THE UK BORDER AGENCY’S RESPONSE TO THE CHIEF INSPECTOR’S REPORT:

ASYLUM: GETTING THE BALANCE RIGHT?

February 2010
The UK Border Agency thanks the Independent Chief Inspector for recognising the commitment of the UK Border Agency’s staff to making the right decisions in this very challenging area of work. In his report, Asylum: Getting the Balance Right?, the Independent Chief Inspector highlights areas of good practice whilst also identifying where the UK Border Agency can go further to make progress. The UK Border Agency particularly welcomes the recognition of the following areas of good practice:

- Clear recognition of our staff’s dedicated, conscientious and quality approach to managing asylum cases.
- A consistent approach to protection, internal flight and ECHR issues and evidence of staff being aware of the impact of their decisions.
- Clear performance targets for concluding applications and comprehensive quality assurance frameworks.
- Evidence of engagement with stakeholders, including through Local Immigration Teams.
- Transparency of reporting of progress towards concluding legacy cases to Parliament.

These qualities recognised by the Independent Chief Inspector have also been recognised internationally. We have a robust quality assurance process in place for which is fully endorsed by the UNHCR. The European Commission also recognises the quality of our process and decision making and fund the UK directly and indirectly to share our practices with other European states. Independently of the European Commission, the UK is often approached by other states, within the EU and beyond, for advice on the best operation of their asylum systems. We aim to continue to be a prominent asylum authority in Europe and beyond, and shall continue to share our experience with other nations.

We recognise that we need to continually improve our processes and performance. We plan to continue to develop a faster, more secure and efficient asylum process that is accepted as humane, effective and fair. We are therefore grateful to the Independent Chief Inspector for his considered recommendations, and our response to each is set out below.

1. AS A MATTER OF PRIORITY, ASSESS HOW IT CAN DELIVER PERFORMANCE Improvements consistently; AND HOW IT PROPOSES TO DELIVER ITS TARGET OF CONCLUDING 90% OF CASES WITHIN SIX MONTHS BY DECEMBER 2011:

1.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

1.2. The UK Border Agency leads on the Public Service Agreement 3: to ensure controlled, fair migration that protects the public and contributes to economic growth. Section 3.2 requires the UK Border Agency to achieve, between 2007 and 2011, milestones set for the conclusion of new asylum cases ranging from 35% of applications within 6 months by the end of April 2007 to 90% of cases within 6 months by December 2011. We are pleased that the Independent Chief Inspector acknowledges the achievement made in the milestones met, including the significant increase in performance required since 2007 to conclude in 6 months 60% of asylum applications by December 2008.
1.3. The UK Border Agency is constantly striving to improve its processes and undertake significant reforms in order to achieve our increasingly challenging targets. The creation of NAM+ in May 2009 was specifically designed to assess the UK Border Agency’s performance against the original New Asylum Model (established in 2007) and to deliver further improvements to the front end of the asylum system as well as business processes supporting case conclusion. We are currently monitoring all activities that support the achievement of high and sustained rates of conclusions - quality initial decisions at the earliest point; efficient appeals and removal referrals - as well as the decisions and outcomes needed to achieve our targets. We have supported various efficiency programmes for performance management across several regions, and we are actively reviewing the entire asylum process to identify key areas for improvement. A well established delivery planning approach, with regional and national case conclusion delivery plans and regular reporting to the central performance teams and the Treasury in place, allows us to track progress, account for the variations in regional performance and task specific performance improvement action as needed.

1.4. Our recent focus has been on building a sustainable level of performance and moving toward delivery of the milestone of concluding 75% of applications within 6 months. Going forward, we will assess, as part of our delivery planning activity, what changes would be needed to underpin performance beyond a 75% case conclusion rate. This will include the results of the significant reform Government has made to the appeals system – a key phase associated with the conclusion of refused asylum applications. We anticipate that achieving the highest conclusion rates will require this scale of change and will be reliant on the cooperation of all partners involved in asylum cases, and availability of resources, to manage a complex process within a fixed timeframe.

2. ENSURES ALL FUTURE TARGETS TAKE FULL ACCOUNT OF FRONT-LINE EXPERIENCE:

2.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

2.2. The Agency agrees to continue to consult with front line staff as and when new targets are due to be agreed. We can confirm that staff across the Agency were actively engaged and involved in the setting of the current PSA, however we recognise that it is always possible to improve such processes.

2.3. The Agency would like to highlight the expertise and experience of Caseowners that is applied throughout the process for planning and delivering our targets; individual Caseowner teams forecast and adjust the likely conclusion rate on an ongoing basis. These forecasts are fed into central performance teams. Operational staff are therefore integrally involved in the process of reporting progress, diagnosing issues and determining options for the achievement of the timely conclusion of asylum cases.

2.4. The setting of realistic but stretching targets is an important method to ensure the highest level of performance on an ongoing basis. In our work there are a number of uncontrollable factors which may impact on performance (such as an unexpected change in asylum intake) and so, to some degree, while front line experience can highlight some of these risks, preventing any detrimental impact of them on performance is more difficult to quantify. Nonetheless, the Agency recognises the benefit of utilising the wealth of solid operational experience in defining future targets.
3. ENSURES THAT INITIAL DECISIONS ARE MADE AS SOON AS POSSIBLE ON ALL APPLICATIONS CURRENTLY OUTSTANDING FOR SIX MONTHS OR MORE; AND ENSURES THAT ALL FUTURE APPLICATIONS RECEIVE AN INITIAL DECISION WITHIN SIX MONTHS:

3.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

3.2. In order to provide the best possible asylum system, we believe an asylum seeker must receive a decision as soon as possible after application. We place high emphasis on making a fast decision, and the process is central to our approach towards asylum. Making a decision as late as the six month stage is therefore far from optimum and we take great care to make decisions as soon as the facts of a case are established. At times, however, it may be necessary to defer the initial decision beyond 6 months in order to establish the full facts of a case, particularly where information from other organisations is central to the decision, such as cases where applicants are suspected of being victims of torture or trafficking.

3.3. For cases that have not received a decision in 6 months we wholeheartedly agree that all cases should receive an initial decision as soon as possible where circumstances permit a decision. Following previous recent examinations of the asylum process by the National Audit Office and Public Accounts Committee that highlighted the need for the UK Border Agency to demonstrate its capability for actively managing cases not concluded within 6 months from 2007, we have established teams to focus on these, older cases. Please see the response to recommendation 4 for further information on the actions we have undertaken to address these cases.

3.4. With regard to cases that are being dealt with by the Case Resolution Directorate (CRD), cases with outstanding initial decisions are minimal.

4. INTRODUCES CLEAR TARGETS FOR CONCLUDING CASES THAT HAVE NOT BEEN CONCLUDED WITHIN SIX MONTHS:

4.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

4.2. A Supervisory Framework has been developed and is used by the Regions to prioritise this work. The premise of the Supervisory Framework is that each Region will still need to actively manage all asylum claims that are over 6 months old. It sets out some parameters according to which Regional Directors must prioritise work on these cases. It stipulates a regular reporting mechanism for Regional Directors to account for the management and reduction of the entirety of their unresolved caseload. Within these parameters and the reporting mechanism, Regional Directors are afforded a significant degree of autonomy as to the prioritisation of this caseload. It is intended that they exercise this autonomy in consultation with their local partners and stakeholders. As part of our delivery planning activity, Regions are developing clear plans for how they will deal with these cases, including the rate of clearance and associated impact on support cost budgets. Performance against these plans will be actively monitored.

4.3. As the report recognises, cases that are being dealt with by the Case Resolution Directorate have a clear target and they aim to conclude the backlog of asylum cases by summer 2011 or earlier. This target has been conveyed to all staff as well as internal and external stakeholders.
5. PRODUCES AN ACTION PLAN TO SHOW HOW, IN LIGHT OF RECENT PROCESS AND GUIDANCE CHANGES, IT CAN RESOLVE THE LEGACY OF CASES BY JULY 2011:

5.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

5.2. CRD has a strategy to support its target of concluding the backlog of cases by summer 2011. In-time internal action planning governs this activity and allows CRD to regularly report progress on clearing the backlog. The Independent Chief Inspector’s report acknowledges the transparency of our reporting to Parliament on our progress of concluding legacy cases. We plan to continue with this; our next opportunity to do so will be to the Home Affairs Committee in March 2010. Further, we agreed, following a request from the Public Accounts Committee to issue it a report when the legacy caseload is concluded in summer 2011.

6. DEVELOPS AND COMMUNICATES PLANS FOR MANAGING THOSE LEGACY CASES IN WHICH LEAVE MAY NOT BE GRANTED, OR THE APPLICANT REMOVED, BY JULY 2011:

6.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

6.2. We consider every case on its merits and apply the law and policy of the government when reviewing them. We’ve always been up front that there are some cases where we struggle to enforce return. That doesn’t mean they automatically get granted. This is not an amnesty. We will continue to promote contact management and voluntary departure in these cases and will keep them in case ownership and under regular review, even if this requires doing so beyond the life of the full Case Resolution Programme. This is likely to be a relatively small number of cases.

7. ADOPTS A CLEAR AND CONSISTENT APPROACH TO WHEN IT WILL NOT BE REPRESENTED AT ASYLUM APPEAL HEARINGS:

7.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

7.2. It is our intention to represent as many asylum appeals as possible and we are looking for high rates of representation, prioritising cases to be represented where 100% representation is not possible. We would like to highlight that our priority remains making sustainable decisions; decisions that do not lead to an appeal or those which are upheld at appeal. We welcome the Independent Chief Inspector’s observation of seeing a consistent approach to protection, internal flight and ECHR issues in the interviewing of applicants and evidence of staff being aware of the impact of their decisions.

7.3. The Agency recognises that a clear approach needs to be set on representation at appeals. Internal assessments of different region’s capability for servicing regional courts and case volumes are being undertaken. These contribute to distributing available resources so that Caseowners benefit from an opportunity to advocate cases. Local engagement with representatives of the courts is also undertaken to ensure decisions are as well represented on paper and in advocacy at an appeal hearing as possible.

7.4. The UK Border Agency has also been working more broadly to improve the appeals process, and following significant joined up working with the Asylum & Immigration Tribunal and Ministry of Justice, a new, Unified Tribunal system was launched on 15th February this year. This Tribunal will provide a quicker, easier and more
efficient process of hearing and deciding appeals for applicants, prosecutors and judges alike.

8. SYSTEMATICALLY ANALYSES THE REASONS FOR ALLOWED APPEALS AND LINKS THIS WITH ITS OVERALL QUALITY ASSURANCE FRAMEWORK:

8.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

8.2. The Agency has recognised the need to better monitor and understand appeal outcomes and has initiated two separate pieces of work around this area towards establishing a systematic approach:

8.3. As the Independent Chief Inspector notes in paragraph 2.30 of his report, the Midlands and East of England Region is running a pilot that assesses the reasons for allowed appeals in order to understand how to reduce the allowed appeal rate. Since the thematic inspection, the region has implemented changes and has visibly reduced their allowed appeal rate. The region is preparing findings to share with the other regional Asylum Leads and the Quality Assurance Team.

8.4. The NAM+ Quality Audit Team, which oversees the Quality Audit Framework, have expanded their current portfolio to assess the quality of Presenting Officers at appeal and the use of available feedback from the representative at appeal to the Caseowner on the accuracy and application of evidence presented in refusal letters. Our quality assurance system is fully endorsed by the United Nations. Testament to the quality of our process, we actively share best practice with other European nations, and are sponsored to do so by the European Commission.

8.5. In summary, the UK Border Agency does currently apply lessons learned from allowed appeals and will continue to do so, however we appreciate that the Independent Chief Inspector was likely to have seen little evidence of this work during the inspection.

9. ENSURES THAT THE REASONS WHY LEGACY CASES ARE GRANTED ARE RECORDED CLEARLY ON FILE:

9.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

9.2. CRD currently updates the case file with a pro forma minute explaining any grant of leave. The caseworker also updates the Case Information Database with the same information. This is a compulsory function for caseworkers considering cases. The UK Border Agency is going to re-circulate guidance to all CRD Caseowners and emphasise the importance (and reason) for recording the decision on the file.

10. DEFINES THE ROLE AND RESPONSIBILITIES OF CASEOWNERS INCLUDING THEIR ROLE IN PRESENTING CASES AT APPEAL:

10.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

10.2. The role of the NAM Caseowner is to be responsible for an applicant’s case from interview to conclusion, including at the appeal stage. Caseowners are accountable for their cases. Accountability does not require them to perform every action associated with each case, rather to ensure all actions are complete and in time. This often requires Caseowners to commission action from colleagues and partners with particular expertise or who can provide administrative support. We have already reviewed the roles and responsibilities of some staff working in the
asylum system and have circulated clarification. We are continuing this process for other roles and will circulate guidance as appropriate. We actively review how the model of end-to-end Caseownership is applied in practice, and to challenge itself that the key principles remain important.

10.3. The NAM Caseowner accreditation training package that has been developed sets out the key functions involved in the Caseowner role. The accreditation training will also help Caseowners who have less court experience to develop their advocacy skills. As this programme is developed the role of the Caseowner at the appeal is expected to become more defined.

10.4. Further detail of our ambitions and expectations for representing asylum appeals are provided in our response to recommendation seven.

11. ENSURES THAT THE QUALITY AUDIT TEAM SAMPLES DECISIONS FROM ALL CASEOWNERS:

11.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

11.2. Through close working with the UNHCR, the UK Border Agency developed a high class audit process to assure the quality of initial decisions and interviews. The Quality Audit Team was established and staff members travel across all regions to sample Caseowner’s work. The Quality Audit Team has further developed its portfolio to include consideration of the appeals process. The Quality Auditors produce individual reports, which feed into monthly summaries, sharing best practice to all the regions. Areas in need of improvement are also identified, and solutions are implemented via the senior caseworker network across all of the regions.

11.3. The Quality Auditors aim to audit 10% of all initial decisions across the regions. Cases for audit are selected, excluding those from a Caseowner whose decision had been audited within the previous month(s), with the aim of auditing decisions from all Caseowners over time. Further work is ongoing to make this system more robust so that every Caseowner is included in the Quality Assurance Process.

12. CLARIFIES THE INFORMATION THAT SHOULD BE STORED ON THE FILE AND THE CASE INFORMATION DATABASE AND INCORPORATES CHECKS OF THIS INTO THE QUALITY ASSURANCE FRAMEWORK:

12.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

12.2. Over the past two years, the UK Border Agency has put a great deal of effort into producing and maintaining high quality guidance to ensure understanding of the requirements across the business and a standard and consistent approach to casework. More recently, guidance has been rationalised to increase accessibility to Caseowners and enforcement staff, and it is published externally on our website.

12.3. Processes currently exist to provide this guidance to Caseowners; in published instructions which offer guidance on how decisions against immigration law should be made and how decisions and minutes should be recorded.

12.4. The UK Border Agency recognises however that there is a need to monitor the use of systems for information management and will review current guidance to ensure appropriate record keeping is maintained while minimising demand on the Caseowner’s time. The UK Border Agency has also made commitments to update its electronic systems for recording and monitoring cases and clear guidelines on storing information will be good preparation for a future rollout of updated IT.
13. ENSURES THAT APPLICANTS WHOSE CASES ARE IN THE LEGACY, ARE GIVEN MORE INFORMATION ABOUT WHEN THEIR CASE WILL BE CONSIDERED, OR AN EXPLANATION OF WHY THIS IS NOT POSSIBLE:

13.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

13.2. The UK Border Agency has ensured that its website clearly explains why it is not possible to provide a more specific timeframe for the consideration of an applicant’s case. The website explains that the applicant will be contacted when their case is considered and notes considerations made when prioritising cases. This information is also provided in response to letters from, or on the behalf of, applicants.

13.3. When CRD actively works on an applicant’s case, the Caseowner contacts the applicant or their legal representatives informing them of this information. CRD will circulate instructions to staff re-affirming this process to ensure all teams are aware.

14. DEVELOPS CLEAR SUCCESSION PLANNING TO REDUCE THE RISK OF VITAL POSTS BEING LEFT VACANT:

14.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

14.2. Succession planning of key operational posts is a priority of all the regions, working within the constraints of the current economic climate. It is understood that staff turnover, particularly in key operational posts, provides a risk to meeting the PSA. We welcome the Independent Chief Inspector’s note of greater regional autonomy, allowing regions to fill their vacancies. This has been taken forward with the aim of filling vacancies, including those at Caseowner level, more swiftly than national recruitment campaigns.

14.3. Managers across the Agency continue to receive continued professional development training. Examples of this include specific leadership development programmes along with efficiency training programmes, which are tailored specifically to the asylum model and workflow planning.

15. INVITES REFUGEES TO CONTRIBUTE TO ITS TRAINING PROGRAMME FOR CASEOWNERS TO REINFORCE HOW THE ASYLUM PROCESS AFFECTS INDIVIDUAL ASYLUM APPLICANTS:

15.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

15.2. The Independent Chief Inspector recognised the pride our Caseowners take in the work they undertake, and their strong appreciation of the implications of their decision making. The Independent Chief Inspector’s finding of consistent and detailed records of interviews with applicants in their scrutiny of files selected further demonstrates our Caseowners’ appreciation of how the asylum process can affect individual asylum applicants, and the importance of treating each applicant in accordance with their needs.

15.3. There are many examples of practice where the views and experiences of refugees have been incorporated into our training to provide their perspectives of the process in order to aid staff learning and development. The Regions and the
NAM+ Training and Development team will continue to work closely with refugee representative organisations to ensure client feedback and experiences influence the training of decision makers. It is noted that the Independent Chief Inspector found evidence of Caseowners demonstrating a strong desire to understand fully the experiences of asylum applicants which demonstrates the seriousness given to considering the needs of applicants.

16. DEFINES AND MONITORS THE MANAGEMENT INFORMATION TO BE RECORDED LOCALLY:

16.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

16.2. The UK Border Agency has a Case Information Database which Caseowners use to record decisions and key actions in the lifetime of the case. This is the main source for internal management information used by a central team responsible for performance management. This central team produces regular standardised weekly and monthly performance reports which are used to support all performance management conversations. In cases where the database does not include fields that provide additional or supplementary data, as the reporting interests and needs of the organisation change, local areas will be requested to provide supplementary information. Caseowner teams have the flexibility to manage and structure data for the purposes of managing information to suit individual cohorts and team structures.

16.3. Identifying key management information to effectively manage performance locally has been an integral part of the frontrunner programme’s work with asylum teams. This continues to be developed and enhanced as the programme moves into more regions.

17. MEASURES THE QUALITY AND FREQUENCY OF CONTACT BETWEEN CASEOWNERS AND APPLICANTS:

17.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

17.2. The recommended levels of contact between the Caseowner and applicant are set out in guidance but it is part of the Caseowner’s responsibility to assess what level of contact is required in order to establish the facts of the case and to keep the applicant aware of progress. The level of required contact can vary on an individual basis. Team leaders have a role to ensure that good levels of client service are in place and are upheld.

18. INTRODUCES CONSOLIDATION TRAINING FOR CASEOWNERS AS SOON AS POSSIBLE:

18.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

18.2. We welcome reference made in the report to the UK Border Agency finalising a package of consolidation training for Caseowners and plans for its roll out in 2010, which confirms that refresher training for staff to aid quality decision making is a priority. Consolidation training has already been run in Glasgow, Belfast and Newcastle and will be run in London, Cardiff and Solihull over the coming months. Some existing Caseowners will be attending that training and we will also be devising an Advanced Asylum Skills (AAS) course for experienced Caseowners and Senior Caseworkers. The AAS course will be developed over the next 2-3 months and rolled out from July onwards.
19. ENSURES THAT APPLICANTS ARE PROVIDED WITH CONTACT DETAILS OF THEIR CASEOWNER, INCLUDING WHERE THE CASEOWNER CHANGES:

19.1. THE UK BORDER AGENCY ACCEPTS THIS RECOMMENDATION.

19.2. We agree that every applicant should know who their caseowner is, and should be able to contact them. The level of customer contact and individual responsibility for a case is central to the Caseowner model. The benefits of this approach are clear and the rollout of the Caseowner model to other areas of the business in 2009 demonstrates the Agency’s strong commitment to continuing with individual contact points and to making sure that this model works.

19.3. It is the responsibility of the Caseowner to provide contact details so that applicants or their representatives can make contact. It is also the Caseowner’s responsibility to make arrangements to provide details where the Caseowner changes. Asylum teams have been asked to compare their own practice and procedures against that reported by the Independent Chief Inspector and make improvements as necessary.