



House of Commons  
Home Affairs Committee

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**The work of the UK  
Border Agency:  
Government Response  
to the Committee's  
Second Report of  
Session 2009–10**

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**Third Special Report of Session 2009–10**

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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)  
Tom Brake MP (*Liberal Democrat, Carshalton and Wallington*)  
Mr James Clappison MP (*Conservative, Hertsmere*)  
Mrs Ann Cryer MP (*Labour, Keighley*)  
David TC Davies MP (*Conservative, Monmouth*)  
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Martin Salter MP (*Labour, Reading West*)  
Mr Gary Streeter MP (*Conservative, South West Devon*)  
Mr David Winnick MP (*Labour, Walsall North*)

The following Member was also a Member of the Committee during the inquiry:

Ms Karen Buck MP (*Labour, Regent's Park and Kensington North*)

### Powers

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](http://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](http://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), Eliot Barrass (Second Clerk), Elisabeth Bates (Committee Specialist), Sarah Petit (Committee Specialist), Darren Hackett (Senior Committee Assistant), Ameet Chudasama (Committee Assistant), Sheryl Dinsdale (Committee Assistant) and Jessica Bridges-Palmer (Select Committee Media Officer).

### Contacts

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# Report

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On 8 December 2009 the Home Affairs Committee published its Second Report of Session 2009–10, *The work of the UK Border Agency*, HC 105-I. The Government's response to the Report was received on 9 February 2010, and is published as an Appendix to this Special Report.

In the Appendix, the Committee's original conclusions and recommendations are in bold text and the Government's response in plain text.

## Government response

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The Committee published its report “The Work of the Border Agency” on 8 December 2009 and included a number of recommendations. The UK Border Agency has considered the recommendations and the Government response is provided below.

**1. Whilst welcoming increased resources made available to clear the substantial backlog of asylum applications, we remain most dissatisfied at a target date of the summer of 2011. This in our view is simply too long and we urge that staffing, levels are such that all cases going back three years or longer are finally decided on at the latest by September 2010. (Paragraph 10)**

The Home Secretary has asked us to consider whether it is possible to clear the backlog earlier than summer 2011. In response to this, we have recruited additional temporary staff to perform the administrative functions involved in clearing the backlog and revised our operating model to ensure that it is more streamlined and allows our experienced staff to focus on making decisions on live cases. There has been a transition period as the new model is set up, and staff are fully trained to ensure that the high standards of case-working are maintained. As a result of these actions, a rapid increase in conclusions rates is expected within the coming months. We remain confident that we will conclude the backlog by summer 2011 and will advise the Committee in due course about whether these additional actions mean that we can conclude the backlog earlier.

**2. We are very concerned by the high proportion of ‘errors’ amongst the cases concluded so far. We understand the difficulty in keeping track of people who may have made multiple applications, sometimes in different names, particularly in the years before the biometrics information of applicants was recorded and at times when the numbers of people seeking asylum were at record highs. It is most regrettable, however, that the registration of cases became so chaotic. We trust that the new asylum model of case-handling, will prevent such confusion recurring, and we look forward to seeing evidence of this in Lin Homer’s next letter to us. (Paragraph 14)**

We have always been clear that the original 400–450,000 cases would contain duplicate records and data errors. Examples of why we might close a case are because the record is a duplicate file, a data error, or an asylum claim where the individual’s country of origin is now a member of the EU. Cases are not closed until all relevant checks have been carried out to establish that no further action is necessary

The New Asylum Model already has a robust system which prevents multiple cases being created for an applicant.

All asylum applicants are fingerprinted and the fingerprints are automatically cross-referenced against the fingerprints held on the Immigration Asylum Fingerprint System to see if they have been previously fingerprinted in the United Kingdom; and the Eurodac database is also checked to see if the individual has an outstanding application in the European Union. This enables a single identity to be attributed to an individual even if they attempt to claim’ in multiple identities within a ten year period.

If a fingerprint is verified as a match to fingerprints on one of these databases, the case is immediately referred to the local Criminal Investigation Team (CIT). If, after an initial assessment, the case will not be investigated further by the CIT, the caseowner is notified that a multiple application has been made and is responsible for concluding the case using the correct identity. The first identity used by a person is accepted as the correct identity unless satisfactory evidence exists in support of another identity, for example, passport, ID card or birth certificate.

Individuals are issued Application Registration Cards (ARC) which contains their photograph and fingerprints and this is used when they report and if they wish to access asylum support. Only one ARC is appropriate and it must reflect the subject's true / accepted identity.

**3. It is vital for the UKBA to undertake general housekeeping exercises of the type that has brought this tranche of immigration cases to light. However, we are astonished that such a large number of files 40,000 - should have been, in effect, abandoned incomplete. We sincerely hope that this is the last batch of unresolved cases to discover. (Paragraph 19)**

The majority of these cases will not need any work—other than to close the file on the internal systems. We expect around 15% of these files will require further substantive action.

We have vastly improved the way we manage immigration cases. As part of our modernisation process we are moving away from the use of paper files and assessing file management standards.

We are now rolling out our new e-borders scheme which will count people in and out and is helping us to identify those who left the country. We are also introducing ID cards for foreign nationals to tie people to one identity. We are also targeting rogue employers and illegal working to ensure that those with no right to be here cannot stay here and get jobs or access benefits.

Our strategy also includes stopping immigration offenders from coming to the UK in the first place; We are extending the number of visitors who require visas, and since December 2007, 100% of visas have been fingerprint based. Our Risk and Liaison Overseas Network provides additional checks and supports all high risk posts in making the right visa decisions. Our Immigration Liaison Officers attend flight departures to give on-the-spot advice to check-in staff on the documents presented by passengers, helping to stop passengers with forged documents from even boarding the planes.

**4. The previous Home Secretary described the UKBA 'as not fit for purpose', and the recent discovery of these immigration cases shows that the agency still has a long way to go before it is operating as efficiently and effectively as it needs to do. Despite this, in 2007-08, 29 employees received bonuses totalling £295,000. (Paragraph 20)**

The framework and criteria for awarding bonuses in the Home Office was outlined in Sir David Normington's letter to the Committee dated 2 November and was also the subject of his letter to the Committee dated 15 January 2010.

In 2007/08, the guidance allowed up to 75% of senior civil servants to receive bonuses. In the Home Office as a whole, 70% of senior civil servants were awarded bonuses, and in the UK Border Agency it was 65%. That is, 29 individuals receiving bonuses at a total cost of £295,000; and 16 individuals received nothing.

The bonuses awarded to senior staff in the UK Border Agency were justified by the performance. 2008 was the year in which the Home Office (including the Agency) was judged as having made remarkable progress in its capability review, becoming, officially, the most improved Department in Whitehall.

The agency has delivered significant results during this time. Fingerprint visas were introduced ahead of time and under-budget. The agency has continued to deport record numbers of foreign criminals. And in 2008 the Agency began to roll out the Points Based System to control those coming to the UK to work and study. The single border force - merging customs and immigration—has been established. All of this has been achieved within a budget which was held flat in cash terms.

**5. We note that in the last few years the immigration service has had to implement eight large immigration acts, including most recently the introduction of the Points Based System, and a further massive Bill is proposed. We consider that the problems faced by UKBA require administrative action rather than further legislation. (Paragraph 21)**

Administrative actions and legislation should not be seen as alternatives. Both are necessary and need to complement one another. In publishing our proposals for a new Immigration Bill in November we explained the need for simplification of the legal framework:

Over the years we have had to respond to new patterns of migration and to misuse of our system, in a rapidly changing world. This has meant that it has been necessary to make a succession of specific changes to the law so that we could respond more effectively. Now is, the time to build on the necessary changes we have already made, to take stock of what more is needed, and to consolidate and simplify the legal framework.

We have made the immediate legislative changes which were necessary to support the wide-ranging changes of policy, process and organisation we have already put in place. But we have also been clear that a wider reform of the legal framework for immigration is now needed, to build on those new provisions and ensure that the law as a whole is clear, consistent and comprehensible. (Cm 7730)

We have made clear that legislative change cannot be an end in itself. The aim is to reinforce and enable the organisational and administrative reforms which are already well underway. A comprehensive new law will help make those changes stick.

**6. We note the Independent Chief Inspector's and the Minister's comments about the key role played by consulate staff in the granting of visas and the number of UKBA staff who work abroad. We remain most concerned that the Independent Chief Inspector's role remains unclear. We have in previous reports highlighted UKBA's and its-predecessor agencies' problems concerning the backlog of asylum applications. We**

**regret that the Chief Inspector, started his operation with visa inspections rather than with the areas of most concern to members of Parliament and their constituents. We look forward to receiving the report of his asylum-related inspection in February. (Paragraph 25)**

The independent Chief Inspector's remit is set out in the UK Borders Act 2007, as extended by the Borders, Citizenship and Immigration Act of 2009. As an independent appointee the Chief Inspector' is responsible for determining where and what he inspects within this statutory framework. The independent Chief Inspector consulted the Home Secretary on his inspection plan for 2009/10 and published it in April 2009 (including an indicative provisional plan for 2010/11). This plan balances both overseas and UK focussed inspections and the independent Chief Inspector has followed that plan. The first Annual report of the work of the independent Chief Inspector, published on 15 December 2009, contains details of his first set of inspections.

**7. We previously expressed concern about the merger of so many roles into the one post of Independent Chief Inspector and suggested that in particular assuming the visa-related work of the Independent Monitor would be burdensome. We regret that the Government did not heed our advice. (Paragraph 26)**

The independent Chief Inspector has confirmed to the Home Secretary that he has sufficient resources to fulfil his full set of statutory responsibilities. He is inspecting UK Border Agency work overseas as part of his remit and so the Independent Monitor function has been integrated efficiently into his programme of inspections.

**8. We note that the Independent Monitor was empowered to monitor only rejections of visas and not approvals, It has been reported that there are errors in up to 15/% of decisions to reject visas (though some of these are minor administrative mistakes rather than substantive ones); and it is therefore possible that a similar number are being issued incorrectly. We therefore welcome the Independent Chief Inspector's confirmation that he will examine both the process of issuing visas and the appropriateness of the decisions being made. (Paragraph 27)**

The Independent Monitor identified in her final published report for April to September 2008 that in 84.8% of 906 cases sampled the refusal notices were reasonable and provided correct information.

Of the cases where this wasn't the case, only 1% of cases were viewed as 'wholly unreasonable'—a decision that no reasonably competent and fair Entry Clearance Officer would make. In a further 1%, of cases significant maladministration was viewed to have undermined the fairness of the decision. The other errors related to people being given inaccurate information in the refusal notice on appeal rights, referred to the wrong rule or contained administrative errors. There was no suggestion that the decision to refuse was fundamentally wrong.

The independent Chief Inspector's recent inspections of Kuala Lumpur and Chennai have included scrutiny of visas issued as well as visa refusals and he has confirmed that he intends to continue this approach for future overseas inspections. The Kuala Lumpur report was published on 27 January and the Chennai report will be published in the near future.

**9. We welcome the Independent Chief Inspector’s proposal to review Tier Four of the Points-Based System, but regret that this review will not be completed until the end of next year. We also welcome the more focused review of Tier Four being undertaken by the Home Office at the request of the Prime Minister. (Paragraph 28)**

The review of Tier 4 announced by the Prime Minister on 12 November 2009 was prompted because of concerns by our front line staff overseas and at the border about the sharp rise in student applications experienced in some parts of the world.

A draft report was received by Ministers for the Home Office and Department of Business Innovation and Skills before Christmas, and it is being considered, before the final report is submitted to the Prime Minister. As soon as the way forward is clear, we intend to consult the education sector further on the detail of implementation, including developing an impact assessment.

We recognise the importance of international students both to the UK economy and to the individual institutions where they study. We will continue to work with all parts of the education sector to ensure that the immigration system is delivering all that it needs to by facilitating the entry of genuine international students, but keeping out those who would seek to abuse our controls.