independent Chief Inspector to consider and make recommendations about, in particular:

- consistency of approach
- the practice and performance of listed persons compared to other persons doing similar activities
- the procedure in making decisions
- the treatment of claimants and applicants
- certification under section 94 of the Nationality, Immigration and Asylum act 2002 (c. 41) (unfounded claim)
- the law about discrimination in the exercise of functions, including reliance on section 19D of the Race Relations Act 1976 (c. 74) (exception for immigration functions)
- the procedure in relation to the exercise of enforcement powers (including powers of arrest, entry, search and seizure)
- practice and procedure in relation to the prevention, detection and investigation of offences
- the procedure in relation to the conduct of criminal proceedings
- whether customs functions have been appropriately exercised by the Secretary of State and the Director of Border Revenue
- the provision of information
- the handling of complaints; and
- the content of information about conditions in countries outside the United Kingdom, which the Secretary of State compiles and makes available, for purposes connected with immigration and asylum, to immigration officers and other officials.

In addition, the legislation enables the Secretary of State to request the Independent Chief Inspector to report to her in writing in relation to specified matters.

The legislation requires the Independent Chief Inspector to report in writing to the Secretary of State. The Secretary of State lays all reports before Parliament, which she has committed to do within eight weeks of receipt, subject to both Houses of Parliament being in session. Reports are published in full except for any material that the Secretary of State determines it is undesirable to publish for reasons of national security or where publication might jeopardise an individual's safety, in which case the legislation permits the Secretary of State to omit the relevant passages from the published report.

As soon as a report has been laid in Parliament, it is published on the Inspectorate's website, together with the Home Office's response to the report and recommendations.

# Acknowledgements

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## **Inspection Team**

Lead Inspector      **Garrett Cullen OBE**





