

HOUSE OF COMMONS
ORAL EVIDENCE
TAKEN BEFORE THE
HOME AFFAIRS COMMITTEE

ASYLUM

TUESDAY 16 APRIL 2013

JOHN VINE

Evidence heard in Public

Questions 1 - 43

USE OF THE TRANSCRIPT

1. This is an uncorrected transcript of evidence taken in public and reported to the House. The transcript has been placed on the internet on the authority of the Committee, and copies have been made available by the Vote Office for the use of Members and others.
2. Any public use of, or reference to, the contents should make clear that neither witnesses nor Members have had the opportunity to correct the record. The transcript is not yet an approved formal record of these proceedings.
3. *Members* who receive this for the purpose of correcting questions addressed by them to witnesses are asked to send corrections to the Committee Assistant.
4. *Prospective witnesses* may receive this in preparation for any written or oral evidence they may in due course give to the Committee.

Oral Evidence

Taken before the Home Affairs Committee

on Tuesday 16 April 2013

Members present:

Keith Vaz (Chair)
Mr James Clappison
Michael Ellis
Dr Julian Huppert
Steve McCabe
Mark Reckless
Chris Ruane
Mr David Winnick

Examination of Witness

Witness: **John Vine**, Chief Inspector of Borders and Immigration, gave evidence.

Q1 Chair: Could we welcome John Vine, the independent Chief Inspector of Borders and Immigration, to our inquiry into asylum, which we are officially starting today. Mr Vine, you are launching us into the unknown.

John Vine: It is a pleasure to be here.

Q2 Chair: We meet following the announcement by the Home Secretary that the UK Border Agency is “closed, secretive and defensive”—words that I am sure you will find pretty astonishing, as we did. Now that it has gone from being a separate agency into the mother ship of the Home Office, are you surprised at all this?

John Vine: No, Chair, I am not entirely surprised. In my reports over the last four years, I have commented on the lack of transparency at times of the agency. I have commented on backlogs and a culture in the agency that I thought was dysfunctional. I think it is a reasonable decision in the circumstances. If it allows grip to be found for the various constituent parts of immigration, I think it will be a good thing. However, of itself, I do not think it is going to be a panacea. There are issues that need to be addressed.

Q3 Chair: Did you see the Channel 4 *Dispatches* programme last night?

John Vine: yes, I did.

Q4 Chair: What are your views about the kinds of things that immigration officers were saying about the backlog?

John Vine: I was not entirely surprised. They are the same things that I have been reporting on now for a number of years, and I think it reflected many of the comments I have just made in answer to your first question.

Q5 Chair: How does this affect your role? You are Chief Inspector of Borders and Immigration, which was once an independent agency and now part of the Home Office. Will you be continuing to do your work? What has the Home Secretary said about your role?

John Vine: The Home Secretary has written to me and said that it will not affect my statutory role. As is laid down in the Borders Act, I inspect the functions of immigration and they will now have to be corralled in different ways. That should continue. We have a full programme of inspection, and I am just about to publish an inspection plan for this year. I have just hesitated in publishing it so that I can look through the wording and make sure that we do not refer to “the Agency”, for example. I do not see that it will affect inspection. I think thorough, independent inspection is absolutely critical to ensure that the sorts of things that we witnessed on television last night are remedied.

Q6 Chair: Obviously now the whole operation will be chaired by the permanent secretary and people will be answerable to him and he to Ministers. However, it seems to me so far—perhaps with one exception—that most of the people who ran the UKBA have retained their positions in the new arrangement. Is that what you have seen, or do you know anything different?

John Vine: The deployment of the senior people is clearly a matter for the Home Secretary and for senior managers in the Home Office. As far as I am concerned, what I want to see as a result of this change is improvement to the service delivered by constituent parts of the immigration service. I would like to see an end to backlogs. I want to see an improvement in customer service, particularly with a focus on seeing the humanity. There are people’s lives that are behind these case files. I would like to see an improvement in complaints handling and correspondence handling. If this change brings about that, or is more likely to bring that about, that is the key.

Remember that I have inspected a department of the Home Office—Border Force—for the last year. In so far as that has been a separate part of the business, I have seen improvements on the front line in terms of security at the border. If that can be replicated in other ways, I think this will be a positive move.

Q7 Chair: I have been dealing with a case today to try to find a senior officer to speak to, having handed over a letter last week, and the letter having been sent all the way to Solihull. It seems to be that the customer service is still there—the culture is still there of just not being able to get through to the right person who can make the decision. One of the things that the Committee has suggested, especially as far as the entry clearance operation is concerned, is that there is someone here in the UK who you can go to to make representations, rather than a very elongated system that starts with an account officer, ends up in Delhi, comes all the way back again and gives you the same information you had at the beginning. It just seems such a long process—such a job-creation exercise—for something that is relatively very simple.

John Vine: I agree with you, Chair. I just do not think there is a sufficiently high priority given to providing a good-quality customer service. I have constantly been advising, in my recommendations in reports, that staff have much more of a focus on the individuals who are affected by these cases. Really there is very little. I find it astonishing that there is such a little focus on the customer for such a large Government Department.

Q8 Chair: Let us go to asylum now, which is the subject of our inquiry. Thank you for those comments and, as usual, thank you for all your effort and work in your reports.

Are the Government getting to grips with the asylum problem? Do you find that the backlog is gearing down? We are constantly told by Ministers under successive Governments that it is quite difficult to claim asylum in the UK, but that when people do claim asylum, it is dealt with very quickly. Is that the reality?

John Vine: I have to say that in many of my inspections I have found that that is not the reality. In a recent inspection that I published in February this year, looking at the offences that were detected at the border, we discovered nine cases where the individuals who had claimed asylum had not had their case initially decided in much less than a year—I think it was 323 days. I have made 60 recommendations in relation to asylum out of a total of over 400 in the existence of the inspectorate. I think it is fair to say that while in some areas there has been good progress, in others there has not been.

When I looked at the Hampshire and Isle of Wight local immigration team, it was dealing with asylum very promptly and way ahead of its targets. When I look at other parts of the Border Agency, I commented in my initial report on asylum in 2009 that there was a backlog in new asylum cases of 30,000. There were out-of-service standard teams hurriedly being put together by the agency to try to bring the decision making on initial asylum claims to within six months, so there was a backlog there of 30,000. In my report last year, when I looked at how the Border Agency was dealing with the legacy at that time, again there was not the performance in dealing with asylum cases that you would wish.

As a result of that report, I think we have now had 25,500 cases taken from the archive and put back in the live cohort. At the moment, I think the cohort stands at about 41,500 cases. So there is still a lot to do with asylum, and I cannot really say to the Committee that I am satisfied with the performance of the Home Office, as it is now, in relation to asylum cases.

Q9 Chair: What about enforcement? Do you think they have come to grips with the area where people are refused and therefore have to leave? In your previous reports, you were quite critical of the fact. You said that the then agency: “Ought to be more proactive and have a more proactive approach to enforcing removals”.

John Vine: Yes. When I looked at the use of intelligence to inform enforcement visits, I was critical of the agency at the time for not being able to tell me, for example, what happened to the 100,000 pieces of information that are provided by the public a year in relation to overstayers. Enforcement will be much improved if the use of intelligence by, now, the Home Office is improved. Perhaps the creation of a part of the immigration system concentrating on enforcement, which I believe is what is going to happen, will bring that focus.

However, I am concerned that when, for example, I revealed the migration refusal pool last year, and reported it to this Committee, there was still a substantial number of people—I think the figure now reaches nearly 180,000—who were overstayers, and there has been very little attempt to try to trace them. The second half of the programme last night commented on the following up of overstayers. Part of the programme was an officer saying that because they don't have a current address, there is nowhere to trace them. I think that is not the case. Clearly, if you have a name and you have a date of birth, there are lots of ways in which you can trace individuals: by credit references agencies; and by looking at other Government databases, like that of the Department for Work and Pensions. So there are many ways in which you can follow up these cases and then take effective enforcement action. I think the picture there is that more certainly can be done.

Chair: May I just say to colleagues that a vote is expected at 4.55 pm and that, because we do not want to interrupt Mr Vine's evidence, we will try to conclude by then?

Q10 Mr Winnick: You are Chief Inspector, Borders and Immigration. That is your official title, Mr Vine, if I remember correctly.

John Vine: That was correct, yes.

Q11 Mr Winnick: If I remember correctly, the Committee made a recommendation about your title to make it perfectly clear that you were independent. I am sure you recollect that.

John Vine: I am always grateful to the Committee for that suggestion. I adopted it and, yes, I have been known as such ever since.

Q12 Mr Winnick: Mr Vine, I want to bring you up to the present and pursue some of the matters that the Chair has mentioned. With the abolition of UKBA and the fact that to a large extent—if not entirely—it goes back to the Home Office, it is a Home Office matter. How about your own position as Chief Inspector? How would you be able to retain a position as Chief Inspector, independent of the organisation itself?

John Vine: I intend to carry on very much as I am, publishing the reports that we try to ensure are very thorough, evidence-based and factual. As far as I can ascertain, the statutory position is that I inspect the functions of immigration. That is what I think is contained in the Act. The way those functions are corralled and organised I think is somewhat immaterial. At long as those functions exist, I have a statutory role to inspect them. As far as I can tell, certainly, from the letter I received from the Home Secretary, she seems to think so as well.

Q13 Mr Winnick: Since her announcement to the House—obviously that came first—have you received a letter from the Home Secretary?

John Vine: Yes, I received a letter from her dated the—

Q14 Mr Winnick: Is it confidential? Can it be circulated to the Committee?

John Vine: I do not see any reason why it cannot be. I do not think it is confidential.

Q15 Mr Winnick: If the Chair is willing, perhaps a copy could be sent to us—unless you have it here.

John Vine: I don't have it here, but I would be quite happy to send it to the Chair of the Committee. It was dated 27 March.

Q16 Mr Winnick: Obviously after her announcement, it would be expected.

John Vine: Yes.

Mr Winnick: It clarifies that your position as Chief Inspector will continue?

John Vine: What it says is that there should be no change to my statutory position as a result of the changes that she has announced to Parliament.

Q17 Mr Winnick: If I can take you up on the question of asylum, why should the public have any confidence that this matter of asylum cases is being dealt with? There are now tens of thousands of cases that are in abeyance, in one form or another, under all these various terms that you are very familiar with and which you mention: case assurance and audit unit; controlled archives; and so on. That is pretty meaningless to some of us, let alone to the public. Should there be any reason to feel confident that the vast number of cases regarding asylum are being dealt with, with a conclusion reached in the near future?

John Vine: It depends which part of those cases you are addressing your comments to. Remember in 2007 there was a line drawn in the sand when the new asylum model was brought out. The new asylum model that was brought out in March 2007 was designed to allocate a caseworker specifically to a particular case, and for that caseworker to work on the application for asylum until asylum was either granted or a person was removed from the UK. That included, if necessary, representing the case at an immigration tribunal.

I believe that there are proposals under way, by the now defunct Border Agency, to change that system and to return to something of the status quo before the new asylum model was brought in. I would want to be satisfied that those changes ensure that there is a quality of decision making built into that process, because the NAM—and I think this Committee at the time took evidence around the NAM—was considered to be the new way forward, particularly in relation to providing a quality decision within a reasonable time. The time was six months—that was the time scale the Border Agency were working within. What I found was that there was a growing backlog under the new asylum model, and I expressed concern about that.

If you are talking about the legacy cases, what needs to happen with the legacy cases—as I indicated yet again in my report last year—is there needs to be absolute transparency around how many there are. They need to be worked on thoroughly to ensure that people are traced and, if necessary, removed from the UK, if they have no right to be here, or granted asylum quickly.

The problem is that because of inefficiency and ineffectiveness in the system, we have people in the UK who have gathered rights, which they would not otherwise have gathered if their cases had been dealt with efficiently and effectively from the start, because they have been here for far too long. We also have people who should have been granted asylum much quicker and are in some form of limbo as a result. I think that particularly affects young people, for example, who might want to register at a university or go and find employment, but who find themselves without status.

Referring back to last night's documentary, there was a part in it where somebody held up a case that had been in the system for 14 years. The application had been made in 1999. That is completely unacceptable.

Q18 Mr Winnick: Mr Vine, if someone said to you that the asylum issue and the number of asylum cases was a mess, could you strongly disagree with that?

John Vine: No, I probably could not strongly disagree with it.

Mr Winnick: Thank you very much.

Q19 Dr Huppert: It is a great pleasure to have you here, Mr Vine. This is a very important inquiry for this Committee to understand what is happening. Certainly you have done a huge amount of work to expose the failings of the asylum system so far. You have highlighted things about prompt decision making, for example. I think it was our last session, Chair, when the Border Agency accepted that there were now even more people waiting more than six months for an initial decision. Presumably you would agree that the public would be shocked to discover that people wait more than six months even to have an initial answer, yes or no.

You have made a whole series of recommendations, almost all of which have been accepted by the Government. How many of the ones that have been accepted do you think have been acted on and changed? For example, you have made recommendations about making sure that decisions are made within six months and they have not been. Do you have a sense of how many they have managed to do?

John Vine: Yes, the way that it has worked is that every six months I have asked for a report from the agency, as was, to update me on the progress being made against the recommendations the agency has accepted, and on Border Force. We have also had an ongoing process of checking that those recommendations have been progressed when we have done other inspections. Bearing in mind that we are small inspectorate and we have a very full programme, I expect the agency—certainly an agency of this size and importance—when it says, “Yes, we accept your recommendations,” to get on and deliver them.

When we have done further inspections, we have tried to look at whether we can see progress. We have seen a lot of progress in a number of areas, but there are bound to be some areas in which recommendations have been implemented slower than in others. For example, I am disappointed that only five of the 19 recommendations I made in my first asylum report in 2009 have been fully implemented, because among those recommendations that were accepted by the agency were things like having caseworkers meet asylum seekers so they can understand who these people are, and having caseworkers understand what information needs to be put on the case information database and what needs to be put on the paper file. That has been an issue that has bedevilled the whole question of asylum up until now. That is why the case information database is an unreliable tool, because there is some information on one system and some information on another.

It also contained a recommendation about ongoing training for caseworkers. One of the problems is that some of the caseworkers are sufficiently in possession of the skills they need to provide a quality decision. I also made a recommendation in that report in 2009 that the Border Agency should analyse the reasons why it was losing appeals because, if it put some effort into understanding why immigration judges are overturning appeals, it might be able to improve its initial decision making. It really is important that there is action on those recommendations.

Q20 Dr Huppert: To be clear, you made 19 recommendations—I have a list of them here—and they were all accepted. You say only five of them have been implemented.

John Vine: No, fully completed.

Q21 Dr Huppert: Are the ones you just gave examples of—the basics of having some training, putting information in the right places, meeting the people you are talking about—the ones that have been fully implemented?

John Vine: Those are ongoing. I think the response from the agency is that the fulfilment of those recommendations is ongoing.

Q22 Dr Huppert: Basic training has been ongoing since 2009.

John Vine: Yes. I expressed in a previous annual report that I wanted the agency to show more enthusiasm in accepting recommendations and getting on and implementing them, so this year I have implemented spot-check visits, which I have just started—I have just done my third—where by going out to areas of the Home Office, as it is now, I want to see for myself that change is happening on the ground. For example, recently I went to the screening unit at Croydon to have a look to see whether the recommendations I made following my inspection in 2010 had been implemented. I recently went to see the Command and Control Centre up in Manchester, again to see for myself whether things are happening on the ground.

Q23 Chair: What would you put the current backlog figure at, in terms of asylum cases?

John Vine: In terms of the asylum cases in the live cohort, it is around 41,000.

Q24 Chair: Is that up from your last figure?

John Vine: What I said when I published my report last year—

Q25 Chair: Because we have 39,000.

John Vine: This was at the time last year. It will be less than that now. In addition, of course, there is a figure of active reviews. The active reviews are the discretionary leave cases. I am trying to pin down the figure on that.

Q26 Chair: However, at the moment, the asylum backlog is 41,000.

John Vine: At the time I did the inspection it was 41,000 and 25,500 have been put back into the cohort as a result of my report, which said that the checks had to be done properly.

Q27 Chair: This will sit in the immigration and visa section of the Home Office?

John Vine: Yes. Remember, Chair, that at the moment I am conducting an investigation, on behalf of the Home Secretary, into whether the recommendations that were accepted by the agency from my report last year are being implemented. That report will be with the Home Secretary by the end of April.

Q28 Steve McCabe: Mr Vine, I want to ask you about country of origin information. However, before that, you said in an answer to the Chair that the defence was often used in terms of removals that we do not know the person's address. You suggested that it might be easier to uncover that. Did you identify any examples of people being targeted for removal when MPs had particularly given the address and details to the agency and so things had been made very easy for it?

John Vine: I have not come across those examples, no. By the way, I am not suggesting that it is going to be easy to trace them, but I think it is possible to use ways to trace people.

Q29 Steve McCabe: I ask only because I have always wondered why it never seems to act on that information when it is given to them.

Let me ask about country of origin information. This was something you highlighted as needing improvement. Has it improved since your last report?

John Vine: Yes, there has been significant improvement, I think, in COI information. The inspectorate has an ongoing remit to oversee the production of COI information by the agency. There is a small unit within what was the agency that produces reports on countries. It is very important information, for example for immigration judges to decide whether a claim for asylum is warranted. In fact, there is a meeting of the independent advisory group on country information this afternoon in my conference room. It meets under my auspices, and I have a panel of academic experts who scrutinise the reports that are produced by the COI team in the agency. They suggest changes to make sure that it is absolutely accurate.

I think it is a good example of part of the agency and the inspectorate working together, in so far as we are independent of the Agency, to ensure that the information that is relied on in asylum cases is bang up to date and of a good standard, and I am confident it is something that is a model that is regarded elsewhere. So it has improved.

The only particular issue I have is that when we looked at a sample of cases where COI information had been used in my inspection, we found in 13% of the cases that we thought that the caseworkers had been selective in picking out from the COI report the information that would basically help in prosecution. In other words, they were selective in the use of information in order to support the case for refusing asylum. I said that was not fair.

Q30 Steve McCabe: Can I ask you one last thing on that? I think you said that the absence of country reports in some of the non-suspensive appeals or detained fast track was a problem. Has that been addressed?

John Vine: Yes, the COI service produces regular reports for the 20 countries where most asylum claims are from. There are another 10 countries, the next tier down, for which it produces reports as well. It is when an asylum claim comes in from a country where there was

no prepared report, and then a particular caseworker has to investigate the background in that country in order to defend the case at the tribunal, on which I have made recommendations for improvement, because that was a little bit hit and miss. It was selective, and I thought it could be improved, so I made that recommendation.

Q31 Steve McCabe: That has happened, has it?

John Vine: I am led to believe that has happened, yes.

Q32 Chris Ruane: Stakeholders have long criticised the detained fast track as being unfair, yet the low percentage of allowed appeals appears to suggest otherwise. In your opinion, is the DFT fair and is it effective.

John Vine: When I inspected it, I found that about a third of the intake for DFT was very quickly released from detained fast track because in fact they were the wrong people to be selected. In that sense, for quite a high percentage of the cases we looked at, those individuals should not have been in DFT. For example, there was evidence that some people who were included in DFT were victims of torture, but that had not come out in the screening interview. There is controversy around the screening interview. Very often it is argued that people who are the victims of torture at first interview will not reveal a great deal of what has happened to them, not surprisingly, because they have gone through a very traumatic process.

What the agency has to do is to ensure that there is privacy, the right circumstances and well-trained caseworkers in order to assess whether they are eligible for DFT. In the sense that in our fast sample a third of the people who were in DFT were then removed from it, there is a danger that the wrong people are being included in it. The agency accepted the recommendations on that.

However, when I looked at the quality of decision-making of DFT cases, we found that in 93% of cases the decision made by the caseworkers on DFT cases was upheld by the immigration tribunal, which, on the face of it, is an indication that at least the quality of decision-making was on the right lines.

Remember this was a process that was brought in about a decade ago when there was a massive influx of asylum cases. What I did in the report was to question whether this now needs to be looked at as a process. On the face of it, with improvements—and it is a matter of policy and it is not for me to say whether it should exist or not—it was operating effectively, certainly in removing people from the UK who it was deemed had no right to claim asylum here. There are safeguards that need to be put in place. What I did say is that the Agency should report on the DFT on an annual basis in order to make public information about its operations.

Q33 Chair: Just a couple of practical points. The reports that people seeking asylum on grounds of homosexual persecution have been required to testify to such things as having read Oscar Wilde and attended a gay pride march, or watched gay pornography. Have you come across any of this?

John Vine: I haven't. However, what we have done, as part of the COI oversight, is we have commissioned particular pieces of work on gay, lesbian and transgender issues, and also on gender issues, in terms of COI reports, to ensure that as far as possible COI material has the proper information in it so that caseworkers can be guided by that.

Mr Winnick: Is there a test for heterosexuals?

Q34 Chair: If there is one I am sure that Mr Vine will find out.

Do you have any concerns about the Compass housing contract, the asylum contract that was originally given to a number of contractors and then given to G4S?

John Vine: I have not looked at this yet, but you will know that I have power to look at contractors that operate on the Border Agency's behalf. You will be pleased to know that I have started the inspection of asylum support and I will be looking at that issue as part of that inspection. That is already being scoped at the moment.

Q35 Chair: Because one of the sub-contractors has already resigned from doing this project.

John Vine: I was not aware of that, Chair.

Chair: I think it is called Mantel.

Q36 Dr Huppert: Three very, very quick questions, if I may. First on that, when will you conclude the asylum support report and will we be able to have a look at it?

John Vine: Because asylum support is such a big issue I think what I need to do is think about whether we produce something big or whether we break it into constituent parts, but I am hoping that we can complete that this year. Looking at section 4, section 95 and issues around contractors is going to be quite a task. I am hoping it will probably be when Parliament reconvenes in the autumn.

Q37 Dr Huppert: Secondly, when the Home Secretary announced that the Border Agency was going to be brought back into the Home Office, she said it was a three-month discussion process. How often were you consulted during the three months before that about that change?

John Vine: I think I was consulted once about my thoughts, which of course have been documented in my reports which, of course, anybody can read them.

Q38 Dr Huppert: When was that in those three months?

John Vine: I was contacted by the Home Secretary in advance of the announcement. She informed me what she intended to do.

Q39 Dr Huppert: How much in advance?

John Vine: On the day of the announcement, but certainly before that. I do have opportunities to speak to her, not on a regular basis, but I would say once every six months.

Q40 Dr Huppert: My last question. Canada has a separate asylum administration system, so asylum is dealt with separately from other border processes. Do you think that is something that we ought to be looking at, or do you think it is not the way to go?

John Vine: I do know that that particular arm of the Canadian immigration system has a considerable backlog of cases. Obviously I have not inspected it, although I am quite happy to do so—on invitation, of course; it is a warm time of the year—but I do know it has a backlog of cases.

I think what needs to happen is that we need to provide a good, basic service consistently where good-quality decisions are made. It needs strong leadership and we need to be absolutely transparent about the work that is in hand.

Q41 Chair: At the moment this is not happening.

John Vine: I have reported to this Committee before and I have published reports that have said that. My last report on asylum criticised the case assurance and audit unit. I think I said to this Committee that that did not say what it was, so I am pleased to see that it has been renamed the older live cases unit.

Q42 Chair: In honour of Mr Winnick, because he was one of those who suggested the change of name.

Mr Winnick: I try to keep up with all of this.

John Vine: While it does not trip off the tongue very easily, at least it describes what it does.

Q43 Chair: One final point. Did you see the interview with the Border Force ex-DG, Tony Smith, who said we just do not know who is here and who is not here? Do you think that applies to the asylum system as well? There is no clarity at the moment as to who is in the system and who is not.

John Vine: I think what would help enormously is if we had some counting out of people. That would enable the agency and/or its successor bodies to answer that question effectively.

Chair: Mr Vine, as usual, we are indebted to you. Thank you very much.