



House of Commons
Home Affairs Committee

Security Industry Authority: Licensing of Applicants

Third Report of Session 2007–08

*Report, together with formal minutes, oral and
written evidence*

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The Home Affairs Committee

The Home Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Home Office and its associated public bodies.

Current membership

Rt Hon Keith Vaz MP (*Labour, Leicester East*) (Chairman)
Mr Jeremy Browne MP (*Liberal Democrat, Taunton*)
Ms Karen Buck MP (*Labour, Regent's Park and Kensington North*)
Mr James Clappison MP (*Conservative, Hertsmere*)
Mrs Ann Cryer MP (*Labour, Keighley*)
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The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via www.parliament.uk

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at www.parliament.uk/homeaffairscom A list of Reports of the Committee since Session 2005–06 is at the back of this volume.

Committee staff

The current staff of the Committee are Elizabeth Flood (Clerk), Jenny McCullough (Second Clerk), Elisabeth Bates (Committee Specialist), Sarah Harrison (Committee Specialist), Mr Tony Catinella (Committee Assistant), Mr Ameet Chudasama (Chief Office Clerk), Sheryl Dinsdale (Secretary) and Ms Jessica Bridges-Palmer (Select Committee Media Officer).

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Background

Licensing of private security workers

1. The Security Industry Authority (SIA) was established in 2003 as an independent body reporting to the Home Secretary to regulate the private security industry. Its role includes the compulsory licensing of individuals undertaking specific licensable activities within the private security industry. Checks on the immigration status of security workers are the legal responsibility of their employer under section 8 of the Asylum and Immigration Act 1996.¹

2. In November 2007 it emerged in the press that immigration status checks were not being carried out on persons applying for licences to work in the private security industry, with the result that an unspecified number of security industry workers were working illegally.²

Retrospective checks on licence holders

3. The Home Secretary subsequently advised the House on 13 November that retrospective checks carried out from July 2007 had identified that as of that date:

- 77% of licence holders had demonstrated their right to work;
- 10.5% did not have a right to work; and
- 12.5% required further checks.³

This meant that potentially up to 10,000 non-EU nationals licensed to work in the security industry could be working illegally.

Parliamentary debate

4. Subsequent debate in the House focused on the number of illegal immigrants working in the security industry, the employment of illegal workers at high security locations, and the fact that Parliament was not informed of the issue until November.⁴

Oral evidence

5. On 27 November 2007 we took oral evidence on this matter from the Minister of State for Borders and Immigration at the Home Office, Mr Liam Byrne MP, and the Chief Executive of the Border and Immigration Agency, Ms Lin Homer. On 4 December 2007 we took oral evidence on this matter from the Permanent Secretary to the Home Office, Sir David Normington, and the Deputy Chief Executive Officer of the SIA, Mr Andy Drane. We wish to draw the attention of the House to the following points raised in evidence.

1 HC Deb, 13 November 2007, cols 531–533 [Commons Chamber]

2 “Government accused of cover-up over immigrant security staff”, *Guardian*, 12 November 2007

3 HC Deb, 13 November 2007, cols 531–533 [Commons Chamber]

4 HC Deb, 13 November 2007, cols 533–534 [Commons Chamber]

Chronology of Events

April 2005

6. The SIA reserves the right to carry out right-to-work checks as part of the licence application process and begins a limited right-to-work check on 10% of licence applicants. Approximately 1.4% of the 3,000 people checked between April 2005 and December 2006 do not produce evidence of the right to work.⁵

April 2007

7. The Minister of State for Borders and Immigration is made aware that a Border and Immigration Agency (BIA) enforcement operation has identified 44 people employed by a security company who do not have the right to work in the UK. The Permanent Secretary is also made aware.⁶ At the same time, the SIA receives anecdotal intelligence of a problem in this area.⁷

June 2007

8. BIA and SIA agree to instigate a more intensive check for 10% of licence applicants, meaning that the BIA now checks applicants against their database rather than requesting documentary evidence of their right to work from the applicants themselves.

July 2007

9. The Home Secretary is made aware of the issue when the results of these checks indicate a greater prevalence of illegal immigrants amongst SIA applicants—approximately 10%—than previously indicated.⁸ From 2 July 2007 every non-EU applicant has their immigration status checked.⁹

August 2007

10. The Home Secretary commissions retrospective checks on 100% of applicants who have been granted a licence and agrees to report back to the House once these checks have been completed in December. The SIA is able to complete this work “within existing resources and within existing budgets”.¹⁰

11. The Home Secretary also authorises a letter from SIA to senior managers in the security industry, reminding them of their legal obligations to undertake right-to-work checks; and

5 Q 13

6 Q 29

7 “Smith denies ‘blunder’ on checks”, *BBC News Online*, 13 November 2007; Q 59

8 Qq 15

9 HC Deb, 13 November 2007, cols 531–533 [Commons Chamber]

10 Q 62

writes to HR directors across government reminding them that anybody with access to government assets needs to pass the baseline personnel security standard.¹¹

The decision not to inform Parliament

12. In response to the claim that Parliament should have been told about the situation straight away, the Minister of State argued for the need to balance keeping the public abreast of the matter against ensuring effective enforcement action.¹² The Permanent Secretary explained that “I do not think we thought it was necessary, I’m afraid, to inform Parliament straight away because we did not have all the facts”.¹³

Prosecutions

13. Between January and October 2006, 7 employers were prosecuted for employing people without the right to work in the UK, 4 of whom were found guilty.¹⁴ The Minister of State acknowledged that the number of prosecutions “is too low.”¹⁵ The Government announced on 22 November that it is introducing £10,000 on-the-spot fines for those caught employing people illegally.¹⁶

14. So far just under 150 licences have been revoked and the process is ongoing; the licensing revocation process takes a minimum of 42 days.¹⁷

Relationship between the SIA and the BIA

15. The Permanent Secretary told us that a good relationship between the SIA and BIA had developed out of a Home Office review of inter-agency working about 18 months ago, which also concluded that the level of checks on licence applicants was appropriate at that time. There are structured means of communication and increasing data-sharing.¹⁸

Future arrangements

16. Those applying for a licence from the Security Industry Authority are not asked to confirm their right to work in the UK on the application form. The SIA’s Deputy Chief Executive Officer considered the current form to be sufficient as applicants are asked to specify their nationality and must sign to confirm they have read the licensing criteria, which include a statement that the Security Industry Authority may investigate an

11 HC Deb, 13 November 2007, cols 531–533 [Commons Chamber]

12 Q 17

13 Q 35

14 These figures are the most recently available and are provisional. Full data for 1998–2006 is appended at Ev 15

15 Q 21

16 “Employers face new fines for illegal working”, Home Office press release, 181/2007, 22 November 2007

17 Qq 74–75

18 Q 38

applicant's right to work.¹⁹ We have written to the Home Secretary to express our concern on this point..

17. The SIA's Deputy Chief Executive Officer believed there to be sufficient guidance for the private security industry on their legal obligations with regard to right-to-work checks.

I cannot speak for employers. What I can say is that there is sufficient guidance which makes it clear that this is the employer's responsibility. We have also always made it clear. I guess it is possible that some employers do not understand their responsibility, but part of the reason for reinforcing that in my communication of August was intended to remove that ambiguity once and for all.²⁰

18. The Permanent Secretary considered that the SIA should continue to undertake 100% checks until they can be satisfied that the situation has been resolved. He did not support a review of the SIA's remit at this time.²¹

Further developments

19. The Home Secretary announced to the House on 13 December 2007 that the BIA had completed retrospective checks on all 39,885 non-EU nationals licensed by the SIA prior to 2 July 2007, with the following results:

- 28,737 SIA licence holders have the right to work in the UK;
- 6,653 do not have the right to work in the UK; and
- 4,447 required further checks.²²

20. She also confirmed that she had noted the Committee's letter regarding the application form, and has "asked the SIA to review the application form to ensure that it contains all the information both the SIA and BIA may need, with a view to making changes as soon as possible".²³

Conclusion

21. We are concerned that the current process for licensing and employing security workers gives rise to a situation in which illegal immigrants are gaining employment in the security industry. In our opinion, the licence application form would be an expedient means of ensuring consideration of the immigration status of security industry workers. We therefore welcome the announcement from the Home Secretary that she is encouraging the Security Industry Authority to amend its licence application form to include a declaration from applicants that they have the right to work in the UK.

19 Qq 50–56

20 Q 82

21 Qq 44–45

22 HC Deb, 13 December 2007, col 481 [Commons Chamber]. The balance of 48 represents duplicate records.

23 HC Deb, 13 December 2007, cols 482, 487 [Commons Chamber]

22. We recommend the Home Secretary provides us with further updates on the licensing of private security workers in March 2008 and again in June 2008.

Conclusions and recommendations

1. We are concerned that the current process for licensing and employing security workers gives rise to a situation in which illegal immigrants are gaining employment in the security industry. In our opinion, the licence application form would be an expedient means of ensuring consideration of the immigration status of security industry workers. We therefore welcome the announcement from the Home Secretary that she is encouraging the Security Industry Authority to amend its licence application form to include a declaration from applicants that they have the right to work in the UK. (Paragraph 21)
2. We recommend the Home Secretary provides us with further updates on the licensing of private security workers in March 2008 and again in June 2008. (Paragraph 22)

Formal Minutes

Tuesday 18 December 2007

Members present:

Rt Hon Keith Vaz , in the Chair

Ms Karen Buck	Patrick Mercer
Mr James Clappison	Gwyn Prosser
Mrs Ann Cryer	Bob Russell
David T C Davies	Martin Salter
Mrs Janet Dean	Mr David Winnick

Draft Report (Security Industry Authority: Licensing of Applicants), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 22 read and agreed to.

Resolved, That the Report be the Third Report of the Committee to the House.

Ordered, That the Chairman make the Report to the House.

[Adjourned till Tuesday 15 January at 12.45 pm

Witnesses

Tuesday 27 November 2007

Page

Mr Liam Byrne MP, Minister of State for Borders and Immigration, Home Office, and **Ms Lin Homer**, Chief Executive, Border and Immigration Agency

Ev 1

Tuesday 4 December 2007

Sir David Normington KCB, Permanent Secretary, Home Office

Ev 5

Mr Andy Drane, Deputy Chief Executive Officer, Security Industry Authority

Ev 7

List of written evidence

- | | | |
|---|--|-------|
| 1 | Letter to Rt Hon Keith Vaz MP, Chairman, Home Affairs Committee, from Mr Liam Byrne MP, Minister of State, Home Office | Ev 10 |
| 2 | Mr Liam Byrne MP, Minister of State, Home Office | Ev 11 |
| 3 | Letter to Rt Hon Keith Vaz MP, Chairman, Home Affairs Committee, from Rt Hon Jacqui Smith MP, Home Secretary | Ev 12 |

List of Reports from the Committee during the Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2007–08

First Report	The Government's Counter-Terrorism Proposals	HC 43
Second Report	Bulgarian and Romanian Accession to the EU: Twelve months on	HC 59

Session 2006–07

First Report	Work of the Committee in 2005–06	HC 296
Second Report	Young Black People and the Criminal Justice System	HC 181 (Cm 7217)
Third Report	Justice and Home Affairs Issues at European Union Level	HC 76 (HC 1021)
Fourth Report	Police Funding	HC 553 (HC 1092)

Session 2005–06

First Report	Draft Corporate Manslaughter Bill (First Joint Report with Work and Pensions Committee)	HC 540 (Cm 6755)
Second Report	Draft Sentencing Guideline: Robbery	HC 947
Third Report	Draft Sentencing Guidelines— <i>Overarching Principles: Domestic Violence and Breach of a Protective Order</i>	HC 1231
Fourth Report	Terrorism Detention Powers	HC 910 (Cm 6906)
Fifth Report	Immigration Control	HC 947 (Cm 6910)
Sixth Report	Draft Sentencing Guideline: Sexual Offences Act 2003	HC 1582
First Special Report	Memorandum from the Home Office: Progress in implementing accepted Committee recommendations 2001–05	HC 1007

Oral evidence

Taken before the Home Affairs Committee

on Tuesday 27 November 2007

Members present

Rt Hon Keith Vaz, in the Chair

Mr Jeremy Browne
Ms Karen Buck
Mr James Clappison
David T C Davies
Mrs Janet Dean

Gwyn Prosser
Bob Russell
Martin Salter
Mr David Winnick

Witnesses: **Mr Liam Byrne MP**, Minister of State for Borders and Immigration, Home Office, and **Ms Lin Homer**, Chief Executive, Border and Immigration Agency, gave evidence.

Q1 Chairman: Minister, welcome to today's meeting. Originally, we invited you to come and speak about the accession review on Romania and Bulgaria, but since then a number of issues have arisen about which the Committee is very concerned, in particular the situation regarding the Security Industry Authority; statistics produced by different government departments on immigration and the treatment of asylum detainees at government centres. We are very pleased to welcome the chief executive of the Border and Immigration Agency, Lin Homer. I understand that you wish to make a very brief statement and table a paper.

Mr Byrne: Indeed. Because you very kindly broadened the subject area today to embrace some more topical immigration issues I thought the Committee might find it helpful if I made a few brief remarks about progress against the BIA business plan published six months ago. We are now at the mid-year review point. I shall keep my remarks very brief, but I thought the Committee might find it helpful if I submitted a more detailed paper just setting out the progress we have made since June. Chairman, this is my first appearance before the Committee since you took over the chairmanship. It is a privilege to appear before you today. The Committee will be aware that I have published six major reform documents in addition to the UK Borders Act since I was asked to lead a programme of immigration reform very elegantly inaugurated by the former Home Secretary, Dr Reid. The business plan published in May drew together milestones set out in those documents. I am pleased to be able to report solid progress towards making BIA fit for the future. In the business plan I published 25 milestones for achievement this year. I am able to tell the Committee today that we are now hitting 22 of them. On three I am not satisfied with progress and have ordered steps to be taken to put them back on track. The paper that I table covers border and migration control, asylum and enforcement. In essence, I see border control as BIA's primary responsibility. We are now implementing biometric visas for about 114 of the 130 target countries. Global roll-out of biometric

visas will be complete next year. We have now procured a new passenger screening system and are about to exceed our target of 30 million passenger records screened by 2008. In migration control we have completed preparations for the points system to be introduced next year. We now have the Migration Impact Forum and Migration Advisory Committee up and running. Soon I will bring forward proposals to reform both the visit visa system and family reunion policies, thereby completing our reform of the major routes into Britain. As to asylum, thanks to tougher border control we now have the lowest number of asylum claims since 1992. We have removed about 10,000 failed asylum seekers this year and have exceeded our target to resolve 35% of cases within six months. Finally, on enforcement in the last quarterly statistics published by us we were able to say that we had matched our previous best record for enforced returns. We are on track to meet the Prime Minister's target of the removal of 4,000 foreign national prisoners this year. Our progress to date is already a 50% improvement on the entire progress of the past year. Further changes are planned for next year, including expansion of detention capacity and a much stronger attack on illegal working. Therefore, this represents progress across a broad front for which I am very grateful to BIA staff.

Q2 Chairman: Thank you for your kind comments. Perhaps I may return the compliment by congratulating you on becoming *The Spectator's* minister to watch. While you are minister of immigration this Committee will continue to watch you with great care. You have painted a very interesting picture, but we are concerned about a number of problems that beset the immigration service. One matter of great concern to Parliament is the discovery that there are thousands of illegal workers, some in government departments, as a result of the failings of the Security Industry Authority. When did you as minister for immigration first become aware of these problems?

27 November 2007 Mr Liam Byrne MP and Ms Lin Homer

Mr Byrne: I became aware a little before the summer, in about April/June of this year, when as a result of a BIA operation we understood that a security firm, which the Home Secretary announced in her Statement, was employing 12 individuals who were guarding police contractors. It was at that time and shortly thereafter that a new service was put in place by the Border and Immigration Agency together with the Security Industry Authority.

Q3 Chairman: To be clear, you were told or you discovered this in April 2007?

Mr Byrne: Just before the summer, in April–June.

Q4 Chairman: To be a little more precise—April/June is quite a long period—you as immigration minister were aware in April of this year?

Mr Byrne: Yes. I was alerted to the BIA operation which had found a problem with some of the contractors being employed by the MPS. It was thereafter that a different service was put in place by the Border and Immigration Agency and SIA to make a different kind of check on the 10% of applicants for licences.

Q5 Chairman: Is it right that you became aware in April and the Home Secretary became aware in July?

Mr Byrne: There are two stages to this. What I became aware of in April was that a Border and Immigration Agency operation had detected a number of illegal immigrants working for contractors employed by MPS, but in July the results of the new checks became available to ministers. If you go back to April 2005, about 10% of applicants for SIA licences were checked; they were asked to provide evidence of the right to work. In April of this year we were told of a BIA operation that had uncovered a problem with some MPS contractors. That led to a different kind of check again on 10% of SIA licence applicants and that identified the problem.

Q6 Chairman: In April you were aware of it, in July the Home Secretary was aware of it and in November Parliament was told. In that long period who was it who asked for a full explanation of what was happening? I am concerned that the Home Secretary told Parliament that it was she who asked for a full report in July of this year before making a statement to Parliament, but it seems that the Home Office and you as immigration minister knew in April. Why did you not commission a full report?

Mr Byrne: To make clear the chronology, in April we became aware of a BIA operation that had uncovered a problem with MPS contracts. That led in June to a different kind of check being put in place by BIA on 10% of SIA licence applicants. That new checking regime revealed a greater prevalence of illegal immigrants amongst SIA applicants of which we had previously been aware. That was the trigger for the Home Secretary's Statement in July which resulted in the extension of 100% BIA right-to-work checks on applicants and retrospective checks on

those non-EU licence applicants who had not undergone the right-to-work check before July of this year.

Q7 Chairman: With hindsight, on discovering in April that in the 10% sample there were people working illegally should not the Home Office have immediately initiated a 100% check on those who applied for licences?

Mr Byrne: The right-to-work checks conducted from April 2005 onwards showed that about 1.4% of those people who were checked did not produce evidence of the right to work. That is quite low. It was only in April 2007 that the BIA operation on Metropolitan Police contractors revealed a need for a different kind of check. That check was then introduced and showed a much higher prevalence of those failing the right-to-work test.

Q8 Chairman: Have you as immigration minister seen the form used when somebody applies for a licence?

Mr Byrne: I have not seen it.

Q9 Chairman: Do you not think this is a problem? If we are concerned about who is applying for a licence at the very least ministers should have seen the form. The form must be brought before you so you can check it and it should include the questions, "When did you get indefinite leave to remain in this country?" and, "Do you have the right to work?" Is it still the case that no minister has seen this form?

Mr Byrne: I think the right thing for ministers to do is ensure that the appropriate checks are made by the right people at the right time. The whole House knows that there was no legal obligation on SIA to undertake right-to-work checks because since 1997 the primary obligation has been on employers.

Q10 Chairman: What is the Home Office doing to try to clear up the confusion that exists on the part of employers? Clearly, employers do not understand that they should not be employing illegal immigrants to guard the Home Office or indeed the Prime Minister, if that is the case?

Mr Byrne: I am not entirely sure I accept that analysis.

Q11 Chairman: You do not think there is confusion on the part of employers?

Mr Byrne: I think employers should be pretty clear about their obligations to check the right to work. It is not a new obligation; it was introduced back in 1997. When I launched the illegal working action plan earlier this year thousands of small businesses in this country were written to remind them of that obligation. In August the Home Secretary authorised the SIA to write to about 2,000 private security firms reminding them of their obligation. I think that British business has been pretty well informed of its obligations. The legislation dates back to 1996,

27 November 2007 Mr Liam Byrne MP and Ms Lin Homer

Q12 Chairman: Are you satisfied that the action undertaken by the Home Office so far—the initiation of a task force under Mr Coker and the promise to Parliament to solve this matter by December of this year—is appropriate and sufficient to deal with this very serious problem?

Mr Byrne: I do. I think the Home Secretary is right to say that a further Statement is required and that she plans to make in December.

Q13 David Davies: You have said you were aware there was a problem in April 2007, but when was the Home Office told that there might be a problem? As the most junior newly-elected back-bench MP I was told it a year earlier by the National Security Inspectorate at a local meeting in my constituency, which was why I tabled those Questions. Is it credible that it would be telling newly-elected back-bench Members of Parliament and not the Home Office?

Mr Byrne: You have to remember that there were right-to-work checks in place from April 2005. I have the figures here. About 3,000 checks were made between April 2005 and December 2006. Of those, 41—about 1.4%—licences were refused. I then answered your Question on 11 September 2006.

Q14 David Davies: But were you not being told a year earlier the same thing I was told by the National Security Inspectorate?

Mr Byrne: My job is to make sure that the right actions are in place to tackle illegal working in this country, so when people were applying for an SIA licence samples were being checked.

Q15 David Davies: The NSI as a private trade association was telling me, “Mr Davies, please do something about this. There are thousand and thousands of people working illegally as security guards and they should not be.” The NSI told me that a year earlier than you apparently became aware of it. Why was that?

Mr Byrne: Because there were right-to-work checks already in place from April 2005 to April 2007 and they showed that the refusal rate was quite low. Forty-one refusals in a sample of 3,000 is a 1.4% refusal rate which is quite low. I answered your Question on 11 September 2006. Nonetheless, there were BIA operations to tackle illegal working and they included operations against security firms where we had intelligence. One of the BIA operations in April 2007 revealed a problem with some MPS contractors. That told us we needed to think differently about the right-to-work checks that we undertook. Those different checks were put in place in June. That revealed about a 10% refusal rate and that was the trigger for the 100% check.

Q16 David Davies: What was the specific change made in the way you checked on the right to work that suddenly increased the percentage from 1.4% to 10%?

Mr Byrne: From April 2005 to April 2007 those non-EU citizens who declared themselves as such were asked to provide evidence of their right to work.

What changed in June was that we checked our databases on that sample, so rather than put the burden of proof on the individual we shouldered that burden of investigation. That revealed that more SIA applicants were failing and that was the trigger for the Home Secretary to order a 100% right-to-work check.

Q17 Gwyn Prosser: If I may say so, you have given us a rather convoluted chronology of events which led to the public disclosure. The British public can be pretty tolerant of the errors and mistakes, even failings, of government but not lack of transparency. If it did not seem right at the time, looking back can you understand why it now looks as if there has been a cover-up going on? Looking back, would it not have been better to disclose and declare it way back in April when the alarm bells first started to ring?

Mr Byrne: I can understand that, but the Home Secretary took three steps that I believe were entirely appropriate. The Home Secretary had quite a delicate public interest question to balance, because if there was any kind of big public announcement when we were just beginning to understand the nature of the problem that might have undermined enforcement operation. For example, if I went out and said that it appeared there was a problem in effect I would be putting a number of illegal immigrants in this country on alert that we knew where they lived and would probably come after them. As an immigration minister I am paid to make sure that effective enforcement action is taken against illegal immigrants. Putting them all on high alert that we would be coming after them is not necessarily in my interest; I want to be able to track down those people and take appropriate enforcement action against them without alerting them to the fact we are so doing. I believe the Home Secretary was absolutely right in doing three things. She authorised the letter from SIA to senior managers in the security industry saying, “You are obliged to undertake right-to-work checks”; she wrote to HR directors across government reminding them that anybody with access to government assets needed to pass the baseline personnel security standard, which includes right-to-work checks; and she commissioned an action plan to ensure there were retrospective checks on all non-EU nationals that did not go through the right-to-work checks before July 2007. There was a difficult public interest question to balance—the need for enforcement action against the need to keep the public abreast of the matter—and I think she made the right call.

Q18 Gwyn Prosser: In past inquiries the Committee has been very critical of private employers who have taken on people who do not have the right to work and not undertaken such pre-checks. Now we have a situation where this is happening within the department. The department and Metropolitan Police were making insufficient checks on people in sensitive areas like seaports, airports and even Whitehall. Being so close to government and security issues, should they not have been doing 100% checks at the time? Why did they not do that?

Mr Byrne: I think you are right. Employers need to undertake 100% checks. I do not want to veer off into the philosophy of how to tackle illegal immigration, but if we are to combat it we have to combat illegal working. That was why last week the Home Secretary announced that she was minded to introduce £10,000 on-the-spot fines for those caught employing people illegally. That is why we are expanding quite dramatically the employer-checking service at BIA and that is why we believe that those who knowingly employ illegal immigrants should face up to two years in prison and an unlimited fine. We have to drive home the message that you have to know whether or not employees have the right to work here. But since 1997 the obligation has been on employers to make sure they have the right level of checks in place. We as the Border and Immigration Agency need to make it easier for employers to check. If we are asking employers to take on that responsibility and saying that we will come down on them much harder if they break the rules I think we are honour bound to make it easier for employers to check. Today it is very complicated to do these checks.

Q19 Gwyn Prosser: But should you not be coming down rather harder on your own Border and Immigration Agency because it has failed to carry out checks and allowed this to happen?

Mr Byrne: I do not think that is the case. If you wind back through this chronology, it was a BIA operation which uncovered the problem in the first place and it is BIA that is expanding the employer checking service so it is easier for employers to check. It is also BIA which is driving through compulsory ID cards for foreign nationals so that employers do not have to look at one of up to 70 different bits of paper that can be proffered at the moment to prove right to work and right to be here. We are trying to make the system much simpler for employers, but that should not distract from the principal obligation on them to undertake those right-to-work checks in the first place.

Q20 Gwyn Prosser: During this period when we are playing catch up with all these checks is there a security threat?

Mr Byrne: I am not qualified to answer questions about counter-terrorism and the wider security threat. Very often the security agencies will ask Border and Immigration Agency officials to do things without telling them why they are being asked to do them. That is just the nature of the business we are in, but we are now in a much better position than before to manage that threat. Once upon a time in this country you did not need a licence to be a security guard; there was no right-to-work check undertaken at that stage and it was very hard to make such a check. Now it is different. Once upon a time you did not have things like biometric visas and

passenger screening systems. All those changes are new and strengthen the hand of our counter-terrorism forces.

Q21 Gwyn Prosser: Can you tell me how many prosecutions there have been against employers who have failed in their duty to do right-to-work checks?

Mr Byrne: I have not brought that information with me, but it is something that I have placed before the House and I shall be happy to write to the Committee. I should enter the caveat that I believe it is too low.

Q22 Gwyn Prosser: Is it in single figures, dozens or how many?

Mr Byrne: It is dozens, but it was because the 1996 legislation, which we inherited, made it quite difficult to prove the case that we changed the law. That is why we are introducing a civil penalty regime in the new year.

Q23 Mr Clappison: You have told us about the action which the Home Secretary took in July, but you knew about this in April. Can you tell us exactly what it was you knew about this in April of this year?

Mr Byrne: I knew in April that a Border and Immigration Agency operation had detected a problem with one of the MPS contractors.

Q24 Mr Clappison: What was the problem?

Mr Byrne: That they were employing a certain number of illegal immigrants. That was then the trigger for a different kind of check which was introduced in June. I want to be quite clear about what was known when. The Committee is right to press me on that.

Q25 Mr Clappison: You did not tell the Home Secretary about this in April?

Mr Byrne: In April there was a trigger for a different kind of check. In June the different checks were introduced. That resulted in a higher refusal rate which in turn prompted the Home Secretary's decision to introduce a 100% check.

Q26 Mr Clappison: Did you tell the Home Secretary about it in April?

Mr Byrne: I do not think the Home Secretary was told in April about the results of this single BIA operation.

Q27 Chairman: Mr Clappison makes a very important point. Can you let us have a chronology of exactly who knew what and when in time for our meeting with the permanent secretary next week?

Mr Byrne: Yes.

Q28 Chairman: We are not holding a very big inquiry into this but we want to have answers. We would like a chronology starting from when you discovered this in April. Who knew it and what has happened right up to the present?

Mr Byrne: We can provide that today.

Tuesday 4 December 2007

Members present

Keith Vaz, in the Chair

Ms Karen Buck
David T.C. Davies
Mrs Janet Dean
Patrick Mercer
Margaret Moran

Gwyn Prosser
Bob Russell
Martin Salter
Mr Gary Streeter
Mr David Winnick

Witness: **Sir David Normington KCB**, Permanent Secretary, Home Office, gave evidence.

Q29 Chairman: Sir David, I now want to turn to some questions on the SIA. When did you become aware that the SIA was granting some of their licences to people who were in fact working as illegal immigrants?

Sir David Normington: I think I became aware of this as a significant problem around the end of June the beginning of July. I know before then, and you have the chronology from us, that there had been a Border and Immigration Agency operation which had shown that there was a company where there seemed to be quite a significant number of people working illegally. I was aware of that case in April. I was not aware of how big the problem was until about the end of June.

Q30 Chairman: We were surprised last week to hear from the Immigration Minister that he discovered this in April. When the Home Secretary spoke to the House in November this year there was no indication that ministers and officials knew as early as April. You were aware because presumably documents were copied to your private office that this was discovered?

Sir David Normington: I knew about this one operation.

Q31 Chairman: Did that not alert you to the fact there was a bigger problem?

Sir David Normington: Because it was in the same advice, I knew that as a result of that there was a concern and that led to the more intensive checking of people in the succeeding months.

Q32 Chairman: Why did the Home Office not put more pressure on the SIA? According to your chronology it was not until seven months later that a complete check was instituted in respect of everyone who applied for the licences. It seemed to take from April 2007, according to the chronology that the Minister provided us with for today's hearing which I asked for last week, all the way down to October 1 when they decided to have a complete check. Why did it take seven months?

Sir David Normington: The complete check on new applicants started I believe at the end of June. There was then the question as to whether we should—

Q33 Chairman: No, I am sorry that is not right. If you have read your chronology, the complete check was not started in June. Have you seen this chronology?

Sir David Normington: I have, yes, of course. It is in front of me.

Q34 Chairman: It says BIA and SIA agree that the BIA (the Border and Immigration Agency) would carry out a more intensive check of 10% as a pilot. The complete check did not start until much later. It was seven months before the Home Office initiated this.

Sir David Normington: No, the 100% check started on 2 July, if you look at the three points there in the chronology. Just to be completely clear about this, in April we knew about this operation which highlighted a problem. The two agencies then did a very intensive check of 10% and, as a result of that, they said, "This looks more worrying than we had previously thought". Therefore the 100% check came in on 2 July.

Q35 Chairman: Whose idea was it not to tell Parliament about this? Was it yours or the Home Secretary's? Parliament was sitting between April and July and Parliament only discovered this in November.

Sir David Normington: I do not think we thought it was necessary, I am afraid, to inform Parliament straight away because we did not have all the facts. Basically the SIA itself decided that it needed to do a 100% check which it was perfectly entitled to do on new applicants. We then said to them in discussions during July, "What about all those people who have already got licences? Shouldn't we be doing a check on that?" We did not know the scale of that problem and we did not have a grip on that problem at that stage, and the Home Secretary herself decided, as you know, that we should actually try and understand what the scale of that was before we told Parliament.

Q36 Chairman: But you no doubt have seen emails from your officials which stated the reason why the Home Secretary did not bring this matter before Parliament was for "presentational reasons", that there needed to be a better case, first of all, before it could be presented to Parliament. Does that cause you concern as the Permanent Secretary that junior officials are sending out emails about presentation issues in order to keep matters away from Parliament?

Sir David Normington: I am not very proud of those emails actually.

Q37 Chairman: What action have you taken?

Sir David Normington: I am trying to make sure that is not repeated. If I may just complete the point: it is not what advice is given; it is what decision is taken. The Home Secretary was quite clear, in fact she was quite irritated if I remember, because I was just about to go on holiday, and her irritation was that she did not know what the scale of the problem was and she did not know how quickly we could get on top of it. It was not until we knew the answers to those questions—and they were prompted by the Home Secretary saying very clearly in this minute, “I want to know what the scale of this problem is and I want us to get on top of it”—that we were in a position to say what we then said in her statement to Parliament later.

Q38 Chairman: Are you happy with regard to the communication between the BIA and SIA?

Sir David Normington: Yes, I am. Interestingly, back in the summer of 2006, after the appearance here when the Home Office was criticised by the former Home Secretary, one of the things we did with all our agencies is we looked to see the extent to which the working relations between them were effective. We actually put the BIA and the SIA in the same room and we went through whether their operational links were working, and also whether the level of checking was proportionate. We believe it was; but that was action we took nearly 18 months ago. That meant there was a very good working relationship in place, so that when the scale of the problem became more apparent they were then working together very effectively.

Q39 Chairman: But the problem was not discovered for some time afterwards?

Sir David Normington: There was checking, but the checking that was done earlier did not show up the scale of the issue.

Q40 David Davies: The National Security Inspectorate told me in April 2005 about this problem. Did they not contact the Home Office and tell them as well?

Sir David Normington: I do not know that. I am not aware that they did. I am not aware of that being the case. I do not know whether they contacted the Security Industry Authority. All I can tell you is that we did not have the evidence that suggested that was a major problem in this industry.

Q41 David Davies: What was the specific change that was made in the way you checked the right to work which suddenly increased the percentage? Mr Byrne said, “From April 2005 to April 2007 those non-EU citizens who declared themselves as such were asked to provide evidence of their right to work. What changed in June was that we checked our databases on that sample, so rather than put the burden of proof on the individual we shouldered that burden of investigation”. Do you know what that means, because I did not understand it at the time and I still do not understand it now?

Sir David Normington: What it means is that the names were run against the Border and Immigration Agency’s databases to see whether there was a match; whereas previously I believe that the checks were done by asking for documentation from the individual. I think then there was a check both of the documentation and a check against the Border and Immigration Agency’s database.

Q42 David Davies: Previously you just asked the individual, “Have you got a right to work?” and if he said, “Yes”, then that was that?

Sir David Normington: There would have to be documentation. Just to be clear, this is the Security Industry Authority’s process and it is the employer’s responsibility to ensure that people have the right to work. It is really important to say this: if, every time there is a problem, we take the responsibility into the Home Office we will be checking every person who is employed in the country, and of course that would be absurd. There has to be some proportion here between what employers are expected to do, what our regulatory authorities are expected to do and what the Home Office does.

Q43 Patrick Mercer: How are Ministers being kept up-to-date with progress on the SIA and the BIA work to carry out immigration status checks?

Sir David Normington: The Home Secretary asked the Minister Vernon Coaker to chair what she called a taskforce which is meeting regularly to check on that progress. They are making regular reports to the Home Secretary and she is occasionally, on the basis of those reports, calling people together to see what progress is being made.

Q44 Mrs Dean: Sir David, what work is the Home Office doing to address this problem in the longer term? Is the remit of the SIA under review?

Sir David Normington: The SIA already has the ability to do these checks because it was already doing a random set of immigration checks back to 2005 and actually in its published documentation said it was doing that. I am not sure at this stage that there is a need for a review of their powers. When we are through this immediate issue of looking at those who have already been given licences I think there will be a need to sit down and say, “So what have we learnt about this, and do we think there are new powers that the Security Industry Authority needs. I do not think that is our priority at the moment.

Q45 Mrs Dean: Should the SIA carry on doing that 100% check?

Sir David Normington: At the moment, until we can be satisfied about this, I think they have to carry on doing 100% checks. As I said earlier, there are other people involved in this. I think we need to sit down with the security industry and make sure that they accept their responsibilities as well. I think they do, but I think they will want to ensure that they play their part in making sure that checks are done properly. It is only when somebody comes into your employment that you can do the check on that

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person. Nothing that we can do can say, "That person is suitable for you". I think there is a shared obligation here.

Q46 Martin Salter: According to the chronology, and I remember the statement from the Home Secretary, Sir David, on 13 August the Security Industry Authority sent out 2,000 letters to all the private security firms reminding them of their obligations not to use illegal labour. Was this letter signed off by the Home Secretary?

Sir David Normington: I think so. It was certainly cleared by Ministers. Yes, I think so. I am pretty sure that it was.

Q47 Martin Salter: It does make something of a nonsense, in that case, to suggest that the Home Office were involved in some kind of elaborate cover-up if Ministers were signing off a letter to 2,000 people?

Sir David Normington: I, of course, do not believe there was a cover-up.

Martin Salter: Exactly.

Q48 Chairman: Have you seen the form that people fill in when they apply for a licence; and does the form take the question: are you satisfied with the immigration status?

Sir David Normington: I have looked at a booklet called *Get Licensed* which is the criteria the SIA use. I have not looked at the specific form but I have looked at that, and that does have a very clear statement about the possibility of right to work checks, and also reminds employers of their obligations.

Chairman: Sir David, thank you very much for coming to this session and answering our questions so forcefully. Thank you very much.

Witness: **Mr Andy Drane**, Deputy Chief Executive Officer, Security Industry Authority, gave evidence.

Q49 Chairman: We now have the Deputy Chief Executive Officer of the Security Industry Authority, Andy Drane who will be giving evidence to this Committee. Mr Drane, good morning. Thank you very much for coming to give evidence to this Committee at such short notice. You were obviously present during our session with the Permanent Secretary. You presumably have seen the form which is given to the people who apply for a licence, have you not?

Mr Drane: Yes.

Q50 Chairman: Does that form contain the question: "Have you checked the immigration status of the person applying for a licence?"

Mr Drane: The form is completed by the applicant themselves and not by their employer. The form does not specifically ask, for instance: "Do you have the right to work in the United Kingdom?"

Q51 Chairman: So it does not ask them?

Mr Drane: But it does ask them to declare their nationality. Also when they sign the form they sign to say that they have read the *Get Licensed* booklet which sets out all the criteria which they know they have to satisfy.

Q52 Chairman: Indeed, but you understand my point. Are you still sending out these forms that do not ask people: "Do you have the right to work in the United Kingdom?"

Mr Drane: The forms do not ask that question.

Q53 Chairman: Are you still sending out these forms which do not ask the question?

Mr Drane: Yes.

Q54 Chairman: Why are you still sending out a form which does not ask whether people have the right to work in the United Kingdom?

Mr Drane: Because we are satisfied that the form elicits the information we need to process the application.

Q55 Chairman: On the basis of nationality?

Mr Drane: On the basis of nationality, we have that piece of information; but also the form requires people to sign to indicate that they have read all of the criteria that apply for the licence application.

Q56 Chairman: Bearing in mind the fact that the SIA has been responsible for giving licences to thousands of people who are illegally working in this country and that you are now undertaking checks of people you have given licences to before and the Home Secretary has had to come before Parliament to explain the mistakes that have occurred in the SIA, do you not think you should look at that form and ask people whether they have the right to work? Is that not a problem?

Mr Drane: It is the process that determines whether or not someone gets the licence they should or should not have. The form is part of that process, and the form asks the information that we need to carry out an effective process.

Q57 Chairman: I am, clearly, not going to win on this issue but I would have thought the easiest thing to do was to ask them whether they had the right to work. Clearly, I would not get a job at the SIA, would I? You have seen the chronology, presumably, that has been prepared by Ministers.

Mr Drane: Yes, I have, Chairman.

Q58 Chairman: When did you first become aware, as Deputy Chief Executive? By the way, what has happened to your Chief Executive?

Mr Drane: The reason I have been asked to come today is because I was acting as Chief Executive between January and August of this year and so was

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responsible for all the decisions made during the relevant period and was the accounting officer during that time.

Q59 Chairman: When did you become aware of this problem?

Mr Drane: I first became aware that we had an emerging problem towards the beginning of this year, in about April and May. I became aware, for instance, of the BIA operation, but also other intelligence that was coming in to our intelligence cell starting to indicate—give anecdotal evidence—that there was an issue with people with SIA licences.

Q60 Chairman: Mr Burn was very firm about this last week. He claimed to this Committee that he discovered, that BIA discovered, through a BIA operation, that there were licences being given to illegal immigrants. Are you saying that you discovered this?

Mr Drane: No. It is a combination. We were informed of the BIA operation. We also, at that time, coincidentally, started receiving similar information coming in from our various sources. So it is a combination of that information that resulted in us working with the BIA to do the different sorts of checks that I heard referred to earlier on.

Q61 Chairman: Initially, you told Ministers that it would take you, I think, 18 months to check through all the licences that had been issued. However, the Home Secretary insisted that this should be done by the end of this year. Are you on target for that?

Mr Drane: Yes.

Q62 Chairman: Have you asked for any more resources?

Mr Drane: No, we have been able to do it within existing resources and within existing budgets.

Q63 Chairman: Have there been any resignations or retirements at the SIA since you discovered the fact that you were giving out licences to illegal immigrants, some of whom were protecting the car of the Prime Minister?

Mr Drane: No.

Q64 Chairman: None.

Mr Drane: None that I am aware of related to this issue.

Q65 David Davies: Mr Drane, I cannot see the section that you referred to on the form, but just clarify something for us: if somebody fills this form in and they say that they are from a non-EU country and they sign to say that they have read the booklet, what further checks do you then carry out to ensure that they are actually entitled to work?

Mr Drane: As a result of the new process we introduced on 2 July, we forward some of the information to the BIA for them to check their databases to tell us whether the person has a right to work in the UK, and then we act from then.

Q66 David Davies: How do you ensure that the identity of the person who appears to be applying for the form is accurate? How do you know that they are not simply putting down a false name and address or a false name?

Mr Drane: They are required to submit, with their application, a range of identity documents and, also, there is a counter-signatory.

Q67 David Davies: Are any of the documents photo evidence, or are they things like utility bills and the like?

Mr Drane: The current range of documents that is required is a passport or photo evidence. Primarily, what we look for is a passport. Prior to 1 October our identity documents were not so robust.

Q68 David Davies: When did the National Security Inspectorate alert you to this problem?

Mr Drane: I do not recall them doing so but that does not mean they did not.

David Davies: Okay. That is all, thank you.

Q69 Gwyn Prosser: We have deduced from answers to questions of the Home Office that up to 10,000 non-EU nationals who were licensed by you to work in the security industry could be working illegally. What would be your estimate of that number now?

Mr Drane: We are currently working through the data and I know the Home Secretary has promised to give a statement to the House later this month, and I think she will be in a position to give a more accurate assessment of the situation based on the process that we are currently doing.

Q70 Gwyn Prosser: You have discussed the chronology we received from the Home Office about the way declarations and information became available, and I am tempted to ask you if you would provide us with your chronology. I am sure it would be very close to the chronology from the Home Office, but if you would provide us with a written chronology would you expect it to include other revelations about what people in your authority knew and when?

Mr Drane: I have been provided with a copy of the chronology provided to the Chairman, and I agree with that chronology, as it is written—with the bits that are within my knowledge.

Q71 Gwyn Prosser: I thought it might! Finally, from me, we have asked the Home Secretary and we have asked the First Secretary whether there has been a cover-up about these matters. From your position, because you were in post during these difficult times, can you put your hand on your heart and say there was no cover-up within the SIA?

Mr Drane: Yes, I can, and I think the point has already been made that I wrote widely to the industry in August (my letter of 13 August) setting out the issue and warning people of the need to be more vigilant in this area. We also did some work with a number of individual companies, so I can honestly say there was no cover-up on the part of the SIA.

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Q72 Chairman: In answer to Mr Prosser's question you said the Home Secretary would give us information in December. You are the Deputy Chief Executive of this organisation; do you know, as of now, how many licences were given to illegal immigrants?

Mr Drane: No, because we are still going through the process of data-matching the 39,000 non-EEA licence-holders that existed prior to 2 July. We are still currently data-matching that with BIA databases to produce that information.

Q73 Chairman: I understand you do not have a final figure—I understand that—but do you have any figures at all to give us today?

Mr Drane: No, I do not, but certainly a number have been identified and revocation has taken place.

Q74 Chairman: How much, as a number?

Mr Drane: What I can tell you is that, so far, we have revoked just under 150 licences from people that we are not satisfied have a right to work in the UK, but, as I say, the process is ongoing.

Q75 Chairman: You have only revoked 150 licences?

Mr Drane: So far, but that is because the licence revocation process takes a minimum of 42 days because of rights of appeal to the courts, and so on.

Q76 Bob Russell: Mr Drane, you have, possibly, partly answered this question previously to colleagues. How does the SIA co-ordinate and consult with the Border and Immigration Agency? Is there a structured formula, or is it very much ad hoc?

Mr Drane: No, I have a permanent point of contact at the BIA and all our operations are routed through that. We have specific arrangements with the Evidence and Enquiry Unit in terms of the exchange of information and I have access to a relatively senior manager in the BIA to address operational issues.

Q77 Bob Russell: So there are set procedures, it is structured and it is not just as and when?

Mr Drane: Yes, and we have arrangements for the sharing of information. Indeed, that is something we now increasingly do—to share information packages so that our respective operations can be productive.

Q78 Bob Russell: Is that liaison with the BIA in relation to enforcement action taken against those working illegally in this sector? Is that part of the “working together in partnership, joined up” thinking?

Mr Drane: Yes. For instance, only yesterday we sent across an analysis package to the BIA which will enable them to target, through their powers, which obviously we do not have.

Bob Russell: Thank you.

Q79 Margaret Moran: Just a question in terms of the shape of the industry itself. How much of it is sub-contracted out, do you know? How many are temporary agency staff? Would you have any of this sort of information?

Mr Drane: The only information that I have, in a sense, is the number of people that we license. There are, currently, approximately, a quarter of a million licences for working in the security industry. However, not all the security industry is licensed; for instance, in-house security, directly employed by an organisation, in most cases, is not licensable. Primarily, our licensing regime is for contracted security.

Q80 Margaret Moran: You would not be aware, for example, although you had licensed a company to do this work, that they might subbing-out to people that were unlicensed. Is that possible?

Mr Drane: To make it clear: we do not license companies; we license individuals. We do have a voluntary approved contractor scheme, which is voluntary. Certainly, where we give those approvals we do take account of their sub-contractors and we require their sub-contractors to adhere to the same standards.

Q81 Margaret Moran: However, you cannot guarantee that they will.

Mr Drane: Well, it is part of the assessment, and if they did not follow up on this or adequately satisfy our assessors we could ultimately revoke their approved status. It is important to say that the approved contractor scheme is voluntary, although on our current estimates about 49/50% by volume of the licensable industry is in the Approved Contractor scheme.

Q82 Margaret Moran: Obviously, you will have heard the evidence that we heard from the Permanent Secretary earlier. Is it true to say that there is a confusion between the role of the SIA and employers' legal obligations? Do you think that that exists? If so, what lessons need be learned from that?

Mr Drane: I cannot speak for employers. What I can say is that there is sufficient guidance which makes it clear that this is the employer's responsibility. We have also always made it clear. I guess it is possible that some employers do not understand their responsibility, but part of the reason for reinforcing that in my communication of August was intended to remove that ambiguity once and for all.

Q83 Margaret Moran: Would you welcome a review of the SIA's remit in all of this?

Mr Drane: I think we would always welcome any kind of review that was constructive, but I think in this particular case the actual framework that we had in place worked, in the sense that by building in the ability to consider a right to work in our criteria, when the new systems became available, as have been indicated this year, and we identified a problem, we were able to react in an operational way immediately.

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Q84 Mrs Dean: Do you know how many of those with licences are actually self-employed?

Mr Drane: No. It is an individual licence application. Although we are aware that some applications are submitted through companies we would not have that information.

Q85 Mrs Dean: I am just interested because, obviously, those who are self-employed would probably be more concerned about the employee/employer who would be an individual business employing someone self-employed and, perhaps, presuming that because he had got the licence he had a right to work. Rather than an agency employing somebody, we may be talking about an individual club, for instance, employing somebody with a licence.

Mr Drane: It is a risk that with a licence having been granted by the SIA, which is an arm's length government agency, that assumption could be made. However, that is why we are increasingly making it clear that that should not be taken for granted; that it is not the case that an SIA licence is a guarantee of a right to work. Where there is doubt, that should be checked separately. Again, that is part of the additional communication that I have already started and that will be continuing, to make sure that people understand that.

Q86 David Davies: Is this form available in any different languages, Mr Drane?

Mr Drane: No.

Q87 David Davies: Or the booklet?

Mr Drane: No.

Q88 David Davies: So if somebody has come from another country outside the EU they are expected to be able to speak fluent English in order to understand and to have read the guidance notes then?

Mr Drane: In order to gain the qualification that they require to be able to apply for a licence they have to be able to communicate sufficiently in English. That is one of the requirements for the qualification, so that is one of the reasons why we have not considered that necessary.

Q89 Chairman: The Permanent Secretary was pretty clear, was he not, that the responsibility for this lies with you and not with the Home Office, because Ministers cannot be expected to check every single application form. Do you take responsibility for what has gone wrong in this matter?

Mr Drane: The published criteria for licence applications makes quite clear, and has always made clear, that we may check the right to work, and that it is the employer's responsibility. So what I do take responsibility for is that when we identified a problem we put it right quickly.

Q90 Chairman: So you think everything has been perfectly fine and this is a fuss about nothing, and the pressure the Home Secretary has been put under was a demonstration that the framework works?

Mr Drane: We took a view, as is reported in the chronology, last year, in consultation with the Home Office and the BIA, that the approach we have taken at that time is proportionate in consideration of the information we had. When the information changed we used the criteria to change our operational processes immediately.

Q91 Chairman: Even though it was reported that thousands of illegal immigrants were working with licences issued by your organisation, you have only revoked 150 licences.

Mr Drane: So far.

Q92 Chairman: So far. Thank you very much for giving evidence to us. We would be most grateful if you could send us a copy of the booklet and a copy of the application form.

Mr Drane: Certainly.

Chairman: Thank you.

APPENDIX 1

Letter to Rt Hon Keith Vaz MP, Chairman, Home Affairs Committee, from Mr Liam Byrne MP, Minister of State, Home Office

Thank you for your letter of 27 November in which you recorded the further information I had agreed to provide following my appearance before the Committee of the same date.

You specifically asked to receive before the Permanent Secretary's appearance before the Committee on 4 December, "a chronology of events from the date on which I was first made aware of a Border and Immigration Agency operation to address the employment of illegal workers by MPS contractors in April 2007, to the Home Secretary's statement to the House of Commons on the Security Industry Authority on 13 November". The chronology is attached. You will note that it is prefaced by a short description of the SIA's role with regard to Right to Work checks prior to April 2007, purely to set the context.

I am aware that you wrote to the Home Secretary on 19 November and in that letter asked her for a clear chronology. I trust that the attached covers a response to that request also.

I will write again shortly with the further information I agreed to provide to the Committee.

3 December 2007

APPENDIX 2

Memorandum submitted by Mr Liam Byrne MP, Minister of State, Home Office

RIGHT TO WORK CHECKS: CHRONOLOGY OF EVENTS FROM APRIL 2007 TO HOME SECRETARY'S STATEMENT ON 13 NOVEMBER 2007

Context

The Security Industry Authority (SIA) was established in 2003 under the terms of the Private Security Industry Act 2001. The legislation sets out that the SIA must establish that applicants are fit and proper before granting them a licence. The detailed criteria are set out in the SIA publication "*Get licensed*". The fit and proper person requirement primarily involves establishing that the applicant has undergone training and that identity and criminality checks have been completed.

Employers have clear legal responsibilities under the Asylum and Immigration Act 1996 which makes it a criminal offence to employ a person who is subject to immigration control unless that person has permission to work in the UK. Whilst under no legal obligation, the SIA has the discretion to seek information that applicants have a right to work in the UK. The SIA therefore decided in April 2005 to initiate a 10% random right to work check. This was reviewed in consultation with central Home Office and Border and Immigration (BIA) officials in the summer of 2006. The 10% random check of non-EEA licence applications was agreed to be proportionate based on the information available to the agencies at that time.

Chronology

- **April 2007:** Ministers informed that a Border and Immigration Agency enforcement operation had identified that 44 people employed by a security company did not have the right to work in the UK.
- **June 2007:** BIA and SIA agreed that the BIA would carry out a more intensive check (than the previous one done by the SIA) of 10% of non-EEA applicants as a pilot to see how well it worked. That analysis showed that a higher proportion than expected of non-EEA applicants might not have a right to work. Immediate action was taken.
- **2 July 2007:** From this date, every applicant identified as a non-EEA national by the SIA has their right to work in the UK checked.
- **1 August 2007:** From this date, all assessments under the SIA Approved Contractor Scheme (a voluntary quality-assurance scheme for security firms) include verification of employer observance of illegal worker obligations.
- **9 August 2007:** In response to advice from officials, the Home Secretary set out her approach. The Home Secretary:
 - asked that the work to estimate the numbers involved in doing retrospective checks of those already granted licences be speeded up. The HS was not content to wait 10 weeks to get these numbers and asked for this time to be halved, and to have preliminary advice on her return to the office on 20 August;
 - approved a letter from the SIA to senior managers of all 2000 private security companies on its records reminding them of their obligation as employers to check entitlement under section 8 of the Asylum and Immigration Act 1996. The Home Secretary made it clear that she did not want to delay the schedule for its release;
 - approved with modifications a second letter from the Cabinet Office to government HR Directors and Departmental Security Officers reminding them that all staff with access to Government assets should be subject to the requirements of the Baseline Personnel Security Standard which includes the verification of an individual's right to work in the UK; and
 - requested an update by 2pm the following day, and received a further update from officials on 10 August. In that update, officials believed it should be possible to provide revised estimates of the numbers involved by the end of August.
- **13 August 2007:** SIA letter sent to all private security firms reminding them of their obligations not to use illegal labour, making clear that SIA licences were not a substitute for carrying out specified document checks under immigration legislation. Cabinet Office wrote to other Government Departments in a similar manner. (These letters have been placed in the Library).
- **30 August 2007:** Advice submitted informing the Home Secretary that the SIA and BIA could build the capacity to check the estimated 40,000 non-EEA nationals who had previously been granted licences.
- **5 September 2007:** In response to the advice dated 30 August, the Home Secretary asked for further details on why the process should take so long and for Vernon Coaker (Parliamentary Under-Secretary of State for Crime Reduction) to chair a task force to resolve and if possible increase the monthly figure.

- **1 October 2007:** Retrospective licence checking commences, with SIA passing details to BIA. Results are being collated in BIA in a central intelligence team, which is distributing the cases to local enforcement offices for action under Operation Antalaea.
- **8 October 2007:** Taskforce meeting chaired by Vernon Coaker. Estimates that checks will be completed in December.
- **13 November:** Home Secretary made Statement to the House. Repeated in Lords.

3 December 2007

APPENDIX 3

Letter to Rt Hon Keith Vaz MP, Chairman, Home Affairs Committee, from Rt Hon Jacqui Smith MP, Home Secretary

SECURITY INDUSTRY AUTHORITY CHECKS ON RIGHT TO WORK

Thank you for your letter of 19 November, in which you raised a number of issues following my Statement to the House on 13 November on the right to work checks being carried out by the Security Industry Authority (SIA) and the Border and Immigration Agency (BIA).

You wrote again to me on 6 December following the appearance of the SIA's Deputy Chief Executive Andy Drane before the Committee on 4 December. Liam Byrne wrote to you on 30 November enclosing a chronology of events as requested. This letter answers the questions you raised, which are listed below.

Q. Why the SIA did not previously carry out checks on licence applicants' right to work, and this being the case, why the Home Office and Met Police did not carry out these checks as required by law as employers?

A. It is the legal duty of employers under the Asylum and Immigration Act 1996 to avoid employing illegal workers by carrying out specified document checks. There is no legal responsibility for the SIA to carry out right to work checks, nor is it the responsibility of the BIA. The SIA licence has never constituted evidence of entitlement to work in this country. In operating the statutory "fit and proper person" test—that is ensuring that the applicant is not debarred from working in the private security industry through failure to meet any of the conditions for a licence—the SIA has always had the discretion to enquire into a person's immigration status and to deny a licence if the person did not have the right to work in this country.

The SIA kept the issue of immigration checks under review and operated sample checks on 10% of non-EEA applicants from April 2005 to inform the efficacy and security of the licensing arrangements. Between April 2005 and December 2006 over 3,000 right to work checks were conducted and only 41 licences were refused on the basis of the applicant having no right to work.

In the light of evidence which began to come to light from April this year that a higher proportion of illegal migrant workers might be obtaining SIA licences, the SIA carried out more intensive checks on the 10% sample. This started in June and was carried out in conjunction with the BIA. This new process showed that a higher proportion of non-EEA applicants might not have the right to work than the earlier sampling had indicated. Based on this information, the SIA changed their licence process on 2 July to integrate right to work checks conducted by BIA on all non-EEA applicants, providing a stronger safeguard in the system. Retrospective checks are also being carried out on all non-EEA licence holders who received their licences before 2 July. The onus remains on employers to carry out proper document checks, and if they employ illegal workers having failed to make the checks, they face the prospect of prosecution.

You suggest that the Home Office has failed to make checks required of it regarding the people employed by the Metropolitan Police. The Home Office is not responsible for checking the right to work of persons working at police premises. In the case of the individuals identified during a BIA enforcement operation in April working at Metropolitan Police establishments, these were contracted staff and it was the responsibility of the private security company as the employer, rather than the Metropolitan police, to carry out checks. I understand that the security company had in fact conducted right to work checks and discharged its legal responsibility, but had not identified high quality forged documents. This underscores the need to move forward with secure biometric documentation.

Q. I note that you envisage immigration status checks on all licensed private security workers will be completed by December. In order to fully inform the Home Affairs Committee I would be grateful if you could provide me with the precise figure for all illegal immigrants granted a licence by the Security Industry Authority prior to 2 July, together with an account of what efforts have been made to trace them, along with a clear chronology of the events that led up to your statement and the actions undertaken to resolve this issue.

A. The chronology was sent to you under cover of Liam Byrne's letter of 30 November. On the figures, I will provide an update on the numbers of cases where there proved to be no right to work and where revocation action has been commenced, when I make my next statement to the House later this month. As there is a period of at least 42 days from the time the licence holder is first warned that the SIA are minded to revoke the licence until revocation action is complete, it will be early 2008 before we will know the number of revocations.

Q. Clarification of the current process of investigation by the Security Industry Authority for a licence and its consultations with the Border and Immigration Agency.

A. The SIA's general process consists of checks of the applicant's age, identity, criminal record and training and qualifications. This process is set out fully in the SIA's booklet "Get Licensed". I understand that the SIA has provided the Committee with a copy. The booklet can also be accessed on the SIA's website at http://www.the-sia.org.uk/NR/rdonlyres/725E43BE-2163-4E85-9151-6EAB15990BC1/0/sia_get_licensed.pdf.

In all cases involving declared non-EEA nationals from the 2 July, SIA has only issued licences after clearing the cases with BIA. There are close links between investigators and intelligence staff in both organisations who are working together to examine cases of possible illegal working emerging from recent applications and the checks on the retrospective cohort of pre 2 July cases.

Q. Clarification of the respective role of the SIA and employers in this area.

A. The SIA regulates the industry through a process of licensing individuals who carry out licensable activities. The licence is issued to the individual applicant: it is tied to the type of work, not to an employer or place of employment. The SIA is under no legal obligation to ensure that applicants have the right to work in the UK. However the SIA has the discretion to seek information that applicants have the right to work. As a responsible organisation, the SIA, in conjunction with the BIA, and supported by Ministers, has been seeking to take action to tackle illegal working in the security industry sector. Joint working between SIA and BIA is consistent with the cross-government immigration enforcement strategy we published in March 2007, which explores further how BIA will work with partner agencies to enforce compliance with our immigration laws, removing the most high risk people first and denying the privileges of the UK to those here illegally.

Employers have a legal obligation to avoid employing illegal migrant workers under the Asylum and Immigration Act 1996. Security companies engaging in licensable activity under the Private Security Industry Act also have a legal obligation only to use licensed operators.

We have also announced changes to the law on the employment of illegal workers. Currently it is a criminal offence to employ an illegal worker under section 8 of the Asylum and Immigration Act 1996. An employer can establish a defence against conviction under section 8 if he or she carries out specified document checks before the employment commences. From 29 February 2008, this will be replaced with a system of civil penalties for employers who employ illegal migrants having failed to carry out proper checks, and a new criminal offence for employers who do so knowingly. The new regulations, under the Immigration, Asylum and Nationality Act 2006, provide that employers should carry out follow-up checks no less frequently than at yearly intervals on those employees who have a temporary immigration status. We propose that the maximum level of civil penalty for employing an illegal worker will be £10,000, and this will be the subject of affirmative resolution debates in both Houses very shortly. Details of the new arrangements will be communicated to employers in relevant sectors, including the security industry, via a public advertising already underway, support from BIA Compliance Officers and direct mail communication early in the New Year.

Q. Clarification of how are you working to resolve employers' confusion in this area?

A. The SIA wrote to all security industry companies on their database (about 2,000) in August to remind them of their responsibility as employers to carry out proper right to work checks. In November, the SIA also reinforced the encouragement to security companies to continue to check their workers against the SIA public register of licensed operators in order to comply with the requirement not to use unlicensed operators, including those whose licences have been revoked.

Comprehensive guidance is available to employers on the BIA and SIA websites, and helpline telephone service. Employers are not required to be experts in forgery detection. The BIA has also launched a new checking service for employers to enable them to verify a person's entitlement to work where they have an outstanding application or appeal

Q. What plans do you have to transfer legal responsibility for checking immigration status to the SIA?

A. None. The legal responsibility already properly rests with employers, and as explained above the penalties for non-compliance will shortly be increased. The arrangements we have put in place in relation to non-EEA applicants, with SIA right to work checks through BIA running alongside the obligations on employers provides a double protection against illegal working.

Q. The number of prosecutions brought against employers in relation to employment of illegal workers in the private security industry?

A. The numbers are shown in the attached table at Flag A.

It is a criminal offence under section 8 of the Asylum and Immigration Act 1996 for employers to employ people who do not have the right to work in the UK.

It is not possible to break down these figures to show how many are from the private security industry. All defendants found guilty of this offence were given a fine, with the exception of one defendant in 2005 who was given a Conditional Discharge.

Prosecutions can be a disproportionate way of dealing with employers who are less than diligent in their recruitment practices. That is why the Immigration, Asylum and Nationality Act 2006 introduces the civil penalty regime that will provide a swift and effective means of tackling employers who are less than diligent in carrying out document checks by issuing a penalty of up to a statutory maximum to be set following parliamentary debate to be held on 13 December. This will leave the Border and Immigration Agency to concentrate its prosecution resources on the more serious cases where employers are deliberately and knowingly using illegal migrant labour.

Where employers have discharged their legal obligations by carrying out the recommended document checks, but it later transpires that they have not detected high quality forged identity documents and have unwittingly employed illegal migrant workers, the employer would not be liable to prosecution. We are combating the use of forged documents by illegal migrant workers by introducing secure, mandatory identity cards for foreign nationals in the UK Borders Act 2007.

Section 8 prosecutions do not represent the totality of prosecution activity for offences relating to illegal working. Prosecutions for the use of forged documents are also relevant. Internal management information (which may be subject to change) shows that in the financial year 2006/07 there were 285 successful prosecutions (including cautions), and 568 so far this financial year under the Identity Cards Act 2007 and the Theft Act 1968.

Of course, prosecution is not the only measure to tackle illegal working. The Border and Immigration Agency can also disrupt illegal working activity by removing illegal workers which results in additional recruitment and training costs for the employer as well as potential loss of contracts and orders and bad publicity. In 2006 the immigration authorities carried out more than 3,700 successful illegal working operations. The BIA is also looking increasingly to disrupt the facilitators and organisers of these activities.

Q. In your letter of 6 December you referred to the question you asked Mr Andy Drane on 4 December, whether licence applicants are asked to confirm their right to work in the UK on the Security Industry Authority's application form and, if not, whether there is a need for the form to be changed to pose this question?

A. We have discussed this with the SIA. The SIA is satisfied that the current form asks for all the information needed to process an application, including checking the right to work status of the applicant with the BIA. To change the form in the way proposed would require some potentially costly technical and legislative changes. The full costs and benefits of such a change will be considered next time the application form is reviewed.

FLAG A

Prosecutions under section 8 of the Asylum and Immigration Act 1996

It is a criminal offence under section 8 of the Asylum and Immigration Act 1996 for employers to employ people who do not have the right to work in the UK.

The total number of prosecutions brought in each year since 1997, and their outcomes, are as follows:

NUMBER OF DEFENDANTS PROCEEDED AGAINST AT MAGISTRATES' COURTS AND
FOUND GUILTY AT ALL COURTS UNDER SECTION 8 OF THE ASYLUM AND
IMMIGRATION ACT 1996 IN ENGLAND AND WALES
JANUARY 1997 to OCTOBER 2006⁽¹⁾⁽²⁾

EMPLOYING A PERSON AGED 16 AND ABOVE SUBJECT TO IMMIGRATION CONTROL

	1997	1998	1999	2000	2001	2002	2003	<i>Number of persons</i>		
								2004	2005	<i>Jan-Oct</i> 2006 ⁽³⁾
	<i>(P)</i>							<i>(P)</i>		
Proceeded against	—	1	4	10	5	2	2	11	23	7
Found guilty	—	1	1	4	1	1	1	8	13	4

⁽¹⁾ Principal immigration offence.

⁽²⁾ Every effort is made to ensure that the figures presented are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used.

⁽³⁾ The data for January to October 2006 are provisional.

All defendants found guilty of this offence were given a fine, with the exception of one defendant in 2005 who was given a Conditional Discharge.

It is not possible to break down these figures to show how many are from the private security industry.

12 December 2007

LA F01

Licence Application Form

Security Industry Authority

Section I – Payment Details

Please DO NOT send cash. Only payments in sterling are acceptable.
NOTE: Applications will only be processed once your payment is cleared.
Payment is for the application and not the licence.

I1. Method of payment
(please write your unique reference number on the back of the cheque and DO NOT send post dated cheques)

	Cheque	Switch	Delta	Solo	Visa	MasterCard	Bankers Draft	Postal Order
	<input type="checkbox"/>							

The licence application(s) will cost

DEBIT/CREDIT CARD PAYMENTS

Complete this Section only if you are paying by credit or debit card.

I2. Card number

I4. Valid from date **I5. Expiry date**

I6. Name on card

I7. Card statement holder's address
(flat number, house number, street)

I8. Post town

I9. Post code

I10. Country

I11. Signature of cardholder
I authorise payment of the amount.

I3. Issue number
(if shown)

I11. Signature of cardholder
I authorise payment of the amount.

Date D D M M Y Y Y Y

Section J - Application Declaration and Consent

I confirm that I have read and understand the contents of the Licensing Leaflet LI L02. I confirm that the information I have provided in support of this application is, to the best of my knowledge, true and complete in every respect. I understand that it is a criminal offence under section 22 of the Private Security Industry Act 2001, knowingly to make a false statement to get an SIA licence, and may lead to my application being refused, or my licence being cancelled, and may lead to prosecution. I understand that information about my licence will be placed on a public register.

I understand that the SIA will conduct a criminal record check through the Criminal Records Bureau about me and may ask third parties for information about my mental history, professional qualifications and other information of direct relevance to my application if necessary, including from appropriate authorities overseas.

I give my consent to these checks being made.

Data Protection Act 1998

All information provided in connection with your application will be treated in confidence by the SIA and processed in accordance with the Data Protection Act 1998, but it may be disclosed to other government departments, agencies, local authorities and other bodies to carry out the functions of the SIA and where legally required to do so. The information in Section A will also become known to BT plc, a third party engaged by the SIA for the processing of applications. I understand that by signing below, I consent to the SIA processing sensitive personal information about me.

I agree to be bound by the terms and conditions of holding an SIA licence as outlined in the Licensing Leaflet.

We will not accept this application unless you sign below in black ink and your signature is completely within the white area

• Keep your signature within the white box •

• Keep your signature within the white box •

Date D D M M Y Y Y Y

LA F01

Licence Application Form

Security Industry Authority

FAILURE TO COMPLY WITH THE INSTRUCTIONS BELOW MAY RESULT IN YOUR APPLICATION BEING REJECTED

- Please READ the accompanying 'Form Completion Notes IN F01' BEFORE completing this form.
- This form is for use by the ADDRESSEE ONLY. It is non-transferable.
- SOME INFORMATION has been pre-completed for you. Do not amend these details unless they are incorrect or have changed.
- You must use BLACK INK only and write in BLOCK CAPITALS.

The type of application you are making is for a

Your unique reference number is
(if paying by cheque write this number on the back of the cheque)

Section A – Applicant Details

A1. Title **A2. Gender**

A3. Surname/ family name

A4. Forename(s)/ given name(s)

A5. Surname/ family name at birth if different to A3 **A6. Used until** Y Y Y Y

A7. Any other surname used Y Y Y Y to Y Y Y Y

A8. From Y Y Y Y to Y Y Y Y

A9. Any other forename used Y Y Y Y to Y Y Y Y

A10. From Y Y Y Y to Y Y Y Y

A11. Daytime telephone number **A12. When are you available to receive a telephone call?**
Morning Afternoon

A13. E-mail address

A14. Date of birth D D M M Y Y Y Y **A15. National Insurance Number**

A16. Town of birth

A17. Country of birth

A18. Nationality

A19. Alias surname/ family name

A20. Alias given name

PEEL HERE

Please refer to the Completion Notes IN F01 before you attach your photograph

PEEL

Attach a colour photograph of your face on a plain white background

LA F01

Licence Application Form



Security Industry Authority

Section B - Relevant Qualifications

Form with 16 rows (B1-B16) for award reference, name, awarding body, and date.

Official use section.

Section C - Details of licence and role applied for

C1. Business sector(s) and role applied for. C2. Do you hold a current valid non-UK Private Security Industry European Economic Area (PSI EEA) licence?

Section D - Supporting Documents

I confirm that I have read and understood the Form Completion Notes IN F01, and have provided a complete set of documents in support of this application.

Section E - Countersignatory Identity

Signature and date box for countersignatory.

Form with 8 rows (E1-E8) for countersignatory details: surname/family name, forename/given name, address, post town, postcode, country, occupation, and daytime telephone number.

LA F01

Licence Application Form



Security Industry Authority

Section F - Address History

Form for address history with sections F1-F10 for current and previous addresses, including resident from/to dates.

Section G - Mental Health

G1. Have you been compulsorily detained within the last 5 years under mental health legislation? G2. If yes, please write here the name and address of the hospital/doctor or other person supervising your detention.

Section H - Criminal Record Information

H1. Have you had a conviction, caution or warning within the last 12 months? H2. Have you been charged with an offence that is awaiting trial?