

CRITERIA FOR INSPECTIONS OF THE UK'S BORDER AND IMMIGRATION FUNCTIONS

Introduction

All Inspectorates need a clear set of criteria against which they conduct their inspections. They ensure Inspectors are working to a common set of standards and enable public services to know exactly what is expected of them.

In March 2011 I published a set of ten inspection criteria for inspecting the effectiveness and efficiency of the UK Border Agency, under the themes of:

- **Operational Delivery**
- **Safeguarding Individuals**
- **Continuous Improvement**

The purpose of the revised criteria was to further clarify the standards that I expected the former UK Border Agency to meet, and to allow me to produce reports with a clearer focus on outcomes and realistic and deliverable recommendations. I believe this has broadly been achieved.

I conducted a review of my criteria in the autumn of 2012 and published a revised version in December 2012.

The main changes I made included:

- Introducing a new criterion to enable me to ensure greater prominence in my reports when reviewing the extent to which the Home Office uses resources to support operational delivery of the UK's border and immigration functions; and
- A revised criterion on how the Home Office implements policies and processes relating to borders and immigration..

Following the Home Secretary's decision on 26 March 2013 to abolish the UK Border Agency and bring its functions back into the Home Office, I have now made further amendments to my criteria to reflect this change in organisational structures. I have removed all references to the UK Border Agency and Border Force and replaced them with references to the Home Office.

I have taken the opportunity to amend the criterion on policy and process implementation to make clear that my focus will be on assessing whether these improve the delivery of border and immigration functions. Aside from some small changes to the indicators I will use to assess performance, all other elements of the criteria remained unchanged.

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OPERATIONAL DELIVERY

1. Decisions on the entry, stay and removal of individuals should be taken in accordance with the law and the principles of good administration.

Purpose: To place an expectation on the Home Office that decision making processes are managed effectively and decisions to:

- grant or refuse permission to enter or remain in the UK;
- provide asylum support;
- certify asylum or human rights claims as clearly unfounded;
- remove people; and
- grant or refuse British citizenship;

are made consistently and efficiently in accordance with legislation and the principles of good administration – getting it right, putting it right, being ‘user’-focused, being open and accountable, acting fairly and proportionately.

Evidence:

Documentation

Assess:

- previous inspection findings and recommendations;
- statistics showing volumes of passengers/applications/decisions;
- statistics showing numbers of grants, refusals, removals, voluntary departures certifications;
- statistics showing number of appeals, judicial reviews, administrative reviews and outcomes of these;
- costs of litigation;
- costs of processing applications/removals/detention;
- quality assurance frameworks;
- lessons learned from litigation;
- the guidance available to applicants/passengers about the evidence they are required to provide;
- Business Plans.

File sampling and observations

Assess:

- the requirements of relevant legislation (such as the Immigration Rules and the Human Rights Act) and assess whether decisions are in accordance with them;

- relevant policy and procedural guidance and assess whether decisions reflect them;
- how decision-makers have taken account of the evidence provided by applicants/passengers;
- relevant targets/service standards and performance against these;
- the time taken (such as passenger queuing times and time from application to decision);
- the time taken in individual cases to implement a decision following appeal determinations and court judgements;
- whether the reasons for decisions are recorded and provided to individuals and the quality of communications with them
- the level of authorisation for decisions;
- quality assurance of decisions, including any frameworks developed by the Home Office;
- the process of decision making, including interviews/interactions with individuals at the border or at decision-making posts/offices;
- assess facilities (e.g. for screening/interviews and privacy levels).

Staff interviews and focus groups

Assess:

- the practical application of relevant legislation and awareness/availability of policy and procedural guidance;
- awareness of appeal and court rulings, how staff learn of decisions and how these are fed back into the process to inform future work (feedback and outcomes);
- awareness of targets/service standards and staff views on how these are set, whether they are achievable and how their performance is measured;
- the training/familiarisation provided and staff views on how it equips them to make decisions;
- the level of equipment provided e.g. database/IT systems and staff views on availability and supply;
- understanding of how and where decisions, and the reasons for them, are recorded;
- management priorities and understanding of decision-making performance and quality.

Users/Stakeholders/Interest Groups

Obtain:

- views on legality and general standard of decisions made;
- understanding of rights and responsibilities (such as applicants, passengers, detainees, complainants).

2. Customs and immigration offences should be prevented, detected, investigated and, where appropriate, prosecuted.

Purpose: To place an expectation on the Home Office that they effectively prevent, detect, investigate and prosecute customs and immigration offences.

Evidence

Documentation

Assess:

- previous inspection findings and recommendations;
- key statistics – for example, the number of seizures of prohibited goods, the number of people removed from the UK, the number of prosecutions, the number of civil penalties issued/collected and the amount of tax and duties collected;
- business plans detailing targets and standards;
- strategic and local assessments of likelihood and impact of offences and operational tasking to address these;
- strategies for, and costs of, deploying staff;
- quality assurance frameworks.

File/record sampling and observations

Assess:

- examples of prosecutions and issue of penalties;
- examples of operations (for example to address illegal working or removal of people from the UK);
- how intelligence has been used to inform operations;
- consistency of approach in decisions to stop and/or search people or vehicles/to take forward prosecutions/ to issue penalties/ to take forward operations/to seize goods/vehicles;
- custody records/notebooks;
- the stopping and searching of people/vehicles/property;
- the level and nature of joint working with other agencies.

Staff interviews and focus groups

Assess:

- knowledge of powers to prevent, detect, investigate and prosecute;
- how intelligence is gathered and used;
- the nature of targets, whether they are effective and achievable;
- the deployment of resources and prioritisation;
- management priorities and understanding of performance.

Stakeholders/interest groups

Obtain:

- views of other law enforcement agencies and port operators.

3. Resources should be allocated to support operational delivery and achieve value for money

Purpose: To place an expectation on the Home Office to

- match resources to operational needs; and
- deploy resources in an effective way.

Evidence

Documentation

Assess:

- strategic and local business plans;
- evidence of workforce resource planning and Capability Development Plans;
- job specific training material provided to staff;
- the integrity of performance management information for the relevant business area;
- systems and processes in place for the business area or function;
- the integrity of financial data relating to the costs associated with the process or function being inspected;
- documentation relating to the implementation and monitoring of major investments, including lessons learned to improve future project delivery;
- work allocation processes.

Staff Interviews and focus groups

Assess:

- the extent to which IT works in a joined up way to support them in their jobs;
- the resource allocation process and the extent to which it is matched to key objectives for the business area / function;
- how performance management information is collated and the extent to which it drives future allocation of resources;
- processes and systems underpinning the work of their business area / function, in particular whether they deliver value for money and potential areas for improvement;
- extent to which managers understand the process of resource planning, allocation and monitoring and are able to influence it at both a local and a strategic level;
- whether managers re-direct resources to meet challenges to delivery, e.g. the emergence of backlogs; process or systems failures;

- whether staff have access to appropriate job-specific training and development and believe this is sufficient to allow them to carry out their roles effectively.

4. Complaints procedures should operate in accordance with the recognised principles of complaints handling

Purpose: To place an expectation on the Home Office to:

- develop and effectively manage a fully accessible complaints handling process, capable of responding to complaints promptly and fairly; and
- use complaints to continuously improve service and identify cost and efficiency savings.

Evidence

Documentation

Assess:

- previous inspection findings and recommendations;
- action plans in response, policy and procedure on complaints;
- management information on complaints profiles, timeliness of conclusions, agreements for completion, other related correspondence and resources channelled into the complaints system;
- the availability and nature of complaints leaflets, posters and other information;
- data on compensation paid to individuals;
- Parliamentary Ombudsman for data on complaints referred, including categories and outcomes of cases;
- Quality assurance frameworks;
- business plans.

File sampling and observations

Assess:

- whether the decision to uphold or reject complaint reflects the evidence and operational guidance;
- the numbers of complaints upheld and the reasons why;
- the timeliness of responses against published standards;
- the consistency of handling complaints including whether correspondence is correctly classified and handled as a complaint;
- complaints and correspondence boxes at individual locations – dip sample, complaints files (random or representative);
- how staff inform people about how they can complain and how they respond to verbal complaints (such as at reporting centres).

Staff interviews and focus groups

Assess:

- the process of complaints handling and perspectives on its effectiveness;
- the level of understanding of the definition of a complaint and individual responsibilities;
- the process for learning lesson from complaints and methods used to promote the complaints process;
- the knowledge and experience of complaints by staff, MP cases etc and how lessons are learnt and disseminated;
- progress made with recommendations from previous inspections (where appropriate and timely);
- management priorities and understanding of performance.

Users/Interest Groups/Stakeholders:

Obtain:

- views on complaints experience from passengers, applicants and stakeholders including ease of access, knowledge of system, complainant expectations of making a complaint, how the Home Office manage expectation and outcomes of the complaints experience.

SAFEGUARDING INDIVIDUALS

5. All individuals should be treated with dignity and respect and without discrimination in accordance with the law

Purpose: To place an expectation on the Home Office that it:

- complies with the law on prohibiting discrimination in respect of age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex and sexual orientation; and
- treats all people with whom it comes into contact, with dignity and respect even where there are no specific legislative duties.

Evidence

Documentation:

Assess:

- previous inspection findings and recommendations;
- Ministerial authorisations;
- Legislation, including the Equality Act and the Human Rights Act
- Home Office Diversity Strategy reports;
- relevant Home Office policies, procedures, local guidance on equality and how often updated/reviewed;
- any equality impact assessments;
- relevant complaints, Parliamentary Questions, MP correspondence and judicial reviews and timescales for outcomes, including timescales;
- quality assurance frameworks;
- business plans.

File sampling and observations

Assess:

- whether or not a consistent approach is adopted by the Home Office when dealing with different individuals (such as level and type of evidence required for particular nationalities);
- compliance with statutory obligations;
- whether or not Home Office staff are following operational guidance (for example, targeting and selection techniques) when completing operational tasks (such as questioning of passengers and interviews).

Staff interviews and focus groups:

Assess:

- understanding of anti-discriminatory law, policy and practice, including knowledge of Ministerial authorisations permitting discrimination on grounds of nationality or national or ethnic origin;
- how Ministerial Authorisations are communicated to staff;
- the extent of training/familiarisation in anti-discriminatory policy and procedure/operational functions;
- understanding and experience of mechanisms to remedy unfair/unlawful treatment (for example actions taken following a complaint and speed of resolution);
- whether or not any failure to comply with the law/treat everyone with dignity and respect is attributable to unclear guidance, lack of training or ineffective leadership.

Interest Groups/Stakeholders/Users:

Obtain:

- external perspectives on the treatment of people by the Home Office, the quality of its operational policies and guidance in reflecting anti-discriminatory law and the extent to which this is mirrored in practice;
- any 'live' or historic cases/data where equalities legislation/policy has been breached;
- users' understanding of their legal rights and responsibilities and those of the Home Office.

6. Enforcement powers, should be carried out in accordance with the law and by members of staff authorised and trained for that purpose.

Purpose: To place an expectation on the Home Office that:

- it complies with the law, safeguarding those arrested/stopped/searched/detained;
- law enforcement powers are carried out by authorised and appropriately trained officers;
- it gives individuals information about the reason for their arrest promptly and in a language they understand;
- force is used only as a last resort and only to the extent required;
- authorised staff safeguard the health needs of people in Home Office custody and take action to secure medical attention whenever required.; and
- detention is reviewed regularly and in accordance with Home Office policy and guidance.

Evidence:

Documentation

Assess:

- previous inspection findings and recommendations;
- relevant legislation including the Immigration Acts and Human Rights Act, codes of conduct and policy;
- statistics showing numbers of enforcement operations/size of teams/numbers of occasions when force has been used;
- statistics on numbers of people in detention, time spent in detention and reasons for release from detention;
- data showing levels of compensation paid to individuals;
- operational guidance and local instructions;
- contractual arrangements for medical care, translation services and any protocols or MOUs between the Home Office and external services;
- findings of other inspections/inspectors;
- relevant data from enforcement operations;
- parliamentary questions, ministerial correspondence/cases, complaints and outcomes, live cases and judicial reviews;
- quality assurance frameworks;
- business plans.

File sampling and observations

Assess:

- intelligence and other reasons for conducting enforcement operations and check for consistency;

- the number and demographic profile of staff used on enforcement operations;
- risk assessments for operations, including risks to the subjects of operations, the wider community and individual officers;
- the written records of enforcement operations, including any use of force, relevant notebooks/custody records/operational briefs and provision of information to individuals;
- the authorisation levels for decisions made and/or releases;
- the use of evidence from screening, interviews and documentation to inform decisions to detain and their review;
- the reasons for refusal letter and removal directions;
- the provision of information/communication and length of time in detention in accordance with legal/procedural requirements;
- quality of record keeping for all aspects of detention;
- operational functions e.g. the screening and /or referral process for detention;
- the on-going case management system throughout period of detention;
- enforcement operations.

Staff interviews and focus groups

Assess:

- training for staff and authorisation arrangements for carrying out enforcement duties;
- equipment provided to carry out operations;
- understanding of legal requirements, powers, codes of conduct and guidelines for operations, including safeguarding duties;
- the procedure for making decisions to detain, case prioritisations and how applicants/detainees are kept informed;
- the process for conducting detention reviews – where responsibility lies and the levels of authorisation;
- resource considerations for detaining in IRCs, including timescales for concluding cases, bed spaces, case owner availability, administrative capacity;
- the processes for identifying and managing risks;
- arrangement for and experience of correcting decisions and actions taken/process for providing a remedy;
- selection process for deployment of staff in operations, including gender breakdown;
- arrangements in place for provision of physical and mental healthcare, medical attention and action taken;
- requirements for provision of information on arrest process and languages available;
- processes for de-briefing after operations and how lessons learned.

Detainees/Interest Groups/Stakeholders

Obtain

- experience of arrest process;
- views on detainee case management [e.g. fast track process] including communications regarding case progress and reasons for detention/ continued detention;
- understanding/perspectives on the legal requirements for arresting and perceived compliance with the law/guidelines;
- views/data on previous or live cases/complaints referred to external organisations for representation/advice.

7. All border and immigration functions should be carried out with regard to the need to safeguard and promote the welfare of children.

Purpose: To place an expectation on the Home Office that:

- it complies with the law and considers safeguarding and welfare of children throughout its work; and
- it is proactive in promoting welfare.

Evidence:

Documentation

Assess:

- previous inspection findings and recommendations;
- operational and policy guidance on trafficking;
- legislation including the Children Act and the Human Rights Act, UN guiding principles, United Nations Convention on the Rights of the Child, domestic policies on duty to safeguard with Home Office policies;
- data on any complaints, legal challenges and outcomes;
- memoranda of understanding and joint working agreements between agencies;
- local instructions and guidance e.g. interview instructions for caseowners and use of children as interpreters;
- quality assurance frameworks;
- business plans.

File sampling and observations

Assess:

- relevant referral to child protection agencies;
- relevant involvement of children's services;
- level and range of information sought about child circumstances
- risk assessments/operational briefs;
- front line operations, including facilities/accommodation available in relevant areas.

Staff interviews and focus groups

Assess:

- understanding of safeguarding and promoting welfare and what this means in practice;
- training on safeguarding and promotion of welfare of children;
- engagement with external organisations responsible for children's welfare;

- how far safeguarding and promoting welfare is ‘child-focused’ and prioritised/mainstreamed in policy and practice;
- mechanisms for correcting mistakes, learning lessons and how these are fed back to inform children’s issues in policy and practice;
- pathways in place for identifying need and referring to appropriate agencies internally and externally;
- management understanding of law and guidance to staff;
- understanding and awareness of trafficking safeguards.

Interest Groups/Stakeholders

Obtain:

- (where appropriate) views of children and families in contact with the Home Office on their experience of the services and functions it provides;
- views on perceived barriers to promotion of welfare, examples of good promotion/best practice and how/if shared;
- external data on issues, advice and representations made. Links with the Home Office to promote child welfare;
- experience of contact with the Home Office over children’s matters;
- Information on arrangements for formal/informal partnership working with children’s organisations/charities;
- views on where tangible benefits made, problems remain and steps to remedy.

8. Personal data of individuals should be treated and stored securely in accordance with the relevant legislation and regulations.

Purpose: To place an expectation on the Home Office that it:

- complies with the requirements of the Data Protection Act and related legislative frameworks in handling personal data; and
- uses ongoing good practice guidance in treating and storing data.

Evidence:

Documentation

Assess:

- previous inspection findings and recommendations;
- the Home Office interpretation in policy and procedure (local/regional framework for ensuring personal data is handled lawfully and mirrors codes and principles);
- policies for the review, retention and destruction of data;
- quality assurance frameworks;
- handling of personal data;
- use of protective personal markings;

- data on breaches, 'near misses' (potential breaches) and actions taken, data on challenges to information handling (Data Protection), costs incurred;
- Business Plans.

File/record sampling and observations

Assess:

- electronic and hard copy filing systems in place;
- use of protective personal markings;
- how files and other personal data are collated, handled and stored;
- whether third party data is stored inappropriately on files;
- whether clear desk policies are in operation.

Staff interviews and focus groups

Assess:

- understanding of data protection legislation and use of guidelines/governing principles;
- how personal data is stored in individual teams/areas (including accommodation and facilities provided);
- understanding of data retention and destruction policy;
- training received;
- awareness/existence of systems to handle challenges under legal provisions;
- management understanding of the law and guidance to staff.

Interest Groups/Stakeholders

Obtain:

- views on the Home Office's handling of personal information, including views of the Information Commissioner;
- data on cases referred for adjudication and outcomes, including any costs.

CONTINUOUS IMPROVEMENT

9. The implementation of policies and processes should support the efficient and effective delivery of border and immigration functions.

Purpose- To ensure that:

- the Home Office has implemented policies and processes to underpin the work of the relevant area being inspected;
- staff understand and comply with these policies and processes; and
- operational guidance and processes are subject to regular review to ensure they support efficient and effective operational delivery.

Evidence:

Documentation

Assess:

- evidence that guidance and operational processes are in place and subject to regular review;
- previous inspection findings and recommendations;
- statements of policy;
- operational policy and process instructions;
- lessons learned from appeals and court judgments (both negative and positive);
- business plans;
- the integrity of statistical data demonstrating whether policies and processes have been implemented effectively, e.g. changes to allowed appeal rates; re-consideration requests; changes in the volume of cases; relevant financial information;
- documents feeding back information / analysis on implementation to operational policy and process leads and strategic policy leads in the Home Office;
- evidence that, where appropriate, changes are made to operational guidance and processes in the light of feedback from staff.

Staff Interviews and focus groups:

Assess

- the effectiveness of policy implementation;
- the extent to which policies (including guidance and process instructions) are understood and complied with by operational staff;
- the effectiveness of mechanisms to feedback on policy and process implementation to operational policy and strategic policy leads;
- understanding of who is responsible for the implementation of policies / processes and how to seek advice;

- the extent to which guidance and processes are adapted in the light of changing circumstances, e.g. court judgments; emerging risks;
- the extent to which staff and managers receive appeal determinations and use these to improve decision quality and to inform changes to guidance and processes.

Interest groups / stakeholders

- examples of the impact of policy and process implementation on individuals;
- analysis that they have done of the implementation of specific policies and processes, including the impact of implementation on individuals.

10. Risks to operational delivery should be identified, monitored and mitigated.

Purpose: To place an expectation on the Home Office to:

- be clear about the risks to its operational delivery;
- identify risk accurately; and
- be aware of their potential impact and take appropriate action to manage them effectively.

Evidence:

Documentation

Assess:

- previous inspection findings and recommendations;
- response to previous inspection and audit recommendations;
- risk registers (including the likelihood and impact of risks occurring), and regularity of review/updates;
- minutes of risk committees/management meetings;
- action plans to tackle risks;
- planning and implementation of organisational changes, including changes to processes as well as structures;
- business plans.

Staff interviews and focus groups

Assess:

- the risks related to the relevant issue/location under inspection;
- understanding and awareness of how these are managed and mitigated ;
- the effectiveness of strategies to mitigate the impact of specific risks;
- whether the most important risks are recorded;
- whether risk awareness forms part of any training;
- how new risks are recorded and taken forward;
- the strategic approach to risk and risk planning;
- how changes to the organisational structure and processes are managed and communicated to staff;
- whether mechanisms are in place allowing staff to flag emerging risks and the extent to which these are taken on board by managers;
- whether effective processes are in place to provide for the escalation of risks from local to strategic level;
- awareness of who owns a specific risk in the business area / function being inspected.