

UK BORDER AGENCY  
**COMPLAINTS**  
**— AUDIT —**  
**COMMITTEE**  
ANNUAL REPORT 2007/2008



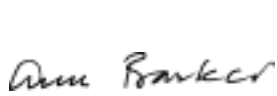
The Rt Hon Jacqui Smith MP  
Home Office

November 2008

Dear Home Secretary,

We have pleasure in presenting to you the Annual Report for 2007/8 of the UK Border Agency's independent Complaints Audit Committee.

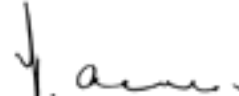
Yours sincerely,



Dr Ann Barker Chair



Ram Gidoomal CBE



Paul Acres



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## UK BORDER AGENCY COMPLAINTS AUDIT COMMITTEE BOARD MEMBERS



**Ann Barker**

Ann is an historian, criminologist and public servant. She has lectured at Harvard, the Universities of London and Oxford and has written on topics ranging from Indian self-rule to the treatment of psychopaths. She has been a member and chair of a wide variety of public and voluntary organisations.

A former member of the Parole Board and the Police Complaints Authority, she is Complaints Commissioner of the Bar Standards Board. She is also a Justice of the Peace and a member of the General Medical Council Fitness to Practise Panel. American and British, she straddles nationalities and appreciates cultural diversities.



**Ram Gidoomal**

Ram Gidoomal CBE is a businessman and entrepreneur. He is Chairman of Citylife (Industrial & Provident Society) Ltd, Winning Communications Partnership Ltd and a Non-Executive Director and Chair of Audit Committee of Amsphere Ltd. He is Vice Chair of St George's University of London and chairs their Audit Committee and is a Crown Appointee on the Court and Council of Imperial College (Chair of the Research Ethics Committee).

He has written several books on cross-cultural and ethnic minority business issues and is a visiting professor in entrepreneurship and inner city regeneration at Middlesex University.



**Paul Acres**

Paul was a police officer for 36 years, serving in a wide range of specialist and senior management positions. He was a detective, senior complaints investigator and, for 5 years, Deputy Chief Constable of Merseyside before his appointment as Chief Constable of Hertfordshire. He developed national policing policy on professional standards, community and race relations, personnel management, conflict management and the police use of force and firearms.

He retired from policing in 2004 and now holds several public appointments, many concerned with the development of professional standards. He is currently chair of an NHS Primary Care Trust.

## CHAIR'S FOREWORD

We end our tenure on the Complaints Audit Committee (CAC) with a sense of accomplishment, yet of concern as well. Over the past three years the way complaints have been handled by the immigration agency (the Immigration and Nationality Directorate, the Border and Immigration Agency and now the UK Border Agency) has changed almost beyond recognition. The fragmentation of structures, which undermined virtually all attempts by dedicated officials to provide an effective response to customer dissatisfaction, has been addressed. The new unified system rests on regional Customer Service Units dealing with service delivery and minor misconduct complaints and referring serious misconduct complaints to the Professional Standards Unit (PSU) in Manchester, and with the Performance and Assurance Unit (PAU), formerly known as the Customer Focus Team (CFT), in Croydon providing guidance, training and quality assurance for complaints handlers across the Agency. A clear hierarchy with distinct remits has been established, and steps have been taken to meet the Cabinet Office guidance that complaints should be treated seriously, that they should be dealt with efficiently, and that the organisation should learn from them and improve services on the basis of what is learned.

In addition to conducting quarterly audits, we have made 84 recommendations on a quarterly basis over the past three years. 74 of these have been accepted, 2 have been accepted in part, consideration is still being given to 2 and 6 have been rejected. We commend the UK Border Agency for endorsing the overwhelming majority. However, major institutional change is never a straightforward move from one system to another, and as in any organisation, some changes have been implemented with greater alacrity than others. For example, our recommendation that investigations of serious misconduct complaints be conducted by a team of independent, properly trained and monitored officials has been introduced, and there are already signs of significant improvements in the investigation of complaints arising from high-risk activities such as the arrest, detention and removal of failed asylum seekers. In other areas, such as the quality assurance of complaints management information, we have found continuing weaknesses quarter by quarter.

As of 1st July 2008 our remit was transferred to the new Chief Inspector of Immigration. Mindful of the problems which we encountered as a consequence of receiving no proper handover from the previous CAC in 2005, we have written an audit memorandum setting out our audit approach and methodology. We have also explained our work to stakeholders, complaints managers and Home Office auditors at a conference held in central London on 17th March 2008 and in an audit workshop in Croydon in June. We end our tenure hoping that our heritage of risk-assessed audits informed by visits, conferences, talks with officials and examination of reports by other scrutinising bodies will prove useful to the Chief Inspector and that he will continue to monitor the most important areas of work which we have identified in this report.

As in past years I would like to express our thanks to officials with whom we have worked with such effect. We are especially grateful to Joe Dugdale, who has encouraged senior managers to endorse most of our challenging findings and recommendations and to the complaints teams in Croydon and Manchester, who have worked with us to identify problems and find ways to address them. It has been a great pleasure for me to work with Ram Gidoomal and Paul Acres, and to them I owe a lasting debt of gratitude for all I have learned and for all we have accomplished together.



Dr Ann Barker





## EXECUTIVE SUMMARY

### Chapter 1: A YEAR OF UNPRECEDENTED CHANGE

- Our most important finding in 2006/7 was weaknesses in systems and procedures for recording, tracking and managing formal complaints and for quality assuring management information. A forensic audit revealed a variance exceeding the materiality threshold of 10%, which undermined the analyses presented in our Annual Reports in 2005/6 and 2006/7. The PAU has worked closely with us to reconcile the database with General Registry. Nevertheless, in every quarter since the forensic audit we have continued to find significant discrepancies in data integrity.
- To assist the UK Border Agency in the management of complaints after the abolition of the CAC in July 2008, we have written an audit memorandum explaining our audit approach and methodology. It records how we have assessed risk, devised an electronic data-capture tool and collected and analysed data using metrics recording key information. The memo and a detailed Complaints Audit Planner are included in the Appendix.
- To support complaints managers across the Agency we were very pleased to share insights at a CAC conference held in central London on 17th March 2008 and to conduct a complaints audit workshop for senior complaints handlers and Home Office internal auditors in June. These events enabled us to discuss our heritage with key stakeholders and with officials from all over the UK engaged in complaints management and resolution.
- Last year we listed the risks inherent in the UK Border Agency as a shadow agency replacing the Border and Immigration Agency as a shadow agency, in UKvisas and a large part of HM Revenue and Customs being transferred to the Agency, and in the jurisdiction of the Independent Police Complaints Commission (IPCC) being extended. In this report we examine the ways the Agency has addressed these areas of risk.
- On 25th February 2008 a new complaints management system was inaugurated. Responding to our recommendation to create an holistic, unified system, a new hierarchy was established with the PAU providing guidance and quality assurance and regional Customer Service Units handling minor misconduct through informal resolution (IR) and service delivery complaints through service recovery. We have conducted two audits testing the impact of these changes.
- If data integrity has been one of our greatest concerns, the investigation of allegations of serious misconduct has been another. We commend the Agency for transferring responsibility to conduct these investigations to the PSU in Manchester. We have found evidence over two quarters that this unit is performing to high standards in regard to timeliness as well as to the quality of investigations and responses to complainants. These achievements can be found in Chapter 2.
- Our analysis of service delivery complaints from Colnbrook Immigration Removal Centre and Short-Term Holding Facility has identified significant weaknesses in systems and procedures. A report on our findings can be found in Chapter 4.

### Chapter 2: SERIOUS MISCONDUCT COMPLAINTS

- On 25th February the PSU was charged with investigating all complaints of serious misconduct by immigration officials as well as by staff employed by contractors engaged in arresting, detaining and removing failed asylum seekers. Transparent independence from any line management and/or contractual relationship with contractors has been achieved, and there have been early signs of improvements in efficiency and performance management.
- There have also been improvements in recording timelines in the past year so that we were able in quarter two of 2008 to dip-sample files for timeliness rather than to conduct a full audit.

- Timeliness has remained a major problem. On the eight-week target the percentage of files completed on time rose successively during 2007 but dropped dramatically in 2008. We have recommended since 2005 that it would be prudent to set realistic targets rather than overly ambitious ones, and the UK Border Agency revised the target in quarter one of 2008 to 12 weeks. On a consolidated basis 60% of files were completed within the new 12-week target. This figure still falls far short of Cabinet Office guidelines.
- On a consolidated basis all categories remain roughly similar to figures for 2005/6 and 2006/7 except for criminal allegations, which have fallen by half.
- There has been a notable improvement in the quality of investigations and replies. On a consolidated basis the percentage of complainants interviewed rose from 8% last year to 21%, the percentage of investigations in which evidence gathering was equitable and thorough more than doubled from 11% to 24% as did the percentage of replies which were equitable and defensible from 17% to 35%.
- Improvements in detention centre complaints were even more impressive thanks to the PSU with 39% of complainants interviewed (up from 15% last year), 32% equitable and thorough investigations (up from 13%) and 34% equitable and defensible replies (up from 11%). These strides should become even more marked once the backlog of files has been cleared.

### Chapter 3: MINOR MISCONDUCT COMPLAINTS

- In response to a ministerial directive we devised guidelines and procedures for the handling of minor misconduct complaints through a system of informal resolution (IR). These were adopted across the Agency on February 25th. The results have been a great disappointment due to a weak understanding of the rationale behind the system and poor adherence to guidance.
- As in previous quarters we assessed three-quarters of misconduct complaints to be minor and to be suitable for informal resolution. From February 25th this figure has been mirrored by UK Border Agency categorisation.
- The twin attributes of IR are the engagement of the complainant and speedy handling. Findings from the quarter two audit show that neither has been achieved: no complainants had been interviewed, and slightly over half of these complaints were completed to target.
- Officials have argued that IR will not work until there is a huge culture shift in staff attitudes to customers and complainants. If so, senior managers must take responsibility to drive this forward, as the failure of IR is an indictment of the Agency's corporate goal of becoming an outward-facing, customer-focused department of government.

### Chapter 4: SERVICE DELIVERY COMPLAINTS

- We repeated our snap-shot of service delivery complaints from all UK Border Agency departments and found that the number of complaints classified as delayed decisions was lower than in the two previous years, but the number of service delivery complaints classified as miscellaneous doubled, remaining the second largest category of these high-volume complaints.
- As part of our audit plan recorded in our last Annual Report, we undertook an analysis of complaints from Colnbrook Immigration Removal Centre and Short-Term Holding Facility. Following our own investigations we discovered that some of our main concerns had been expressed by the team from HM Inspectorate of Prisons (HMIP), who conducted an inspection of Colnbrook in June 2007, and by Focus Consultancy, who conducted an audit of race relations across the detention estate published in December 2007.

- 55% of complaints categorised as ‘other’ makes it difficult to derive any meaningful management information on such an undifferentiated subject base.
- We found only 8% of complaints substantiated. The HMIP team corroborated this finding and commented that one consequence of this low rate was a lack of confidence in the complaints system. As we have reported in the past, if complaints are not handled properly, grievances cannot be vented in a non-confrontational way. Management information derived from complaints can provide early warnings of problems and hot spots.
- We found the handling of complaints of racism flawed by miscategorisation, under-reporting, problems with confidential access and unclear audit trails. As the UK Border Agency enjoys special exemptions under the Race Relations Act, it is imperative that these complaints are handled in a transparently correct, effective and timely way. We have been assured that essential changes to the way these complaints are handled are being put in place, and we urge the Chief Inspector to monitor these amended systems and procedures.

## GLOSSARY

|                 |  |
|-----------------|--|
| BIA             | Border and Immigration Agency                        |
| Borders/E and C | Borders/Enforcement and Compliance                   |
| CAC             | Complaints Audit Committee                           |
| CFT             | Customer Focus Team (now the PAU)                    |
| CI              | Chief Inspector of Immigration                       |
| CRF             | Complaints Registration Form                         |
| CSPD            | Complaints, Standards and Performance Directorate    |
| CSU             | Customer Service Unit                                |
| ECHR            | European Convention on Human Rights                  |
| HMIP            | Her Majesty's Inspectorate of Prisons                |
| IND             | Immigration and Nationality Directorate              |
| IPCC            | Independent Police Complaints Commission             |
| IR              | informal resolution                                  |
| ISCRU           | Immigration Service Customer Relations Unit          |
| ISMSWT          | Immigration Service Management Support Workflow Team |
| OSU             | Operational Support Unit (subsumed into the PSU)     |
| PAU             | Performance Assurance Unit (formerly CFT)            |
| PSU             | Professional Standards Unit (formerly OSU)           |

## Chapter 1 A YEAR OF UNPRECEDENTED CHANGE

This Annual Report covers our third and last year as an advisory committee. It has been a time of unprecedented change in the UK Border Agency and in the way complaints are handled. The UK Border Agency as a shadow agency has replaced the Border and Immigration Agency as a shadow agency; UKvisas and a large part of HM Revenue and Customs have been transferred to the Agency; and jurisdiction of the Independent Police Complaints Commission (IPCC) has been extended. Most importantly for the Complaints Audit Committee (CAC), a new complaints management structure has been inaugurated and the Chief Inspector has assumed the remit of the Committee. Exercising our function of auditing systems and procedures in complaints handling, identifying weaknesses and bringing them to the attention of senior management has been exceptionally challenging in the midst of such organisational flux.

Last year we listed the risks inherent in these changes and identified the specific ways they impacted on complaints processing. In this report we shall examine the ways the Agency addressed these areas of risk. Our most important finding in 2006/7 was weaknesses in systems and procedures for recording, tracking and managing formal complaints and for quality assuring management information. A forensic audit revealed a variance exceeding the materiality threshold of 10%, which undermined the analyses presented in our Annual Reports in 2005/6 and 2006/7.

In response to this major problem we made recommendations aimed at resolving the underlying weaknesses.

We are delighted to report that the Performance and Assurance Unit (PAU) worked closely with the CAC to reconcile the database with General Registry as of quarter one of 2007. However, in every quarter since the forensic audit we have continued to find significant discrepancies in data integrity. We remain concerned that these disparities should have been identified by management before records were sent to us for audit. We have strongly recommended that a data reconciliation exercise should be repeated until three successive quarters show no material discrepancies so that confidence can be restored in the system.

As our legacy we have written an audit memorandum explaining our audit approach and methodology. It records how we have:

- assessed risk;
- devised our electronic data-capture tool; and
- collected and analysed data using metrics recording:
  - audit trail
  - data integrity and assurance
  - timeline
  - categorisation
  - statutory compliance with equality legislation
  - complaints relating to arrest team cases arising from Sections 128–138 of the Immigration and Asylum Act 1999.

It also provides guidance on how we have used free-flowing text fields for

unlimited comment on good practice, problems and recommendations. It cites our wide-ranging sources of information and offers a detailed Complaints Audit Planner for use by the PAU, the Chief Inspector, internal auditors and senior management. The memo titled CAC Audit Approach and Methodology is included in the Appendix.

We were very pleased to share insights gleaned over the past three years at a CAC conference held in central London on 17th March 2008 and to conduct a complaints audit workshop for senior complaints handlers and Home Office internal auditors in June. The conference provided a venue at which key stakeholders and officials from throughout the regions and business areas of the UK Border Agency could learn more about newly introduced systems as well as share problems and best practice. Lin Homer, Chief Executive, outlined the work of the Chief Inspector, key stakeholders challenged her about senior management's response to information obtained through analyses of complaints and we instructed participants in our audit approach and methodology. This event generated useful feedback to the PAU and provided support for new regional complaints managers. We are grateful to Joe Dugdale, Director of Human Resources and Organisational Development, for sponsoring this event, enabling us to discuss our heritage with stakeholders and hold a dialogue with officials from all over the UK engaged in complaints management and resolution.

On 25th February 2008 a new complaints management procedure was inaugurated, and we have been able to

conduct one audit testing its effect on systems and procedures. Responding to our recommendations to create an holistic, unified system, a new hierarchy was established with the PAU providing guidance and quality assurance, regional Customer Service Units (CSUs) handling minor misconduct and service delivery complaints, and the Professional Standards Unit (PSU) handling all serious misconduct complaints.

The challenges facing the PAU are clear and substantial. Its new remit is to promote consistency and quality in complaints handling across the Agency and to work with business areas to drive up performance. Addressing the critical role of quality assurance will entail addressing fundamental weaknesses in data integrity by ensuring that files are presented for audit in the quarter they are completed, that file numbers are reconciled with General Registry

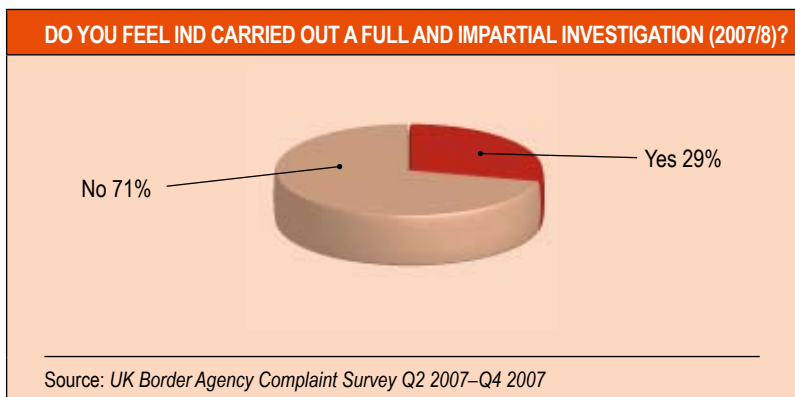
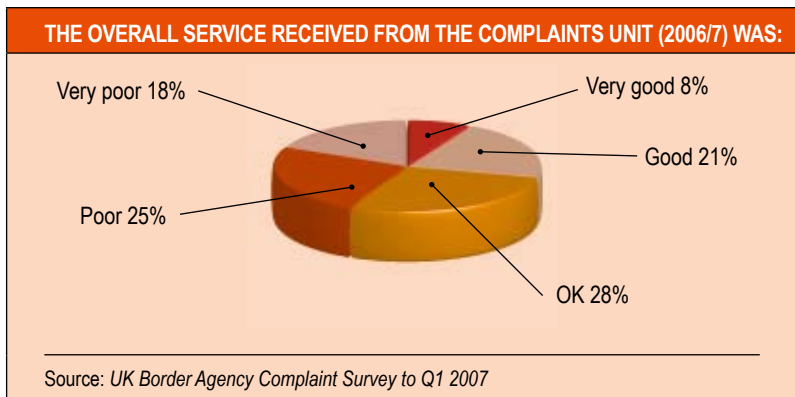
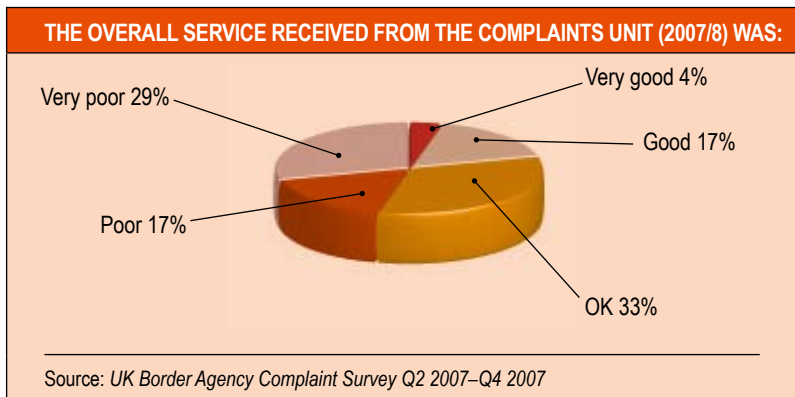
and the regions, that a clear audit trail is maintained, and that the risk of duplicates, missing files and poor data entry is thereby minimised. Our audits indicate that the risk of qualified audits by the Chief Inspector's team remains high and vigilance will be required to ensure the quality and integrity of complaints management information.

A key element in the new complaints system is the creation of CSUs in the regions and non-devolved business areas including Border Force and the detention estate. The CSUs are tasked with receiving, acknowledging, and categorising all complaints, and with sending those alleging serious misconduct to the PSU, those relating to failures in service delivery to local managers to handle in terms of service recovery and those alleging minor misconduct to local managers to handle through informal resolution

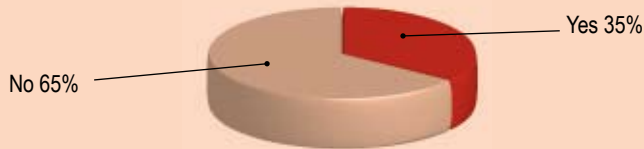
(IR). We report on serious misconduct complaints in Chapter 2 and minor misconduct complaints handled through IR in Chapter 3. We have not audited the way CSUs are handling service delivery complaints due to their relatively low risk to the UK Border Agency and to our relatively limited resources. We have, however, examined how service delivery complaints are handled in the detention estate, as these can potentially pose higher risks and as a consequence have merited our attention. This can be found in Chapter 4.

The test of any complaints system is the satisfaction of customers. The UK Border Agency Complainant Survey changed in format in 2008, and it is drawn from a very small sample. However, figures for quarters two through four of 2007 compared with those up to quarter one of 2007 are telling.

An 11% rise in those rating the UK Border Agency's complaints handling as very poor and an 8% fall in those rating the services as good or very good is a cause of concern.

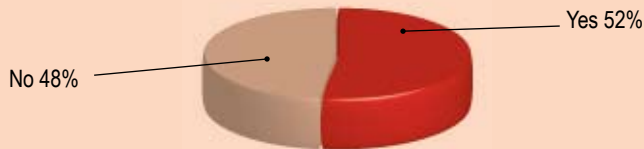


**DO YOU FEEL IND CARRIED OUT A FULL AND IMPARTIAL INVESTIGATION (2006/7)?**



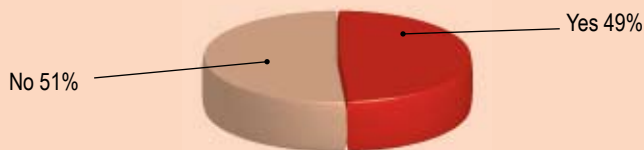
Source: UK Border Agency Complaint Survey to Q1 2007

**DO YOU FEEL IND TOOK THE INVESTIGATION SERIOUSLY (2007/8)?**



Source: UK Border Agency Complaint Survey Q2 2007–Q4 2007

**DO YOU FEEL IND TOOK THE INVESTIGATION SERIOUSLY (2006/7)?**



Source: UK Border Agency Complaint Survey to Q1 2007

We are disappointed to end this section of our final Annual Report by alerting senior officials to indications of rising discontent and continuing failures to meet published targets for complaints resolution. Both should ring alarm bells for an Agency aspiring to improve customer relations. Weaknesses in systems and procedures in complaints management across the Agency sap public confidence and deprive officials of invaluable management information. We recognise that the UK Border Agency is in a state of flux and that it will remain so over the coming year. Nevertheless, we urge all directors and senior managers to grapple with endemic and enlarging problems and to ensure that weaknesses do not become embedded in new systems and procedures for complaints management. We also urge the Chief Inspector to include performance-to-target in his inspections and to consider devising measures of customer satisfaction on the basis of complaints management for his inspections.



## Chapter 2 SERIOUS MISCONDUCT COMPLAINTS

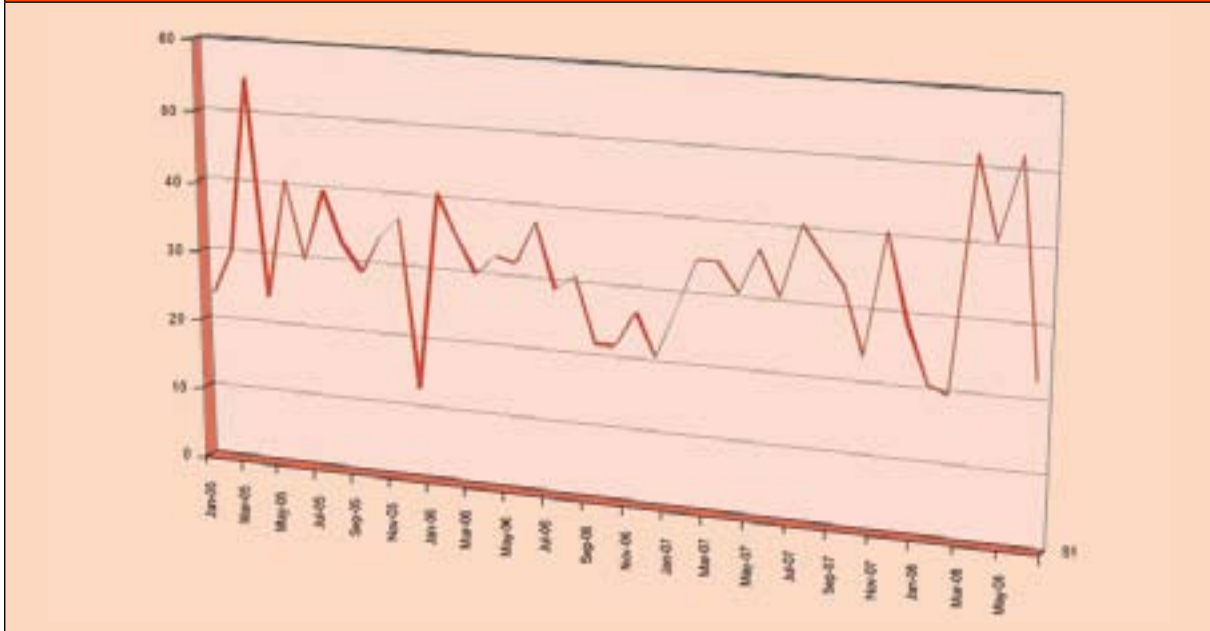
We are very pleased that senior executives have responded to one of our most important recommendations over the past three years and directed the transfer of responsibility for the investigation of all serious misconduct complaints to a small team of properly selected, trained and monitored investigators. On 25th February 2008 the PSU in Manchester was charged with investigating all complaints of serious misconduct by immigration officials as well as by staff employed by contractors engaged in arresting, detaining and removing failed asylum seekers. Resources have been consolidated and appropriately targeted at complaints arising from these high-risk activities. Equally importantly, transparent independence from any line management and/or contractual relationship with contractors has been achieved. This important reform has signalled improvements in systems and procedures for the management of serious misconduct complaints.

On the plus side there are potential gains in efficiency and performance management as well as in independence:

- Each case is to be managed by one case-owning investigator who examines every aspect of a complaint from the casework process to enforcement action to detention and then removal. Previously, investigations have been difficult to conduct, manage and monitor as a consequence of different teams focusing on different parts of the process.
- The unit provides a single point of contact for all relevant groups including the IPCC, detention services and regional CSUs.
- Greater Manchester Police are assisting with police support, which should promote better links with forces handling criminal investigations in tandem with UK Border Agency complaints investigations.
- Investigators are being given appropriate training, for example in Police National Investigative Interviewing Skills, and specific written guidance is being provided to ensure consistency of approach and performance to required standards and to enable team members to undertake IPCC managed or supervised investigations.
- Monitoring performance to targets is facilitated by making one team accountable for recording all casework information and providing an accurate audit trail.
- Supporting the implementation of improvements across the Agency is buttressed by conducting quarterly and annual audits, by identifying and analysing statistics on case management as well as key generic issues, by making recommendations aimed at addressing these matters and by circulating this information throughout the Agency by means of quarterly reports.

On February 25th systems and procedures for complaints management underwent a fundamental change. The most salient change has been the division between serious and minor misconduct complaints and the implementation of informal resolution as the mode of handling the latter. These will be considered in Chapter 3. Although the overall number of misconduct complaints has increased, the number of serious misconduct complaints requiring a full investigation has been reduced. Between 25th February and 30th June 2008, 177 complaints were received. 25% were serious misconduct complaints and 75% were minor misconduct complaints handled through IR. This emerging picture is consistent with our audit findings from previous quarters.

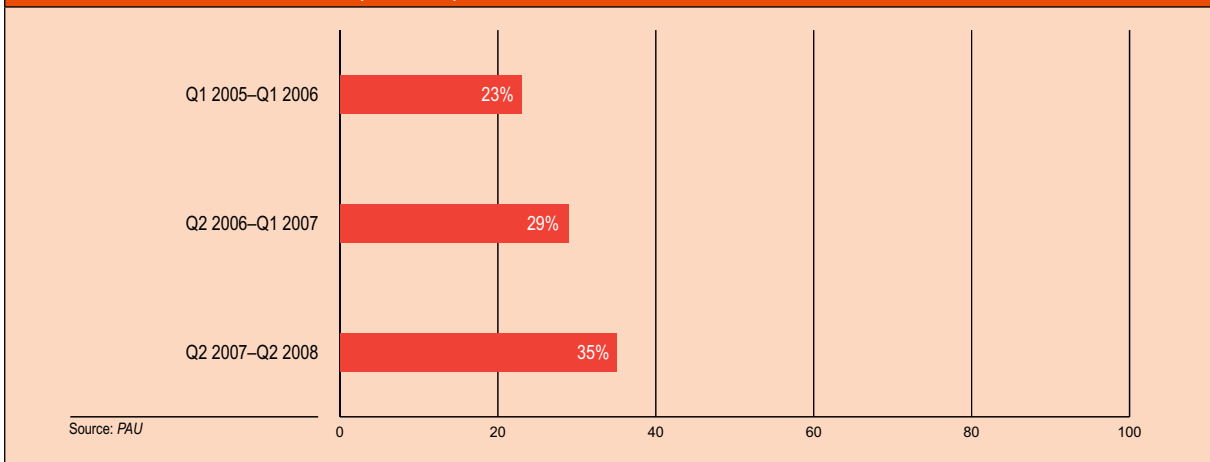
### MISCONDUCT COMPLAINT FILES OPENED BY MONTH



There have been improvements in performance in complaints handling over the past year. We have found no material discrepancies between the PAU timeline and our own quarter by quarter. This has enabled us to cease auditing all files for timeliness and instead to dip-sample just over 50%.

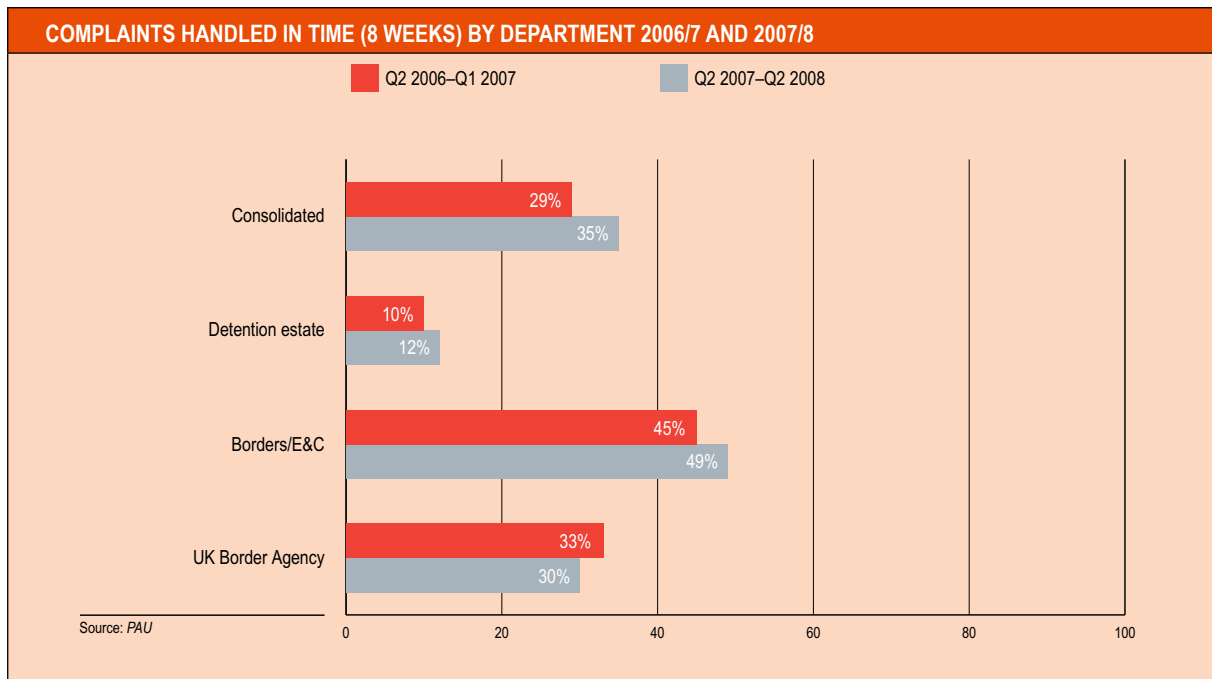
As in past years timeliness has been a major problem. There has been an improvement year on year rising from 23% in 2005/6 handled in time to 35% in 2007/8 as shown in the chart below. However, performance is well below Cabinet Office guidelines.

### COMPLAINTS HANDLED IN TIME (8 WEEKS) 2005-2008



We drilled down timeline data by department in 2006/7 and a comparison with 2007/8 shows marginal improvement overall with

very poor performance in the detention estate and a marginal decline for the UK Border Agency.

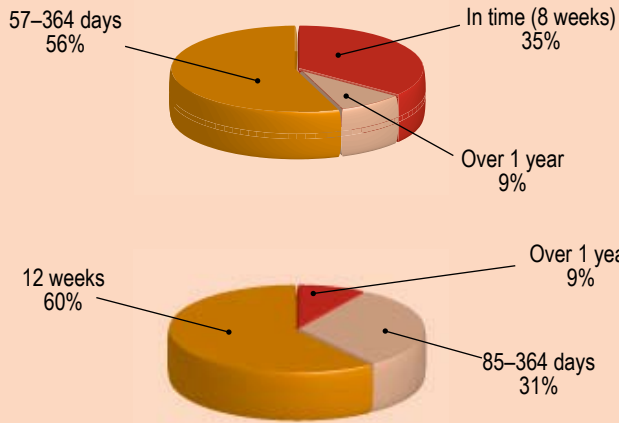


In the first quarter of 2008 a revised target of twelve weeks was inaugurated. The more generous figure was a response to our advice to adjust targets to reflect realistic goals and to revise

them as improvements in systems and procedures lead to improvements in performance. Figures for the eight and twelve week targets are shown for

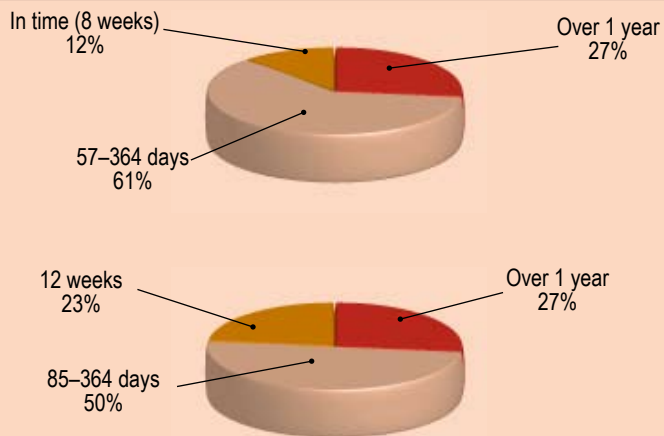
quarter two of 2007 to quarter two of 2008 to provide consistent criteria for comparison. There was considerable variation in business areas.

### CONSOLIDATED COMPLAINTS TIMELINE



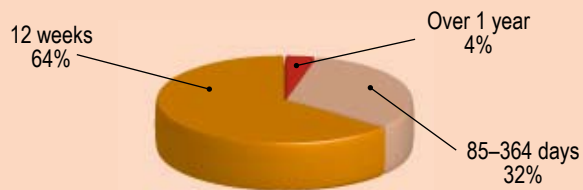
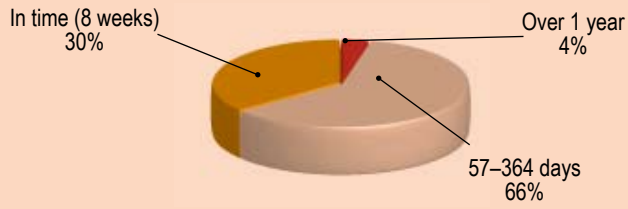
Source: PAU: Q2 2007-Q2 2008 (408 files)

### DETENTION ESTATE TIMELINE



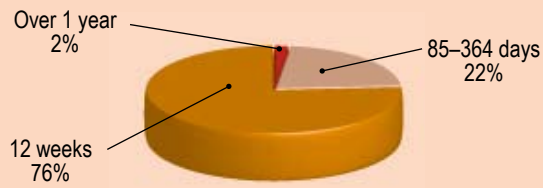
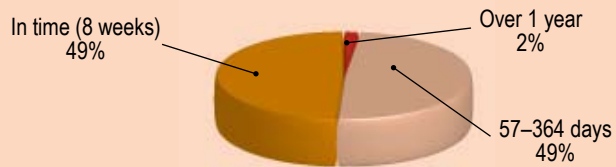
Source: PAU: Q2 2007-Q2 2008 (100 files)

### UK BORDER AGENCY TIMELINE



Source: PAU: Q2 2007-Q2 2008 (99 files)

### BORDERS/E&C TIMELINE



Source: PAU: Q2 2007-Q2 2008 (209 files)

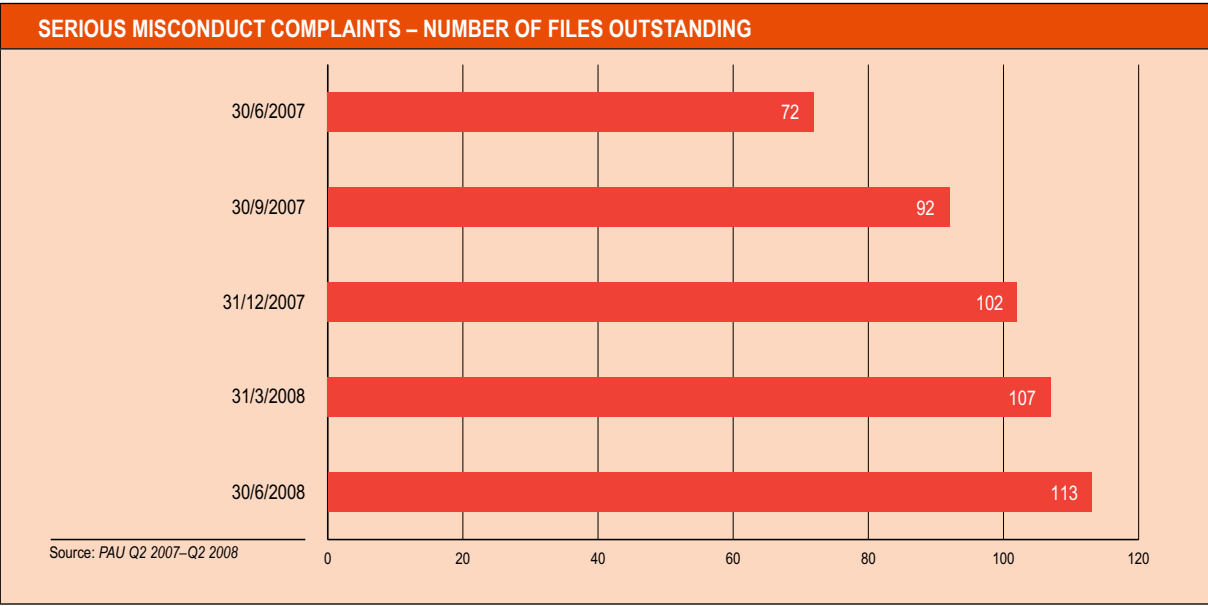
Following the forensic audit conducted last year we requested the PAU to provide us with a list of open files at the end of every quarter to ensure that all files are accounted for properly. This has enabled us to conduct an age analysis of outstanding serious misconduct

complaints from quarter two of 2007 through quarter two of 2008. On the twelve-week target, this shows that:

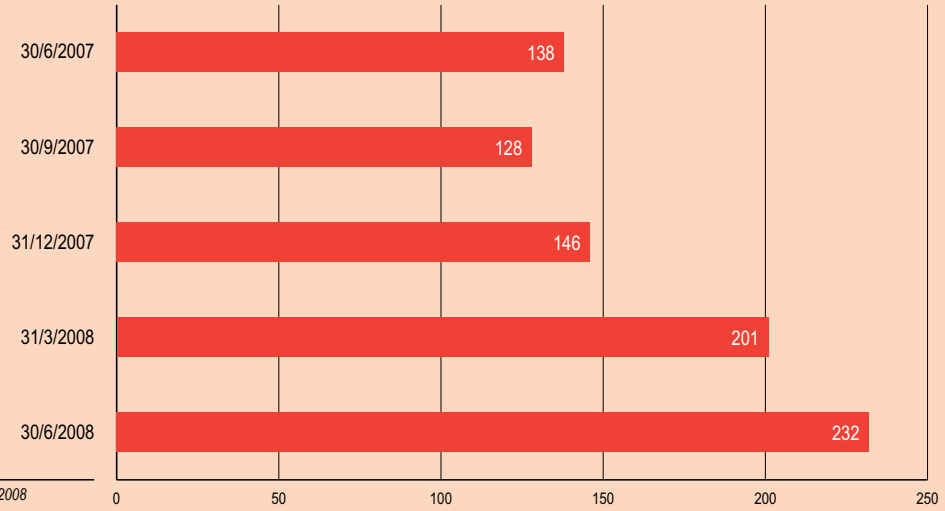
- on a consolidated basis the percentage of open files rose from 43% to 73% with a very high average

delay of 232 days at the end of the period;

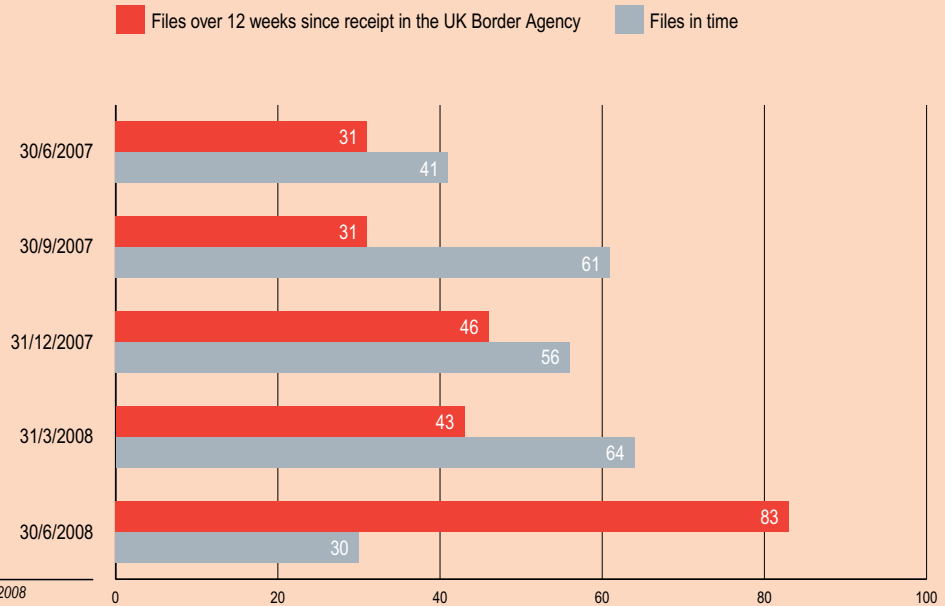
- on a breakdown the PAU's outstanding files rose from 58% to 100% and Borders/Enforcement and Compliance from 20% to 91%.



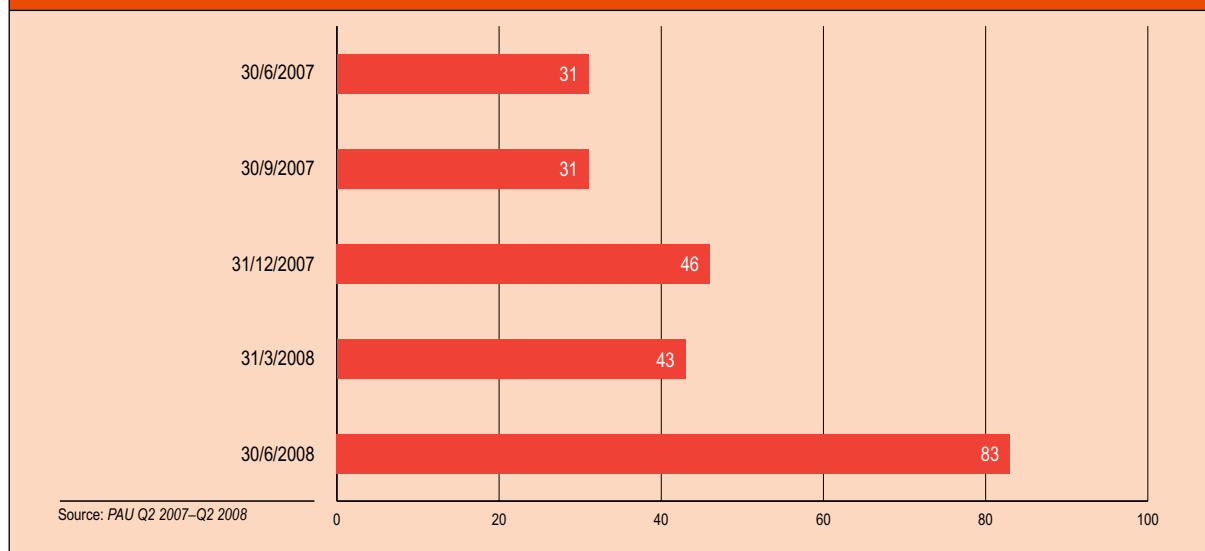
### SERIOUS MISCONDUCT COMPLAINTS (AVERAGE DAYS OUTSTANDING)



### ANALYSIS OF FILES ALREADY OUT OF TIME COMPARED WITH TOTAL FILES OUTSTANDING AT THE END OF EACH QUARTER



### ANALYSIS OF OUTSTANDING SERIOUS MISCONDUCT FILES OUT OF TIME (12 WEEKS) AT THE END OF EACH QUARTER



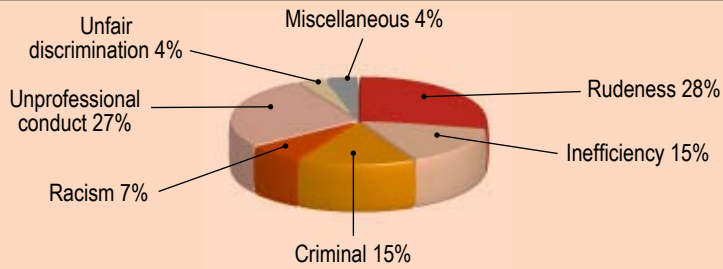
A similar breakdown of detention service complaint files has been impossible to derive, as the figures have been severely distorted by the number of files not being reported in the appropriate quarter. Between quarter two of 2007 and quarter two of 2008 we were advised that the number of open files ran to 2, 4, 4, 26 and 81 respectively. By quarter two of 2008 a third of the 81 files had been outstanding since the end of 2007 but were only reported to us as such in July 2008 following our persistent enquiries since the forensic audit. We are concerned that any management

information reported to the Executive Board and to the Minister may be seriously compromised. We asked for sight of the detention service risk assessment of all overdue files to assure ourselves that systems and procedures are in place to assess the level of risk to which the UK Border Agency may be exposed and that these complaints have been appropriately allocated for investigation. This risk assessment has not been provided.

The PAU has undergone a fundamental change to its remit since 25th February 2008, and this should be taken into consideration when weighing performance. Nevertheless, none of the timeline results approaches Cabinet Office guidelines, and all are a source of considerable concern. Timeline Key Performance Indicators have quite correctly been built into the new systems and procedures inaugurated this spring, and it will remain imperative that the PAU, the PSU and the regional CSUs monitor performance to target.

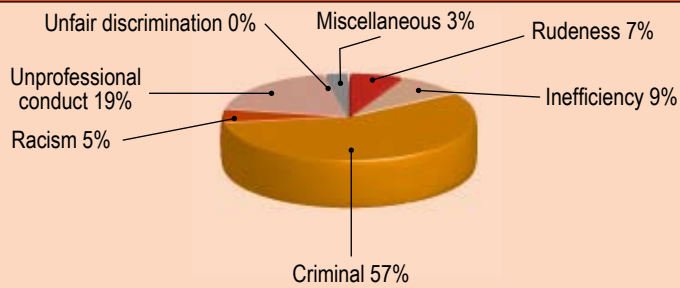


### CONSOLIDATED COMPLAINTS CATEGORIES



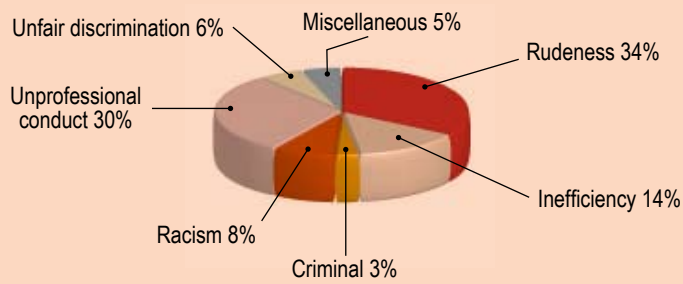
Source: PAU Q2 2007–Q2 2008

### DETENTION ESTATE COMPLAINTS CATEGORIES

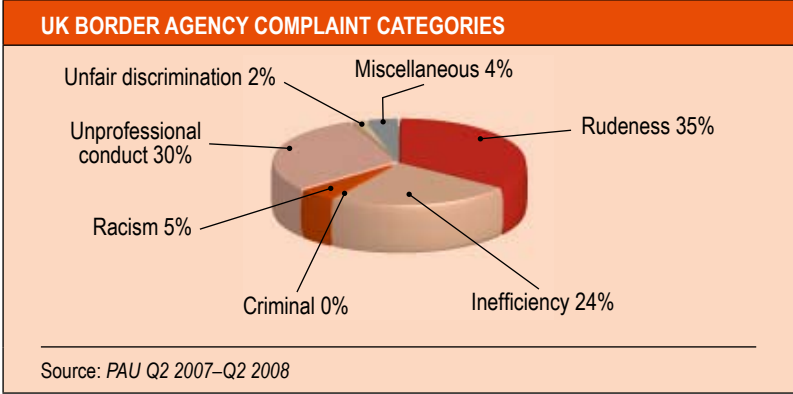


Source: PAU Q2 2007–Q2 2008

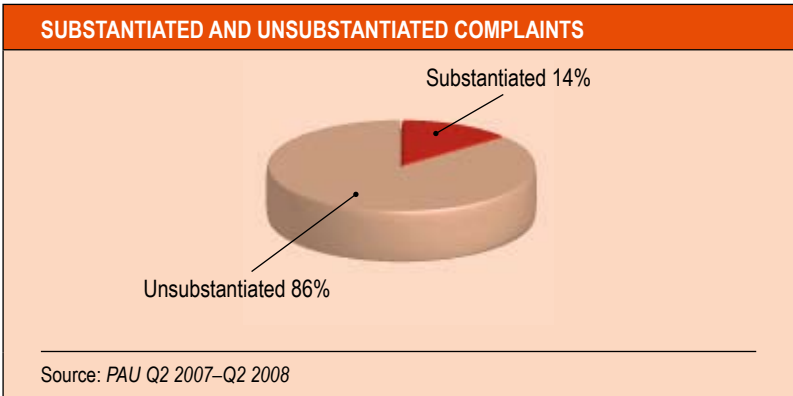
### BORDERS/E&C COMPLAINTS CATEGORIES

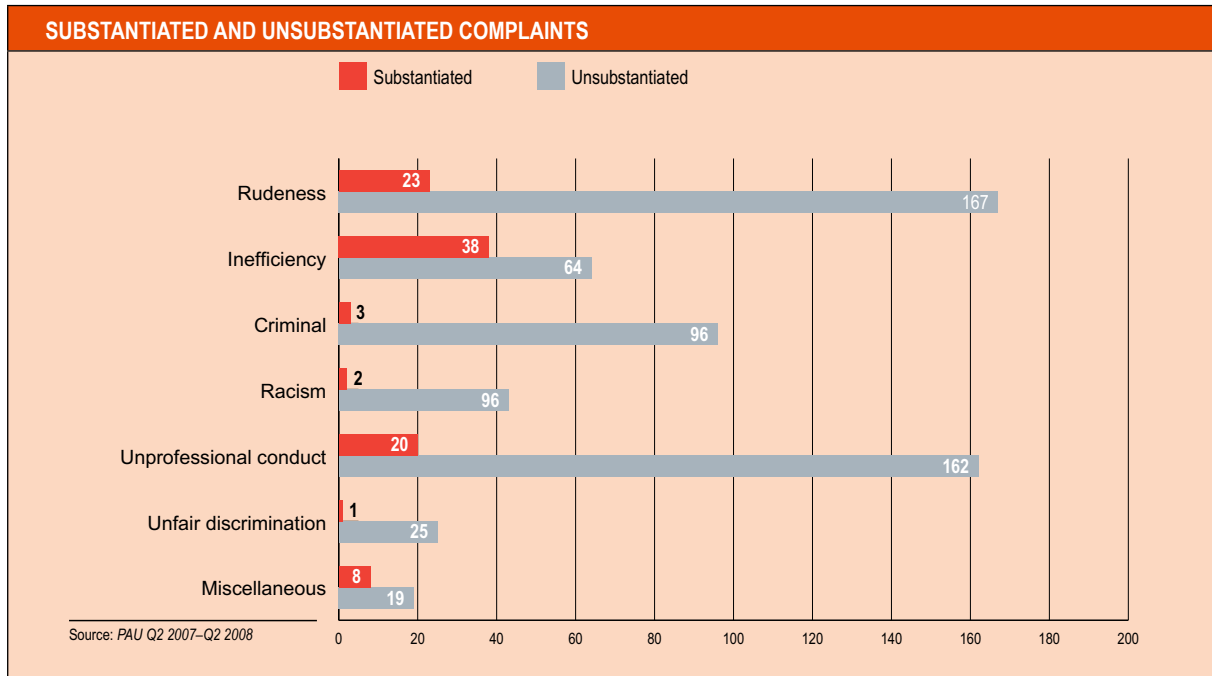


Source: PAU Q2 2007–Q2 2008



- The profile of detention centre misconduct complaints differs markedly from that of other business areas in the UK Border Agency with 7% registered as rudeness, 19% as unprofessional misconduct, 5% as racism, no unfair discrimination and 57% as criminal allegations.
- Borders registered 34% as rudeness, 30% as unprofessional conduct, 8% as racism, 6% as unfair discrimination and 3% as criminal allegations.
- The PAU registered 35% as rudeness, 30% as unprofessional conduct, 5% as racism, 2% as unfair discrimination and no criminal allegations.
- On a consolidated basis the percentage of inefficiency is 15%, less than half the figure for 2006/7, and unprofessional conduct at 27% is double that from 2006/7. All other categories remain roughly similar to figures for both 2005/6 and 2006/7, as can be seen in the charts below.





The number of complaints substantiated on a consolidated basis runs to rudeness at 12%, inefficiency at 37%, unprofessional conduct at 11%, racism at 4% and criminal allegations at 3%. In successive Complainant Surveys customers have reported their anxiety that they were wasting their time complaining when the outcome seemed certain to be negative. It is interesting to note the parallel between the above figures and the perceptions of complainants as highlighted in successive complainant surveys. We have been informed that a new complainant survey is being designed, and we have recommended to the Chief Inspector that he look carefully at the new survey as well as other mechanisms for ascertaining customer perceptions about the Agency's responsiveness to their complaints.

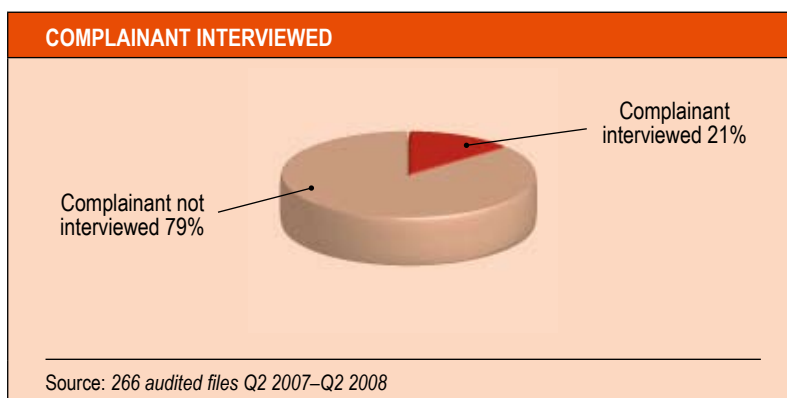
The quality of investigations and replies has been one of our major concerns throughout our tenure on the CAC. Notable improvements can be seen in the figures for 2007/8:

- On a consolidated basis rates of meeting the criteria for good investigations and defensible letters to complainants explaining outcomes have risen, but the figures remain very low on the scale of good complaints management:
  - The percentage of complainants interviewed was 21% (up from 8% in 2006/7).
  - 24% of evidence gathering was equitable and thorough (up from 11% in 2006/7).
  - 35% of replies were equitable and defensible (up from 17% in 2006/7).

● The rates for complainants interviewed are significantly improved now that the PSU manages all cases. Of the cases the PSU dealt with in quarter two of 2008, 79% of complainants were interviewed. Between quarter two of 2007 and quarter two of 2008:

- 39% of complainants were interviewed (up from 15% in 2006/7).
- 32% of evidence gathering was equitable and thorough (up from 13% in 2006/7).
- 34% of replies were equitable and defensible (up from 11% in 2006/7).

With the predicted reductions of the backlog of detention estate complaints, performance should improve substantially, as the evidence in new cases referred to the PSU indicates that investigations are being fully and properly conducted and that replies to complainants are defensible.



### SUITABLE FOR INFORMAL RESOLUTION



Source: 266 audited files Q2 2007–Q2 2008

### EVIDENCE GATHERING



Source: 266 audited files Q2 2007–Q2 2008

### QUALITY OF REPLY



Source: 266 audited files Q2 2007–Q2 2008

### DETENTION ESTATE COMPLAINANT INTERVIEWED



Source: 97 audited files Q2 2007–Q2 2008

### DETENTION ESTATE EVIDENCE GATHERING



Source: 97 audited files Q2 2007–Q2 2008

### DETENTION ESTATE QUALITY OF REPLY



Source: 97 audited files Q2 2007–Q2 2008

## Chapter 3 MINOR MISCONDUCT COMPLAINTS

As reported previously, the CAC was asked by the Minister to develop a system for the informal resolution of minor misconduct complaints in 2005. In response we devised guidelines and procedures which formed the basis of the system piloted in 2006, modified in 2007 and rolled out across the Agency on 25th February 2008. In quarter two of 2008 we audited all files handled through this speedy, cost-effective method of complaints handling.

IR is intended to streamline the management of misconduct complaints to the satisfaction of complainants. It is only appropriate for allegations of minor misconduct, and it is only appropriate when complainants have agreed to it. The critical element of the procedure, which should guide the process and safeguard the principle of resolution, is that the investigating officer should seek the complainant's agreement first to the process and second to an action plan, the delivery of which should informally resolve the issue to the complainant's satisfaction without recourse to a full, formal investigation.

Our principal audit findings were:

- 83% of cases were suitable for IR but 17% were not, as they involved allegations of serious misconduct such as racism, which should have been fully investigated.
- In no cases were guidance and procedures followed properly.
- 5% of complainants were consulted and agreed to IR.
- Action plans were devised and followed in less than 1% of cases.

- 55% of cases were completed to time targets.

These figures are a great disappointment. They demonstrate a weak understanding of the rationale behind the system and poor adherence to guidance.

In many cases the appropriate forms were not used and the audit trail was therefore difficult to follow. Officials appear simply to have categorised complaints as minor misconduct and resolved them without any evidenced recourse to the complainant and without the complainant's agreement. Instead of contacting the complainant and together devising an action plan, officials made cursory enquiries of officials against whom the complaint was lodged and accepted their account of events. They failed to seek corroboration of the official's version either by speaking with any witnesses or by challenging the official subject to complaint with the complainant's rendition of what occurred. They then wrote short letters to complainants informing them of the outcome of this superficial examination of their concerns.

We found that some complaints ostensibly resolved through IR were, in fact, formally investigated. Managers at call centres, for example, listened to the telephone conversation giving rise to the complaint, played it to the official subject to complaint and discussed issues raised by the complainant. In many of these cases further training was offered to the official and a letter of apology was sent to the complainant. The outcomes may have satisfied complainants, but failure to contact them in line with official policy

made it impossible to determine their reaction.

The IR procedure followed by officials during quarter two of 2008 was flawed in two fundamental ways. First, it did not engage the complainant in the resolution process by giving him/her the opportunity to discuss the problem and agree an action plan, which is the essence of IR and which is the intended basis of improved customer satisfaction. Second, it may ostensibly have offered a sensible way to manage some kinds of minor misconduct such as those arising from call-centre complaints, but in these cases the mode of resolution should have been labelled 'formal investigation' and brought up to that standard, rather than being labelled as 'informal resolution' when the procedure for this was ignored.

Like the pilot in 2006, the roll-out across the Agency in 2008 has demonstrated weak commitment to the principle and practice of IR. Officials have rationalised poor performance-to-standard by arguing that IR could only be viable if a huge culture shift effects fundamental changes in staff attitudes to customers and complainants. This may be so, but if true, it would be an indictment of the Agency's corporate goal of becoming an outward-facing, customer-focused department of government.

MINOR MISCONDUCT COMPLAINTS  
AUDIT FINDINGS, QUARTER TWO 2008

|                             | Number of files | %  |
|-----------------------------|-----------------|----|
| Out of time                 | 27              | 45 |
| In time                     | 33              | 55 |
| Appropriate for IR          | 50              | 83 |
| IR explained                | 3               | 5  |
| Action plan agreed          | 2               | 3  |
| Staff informed of complaint | 4               | 7  |
| Action plan followed        | 2               | 3  |
| Completed in 15 days        | 33              | 55 |
| Staff notified of outcome   | 7               | 12 |
| Complainant satisfied       | 0               | 0  |



## Chapter 4 SERVICE DELIVERY COMPLAINTS

### SERVICE DELIVERY COMPLAINTS – THE DETENTION ESTATE

As part of the annual audit plan recorded in the recommendations listed in our Annual Report for 2006/7, we undertook an analysis of complaints from Colnbrook Immigration Removal Centre and Short-Term Holding Facility over the past year. This raised serious concerns about the recording, categorisation and mode of resolution not only of service delivery complaints, but also of misconduct complaints. In line with our remit, we identified weaknesses in the Detention Service Order 09/06 procedures and have made recommendations with a view to improving systems and procedures for managing complaints and mitigating risks.

Following our own investigations we discovered that some of our main concerns had been expressed by the team from Her Majesty's Inspectorate of Prisons (HMIP), who conducted an unannounced inspection of Colnbrook in June 2007 and published their report in November. We also found corroboration in an audit of race relations across the detention estate, which was commissioned by the head of Detention Services, conducted by Focus Consultancy between January and March 2007, completed in July and published in December 2007. Both reports provide evidence to support our findings of confusion over categorisation, the limited use of the confidential access provision for reporting serious allegations of misconduct, evidence of complaints of racism being mishandled, poor investigations and lack of a proper audit trail.

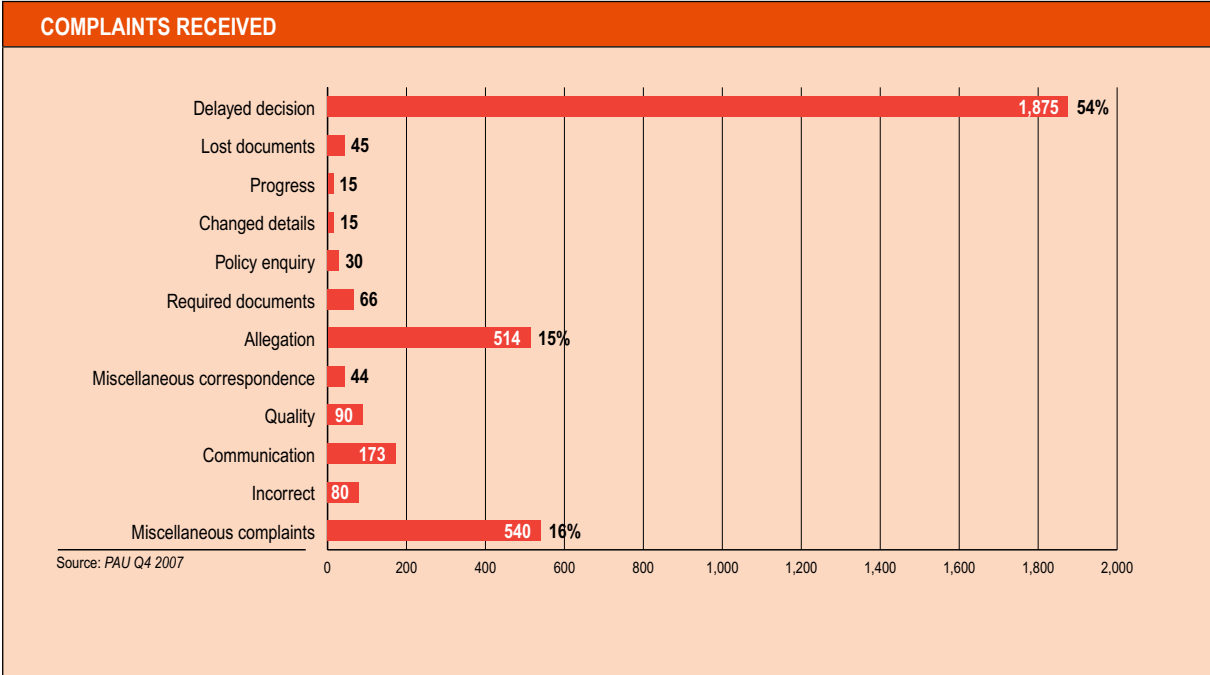
The findings from Colnbrook were as follows:

- 55% of complaints were categorised as 'other'. It would be difficult to derive meaningful management information on such an undifferentiated subject basis.
- 8% of complaints were substantiated. We found corroboration of this finding from the HMIP team, who commented that one consequence of this low rate was a lack of confidence in the complaints system, and from the Focus Consultancy team, who observed that detainees at Colnbrook feared reprisals for complaining and preferred direct confrontation with staff, as this prompted an immediate response. These views support our often-repeated advice that complaints can provide a double benefit to the Agency: they offer a channel through which grievances can be vented, and management information derived from complaints can be used as early warnings of problems and hot spots. If detainees believe that complaining works against them, and if they conclude that confrontation is a more effective means of expressing their concerns and frustrations, the risk of disturbance in the detention estate may rise.
- Only two complaints were registered through confidential access and were properly referred to the Operational Support Unit (OSU) (subsequently subsumed into the PSU) in the first eleven months of 2007. This would appear to reflect flawed recording procedures, as we also found three allegations of assault by staff and eight of bullying, which were not treated appropriately. The Focus Consultancy team offered evidence to support this conclusion after finding that allegations of bullying and racist abuse by officers were common. The HMIP team also found evidence to confirm this view after discovering three complaints of threatened violence, which had been neither investigated nor forwarded to the OSU. As confidential access was designed to provide a means of communicating serious allegations to Agency officials without interference from contract staff, the under-use of this mode of registering complaints is a problem which must be addressed if the system is to operate effectively.
- In the absence of clear audit trails, it is impossible for us to quantify the level of under-reporting. Nevertheless, it would be unwise to ignore the evidence from several sources that trust in the process, which supports any viable complaints system, has been undermined by suspicion of negative outcomes and fear of reprisals. As the Focus Consultancy team advised, the absence of complaints does not necessarily mean a 'happy' centre. It could mean a 'repressed' centre.

Complaints of racism have caused us concern, as failures to report and investigate them fully may leave the UK Border Agency liable to prosecution under the Race Relations Act and to other anti-discrimination legislation. We have learned of special problems in the detention estate, where complaints forms have a tick box marked 'racism' and where officials believe that racism has been widely used as an inappropriate

add-on to service delivery complaints, such as a detainee claiming that he had been served cold food because of his ethnic origin. We have reservations about the accuracy of this view in light of Sir William MacPherson's definition of a racist incident as 'any incident which is perceived to be racist by the victim or any other person'. As we do not routinely audit service delivery complaints, we cannot calculate the extent of alleged misuse of the term 'racist'. However, we should have been given all misconduct complaints alleging racism. We received only four complaints of racism from Colnbrook in 2007. This would appear to be a low number of potential complaints according to evidence collected by the HMIP team, whose survey yielded the information that 18% of those detainees who responded to their questionnaire said that they had been victimised by staff on the basis of their nationality and 15% said that they had been victimised on the basis of their ethnic or cultural origin.

To address miscategorisation, under-reporting, problems with confidential access and unclear audit trails we have urged officials to reconsider the mechanism for handling complaints of racism within the detention estate. Since October 2006 they have been handled by the Race Relations Liaison Officer of the relevant contractor. Senior officials have joined us in voicing concern that serious complaints such as allegations of assault aggravated by racism have been handled as service delivery complaints and as a consequence have not been properly managed. Transferring investigations to the PSU team would ensure proper, independent investigation and reduce the scope both for civil liability and for unchallenged racist behaviour by contract staff. As the UK Border Agency enjoys special exemptions under the Race Relations Act, it is all the more imperative that these complaints are handled in a transparently correct, effective and timely way.



| SERVICE DELIVERY COMPLAINTS BY DEPARTMENT SENT TO |              |              |              |
|---|--------------|--------------|--------------|
|   | Q4 2005      | Q4 2006      | Q4 2007      |
| Asylum Immigration Tribunal                       | 134          | 5            | 8            |
| Appeals   | 0            | 137          | 85           |
| Asylum  | 74           | 466          | 562          |
| Complaints  | 0            | 19           | 36           |
| Detention   | 0            | 1            | 5            |
| European  | 0            | 50           | 27           |
| Freedom of Information                            | 4            | 2            | 3            |
| <b>Managed Migration</b>                          | <b>1,264</b> | <b>644</b>   | <b>1,223</b> |
| <b>ISMSWT<br/>(Borders and Enforcement)</b>       | <b>1,454</b> | <b>1,168</b> | <b>693</b>   |
| National Asylum Support Service                   | 5            | 12           | 15           |
| Nationality                                       | 49           | 47           | 87           |
| Other   | 40           | 273          | 314          |
| Policy  | 1            | 8            | 7            |
| UKvisas   | 49           | 147          | 110          |
| Work Permits UK                                   | 22           | 78           | 0            |
| <b>Total Service Delivery Complaints</b>          | <b>3,096</b> | <b>3,057</b> | <b>3,175</b> |

Source: PAU sample from quarter four 2005, quarter four 2006 and quarter four 2007

## SERVICE DELIVERY COMPLAINTS FOR ALL DEPARTMENTS

### Snapshot quarter four 2008 (source: PAU)

We replicated the snapshot of service delivery complaints which we took in quarter four of 2005 and again in 2006 and which we presented in our previous Annual Reports. We looked at volumes, timelines and types of complaints. Despite our reservations about data integrity and the validity of any analysis derived, we have used the figures supplied to us to highlight any significant trends.

As in 2005/6 and 2006/7 we found that the two largest recipients of service delivery complaints were Borders and Enforcement and Managed Migration. We noted that the number of cases classified as delayed decisions was lower than in the previous two years: 54% as compared with 69% in 2006/7 and 90% in 2005/6. However, we are concerned to note that nearly one in six (16%) of service delivery complaints are classified as miscellaneous and that this continues to be the second largest category of these high-volume complaints (an increase from one in eight in quarter four of 2006).

Chapter 5 COMPLAINTS AUDIT COMMITTEE ROLLING REGISTER OF RECOMMENDATIONS

| NO. | AUDIT PERIOD   | RECOMMENDATION  | STATUS   | PRIORITY |
|-----|----------------|---|--|----------|
| 1   | Q1 and Q2 2005 | The CAC should audit a sample of operational complaints so that we may be satisfied as to the effectiveness of the procedures for investigating these complaints and may draw the UK Border Agency's management's attention to any weaknesses in these procedures and to any quality of service deficiencies within established procedures and working practices. | Accepted.  | ●        |
| 2   | Q1 and Q2 2005 | We recommend that CCTV cameras be installed in all public areas in UK Border Agency facilities, detention centres and escort vans.  | Accepted.  | ●        |
| 3   | Q3 2005        | Service delivery complaints to be handled on a simple, swift service recovery basis through which complaints are acknowledged but primary action is directed towards resolving the service failure which prompted the complaint.  | Accepted.<br>Guidance has been formulated and procedures were implemented on 25th February 2008. However, we remain concerned about correct categorisation and escalation procedures and will continue to audit the implementation of systems and procedures. This should be monitored by the Chief Inspector from September 2008. | ●        |
| 4   | Q1 and Q2 2005 | We recommend that all asylum interviews be tape-recorded and video-recorded.  | Accepted.  | ●        |
| 5   | Q1 and Q2 2005 | We recommend that systems be put in place to ensure that detainees are fully and properly informed of complaints procedures.  | Accepted.  | ●        |
| 6   | Q1 and Q2 2005 | We recommend that complaint forms are readily available in Immigration Removal Centres.   | Accepted.  | ●        |
| 7   | Q1 and Q2 2005 | We recommend that the right of detainees to submit complaints is respected by staff and management.   | Accepted.  | ●        |

\*Priority: ● CAC recommendations accepted and being implemented. We recommend that spot checks and audits be conducted by the Chief Inspector's Office as part of future audit and inspection plans to ensure that there is a sound system of controls designed to achieve the system objectives.  
 ● Important business issues to be addressed; improvement area; inadequate risk identification or reduction; non-conformity with regulations.  
 ● Critical business risk not being adequately addressed; weakness in key business control; substantial non-conformity with regulations and accepted standards.

| NO. | AUDIT PERIOD   | RECOMMENDATION   | STATUS  | PRIORITY |
|-----|----------------|--|---|----------|
| 8   | Q1 and Q2 2005 | We recommend that the contract monitor, contract manager, staff and members of the IMB are made aware of the importance of the complaints process and the need to create and sustain an environment in which it works effectively.   | Accepted.   | ●        |
| 9   | Q1 and Q2 2005 | We recommend that detainees be provided with a confidential means of relaying forms directly to the PSU.   | Accepted.   | ●        |
| 10  | Q1 and Q2 2005 | We recommend that all formal complaints from detention centres be immediately forwarded to the PSU for possible referral to the police or the CAC, for cataloguing and for investigation.  | We accept that misconduct complaints from the detention estate are being forwarded to the central PSU for possible referral to the police, but we remain concerned that they are not being catalogued by the Complaints, Standards and Performance Directorate (CSPD) until the investigation is complete resulting in a delay in consolidating management information. | ●        |
| 11  | Q1 and Q2 2005 | We repeat the recommendation of the previous CAC that the grade of contract monitors be adequate to ensure that they are sufficiently experienced and have enough confidence to maintain their independence in relating to contract managers and staff and in fulfilling not only their care of contract duties, but also their care of detainee responsibilities.<br>We note this and suggest that it be subject to a future audit. | Accepted.   | ●        |
| 12  | Q1 and Q2 2005 | We recommend that a review of the training needs of contract monitors be conducted and that a programme of instruction be devised and implemented to ensure that monitors are appropriately skilled in key competencies.   | Accepted.   | ●        |

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● Important business issues to be addressed; improvement area; inadequate risk identification or reduction; non-conformity with regulations.

● Critical business risk not being adequately addressed; weakness in key business control; substantial non-conformity with regulations and accepted standards.

| NO. | AUDIT PERIOD         | RECOMMENDATION  | STATUS   | PRIORITY |
|-----|----------------------|---|--|----------|
| 13  | Q1 and Q2 2005       | We recommend that the head of the PSU maintain an open line of communication with contract monitors so that they feel more supported by the UK Border Agency management than they currently do and so that they are in a position to forward information about possible abuses occurring in their centres without reference to contract management. | Accepted.  | ●        |
| 14  | Q1 and Q2 2005       | We recommend that all allegations of criminal behaviour be reported to the police immediately upon receipt at the PSU. This should be the responsibility of the officer who receives the complaint.   | Accepted.  | ●        |
| 15  | Q1 and Q2 2005       | We recommend that all communications with the police should be in written form and that a clear audit trail be provided in all cases.   | Accepted in part. Our audits continue to find weaknesses in written audit trails.  | ●        |
| 16  | Q1 and Q2 2005       | We recommend that a crime reference number be secured if the police register the criminal allegation. If the police decide to take no further action, reasons should be sought and fully recorded in writing.   | We accept that a crime reference number is being obtained, but we have found little evidence of reasons being recorded for the police to take no further action on a case. | ●        |
| 17  | 2005/6 Annual Report | Methods of record keeping should be examined to improve the safekeeping and secure handling of customers' property. In particular the record of any transfer of property to another agent should be fully documented. Any new procedures should be made known throughout the service.   | Accepted.  | ●        |
| 18  | Q1 and Q2 2005       | We recommend that the CAC work with officials to refine the matrix.   | Accepted.  | ●        |

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| NO. | AUDIT PERIOD   | RECOMMENDATION  | STATUS   | PRIORITY |
|-----|----------------|---|--|----------|
| 19  | Q1 and Q2 2005 | We recommend that the CAC work with officials to develop a Code of Conduct with a view to submitting it to a consultation process by September 2006.  | We assessed the need to refer the Code of Conduct to the unions as a top priority in our last Annual Report and we do not accept that this recommendation has been completed as yet.                           | ●        |
| 20  | Q1 and Q2 2005 | We recommend that the CAC work with officials to develop a Code of Service with a view to submitting it to a consultation process by September 2006.  | We recommend that the Chief Inspector's Office monitor the implementation of this.   | ●        |
| 21  | Q1 and Q2 2005 | We recommend that the UK Border Agency adopts a standardised format of file assembly for complaint cases.<br><br>We reiterate our recommendation that there be one system of complaints management, centrally managed and standardised across the entire business.                              | Our audits have demonstrated significant inconsistencies and flaws in file numbering.<br><br>CSPD has given instructions but current audit evidence suggests that implementation has not been fully completed. | ●        |
| 22  | Q1 and Q2 2005 | We recommend that the UK Border Agency adopts a computerised internal report system.  | Accepted in part as new IT system has yet to be introduced.  | ●        |
| 23  | Q1 and Q2 2005 | We recommend that the UK Border Agency adopts a computerised file movement and tracking system.   | Accepted.  | ●        |
| 24  | Q1 and Q2 2005 | We recommend that the current target of two days between receipt of a file letter and acknowledgement be extended to five working days and that this registration period includes an assessment of the complaint according to the matrix and the inauguration of the appropriate investigation. | Accepted.  | ●        |

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● Important business issues to be addressed; improvement area; inadequate risk identification or reduction; non-conformity with regulations.

● Critical business risk not being adequately addressed; weakness in key business control; substantial non-conformity with regulations and accepted standards.

| NO. | AUDIT PERIOD   | RECOMMENDATION   | STATUS  | PRIORITY |
|-----|----------------|--|---|----------|
| 25  | Q1 and Q2 2005 | We recommend that end-to-end targets be set according to the complexity and impact of the complaint as assessed through use of the matrix. | Accepted.   | ●        |
| 26  | Q1 and Q2 2005 | We recommend that clear standards of best practice in complaints investigation be established as a matter of importance and urgency.       | Accepted.<br>This is linked to recommendations 28, 29, 31, 32, 33, 49 and 55.   | ●        |
| 27  | Q1 and Q2 2005 | We recommend that the current guidance on complaints procedures be replaced by a manual of procedures derived from these standards.        | Accepted.<br>This is linked to recommendation 33.   | ●        |
| 28  | Q1 and Q2 2005 | Significantly, but not exclusively, we recommend that the new guidance requires a personal interview of the complainant.                   | Accepted.   | ●        |
| 29  | Q1 and Q2 2005 | We recommend the discontinuance of interviews by telephone and pro-formas.   | Accepted.   | ●        |
| 30  | Q1 and Q2 2005 | We recommend the tape-recording of interviews. We recommend the timely collection of all supporting evidence.                              | Accepted.   | ●        |
| 31  | Q1 and Q2 2005 | We recommend the timely identification of all independent witnesses.   | We accept that guidance on this has been included in the complaints manual but assess it as important that implementation be monitored on an ongoing basis, particularly during transition. | ●        |
| 32  | Q1 and Q2 2005 | We recommend the timely collection of all supporting evidence.   | We accept that guidance on this has been included in the complaints manual but assess it as important that implementation be monitored on an ongoing basis, particularly during transition. | ●        |

\*Priority: ● CAC recommendations accepted and being implemented. We recommend that spot checks and audits be conducted by the Chief Inspector's Office as part of future audit and inspection plans to ensure that there is a sound system of controls designed to achieve the system objectives.

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| NO. | AUDIT PERIOD   | RECOMMENDATION  | STATUS    | PRIORITY |
|-----|----------------|---|-----------|----------|
| 33  | Q1 and Q2 2005 | We recommend clear guidance on the conduct of interviews with complainants, witnesses and officials who are the subject of complaint.   | Accepted. | ●        |
| 34  | Q1 and Q2 2005 | To ensure that investigations are conducted to a high standard, we recommend that they be undertaken in regard to formal complaints only by a small group of properly trained investigators supervised from the central complaints unit.  | Accepted. | ●        |
| 35  | Q1 and Q2 2005 | We recommend that clear guidance be provided in a new complaints manual on writing reply letters which weigh evidence from the complainant and from the official(s) against whom a formal complaint has been made on the balance of probabilities and which supply unambiguous, well explained reasons why an allegation either meets the required standard of proof and is therefore substantiated or fails to meet the standard and is therefore unsubstantiated. | Accepted. | ●        |
| 36  | Q1 and Q2 2005 | We recommend that reply letters be written under the supervision of the senior officials in the central complaints unit and with quarterly monitoring by the CAC.   | Accepted. | ●        |
| 37  | Q1 and Q2 2005 | Duplicate of recommendation 13.   | Accepted. | ●        |
| 38  | Q1 and Q2 2005 | Duplicate of recommendation 14.   | Accepted. | ●        |

\*Priority: ● CAC recommendations accepted and being implemented. We recommend that spot checks and audits be conducted by the Chief Inspector's Office as part of future audit and inspection plans to ensure that there is a sound system of controls designed to achieve the system objectives.

● Important business issues to be addressed; improvement area; inadequate risk identification or reduction; non-conformity with regulations.

● Critical business risk not being adequately addressed; weakness in key business control; substantial non-conformity with regulations and accepted standards.

| NO. | AUDIT PERIOD                            | RECOMMENDATION  | STATUS  | PRIORITY |
|-----|---|---|---|----------|
| 39  | Q1 and Q2 2005, Q3 2007, Q1 and Q4 2008 | We recommend that a protocol for referral from the unit to the police be drawn up to ensure consistency and quality assurance.  | We reiterate our recommendation to develop a memorandum of understanding with the police to agree standards and procedures for the referral of criminal allegations and the creation and maintenance of a written audit trail in order to facilitate obtaining witness statements and evidence as quickly as possible and to ensure that the UK Border Agency benefits from findings of the police made during their consideration of the case. | ●        |
| 40  | Q1 and Q2 2005                          | As soon as the IPCC has assumed jurisdiction over enforcement and removals, all allegations of death, serious injury and breaches of Articles 2 and 3 of the European Convention on Human Rights (ECHR) should be referred by the complaints unit to the police as set down in the matrix. The most serious cases should be brought to the attention of the CAC, who will refer them immediately to the IPCC according to regulations currently being formulated. | We accept that this has been completed and that implementation should be monitored by the PAU and the Chief Inspector.  | ●        |
| 41  | Q3 2005                                 | We recommend that a single, holistic, more responsive complaints system be introduced. This should include a system of IR.  | Accepted.   | ●        |
| 42  | Q3 2005                                 | Guidance and procedures to be designed in liaison with the police to ensure that evidence is seized and preserved as quickly as possible after a complaint has been made.   | Accepted.   | ●        |
| 43  | Q3 2005                                 | Remove the sentence 'When the investigation of a formal complaint is complete and we have sent you a response with our findings, the complaint file will be audited by the Complaints Audit Committee' from formal replies and complaints leaflets.   | Accepted.   | ●        |

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● Important business issues to be addressed; improvement area; inadequate risk identification or reduction; non-conformity with regulations.

● Critical business risk not being adequately addressed; weakness in key business control; substantial non-conformity with regulations and accepted standards.

| NO. | AUDIT PERIOD   | RECOMMENDATION  | STATUS  | PRIORITY |
|-----|----------------|---|---|----------|
| 44  | Q3 2005        | Quality assurance is not sufficiently robust. It should be introduced at an early point in a complaints investigation as a management function and not relegated to the end when a final letter to the complainant is being drafted.  | Our audits continue to show serious weaknesses in quality assurance of systems and procedures.                          | ●        |
| 45  | Q3 2005        | We recommend the establishment of professional standards through the articulation of values.  | Accepted.   | ●        |
| 46  | Q3 2005        | We recommend the formulation of protocols and operating procedures derived from these values and the Code of Conduct to guide the selection, training, assessment, discipline and promotion of officials within the UK Border Agency.   | This has not been accepted by the UK Border Agency but we continue to assess it as critical to performance improvement. | ●        |
| 47  | Q3 2005        | We recommend the development of an intelligence capability to support the complaints process.   | Accepted.   | ●        |
| 48  | Q3 2006        | We recommend the introduction of a hotline to facilitate the transmission of information on a confidential basis.<br>(This recommendation is for detention services.)   | Accepted.   | ●        |
| 49  | Q1 and Q2 2005 | To provide quality control we recommend that investigators submit an investigation strategy to a senior official in the unit for initial approval, that s/he report any major problems or changes to that plan in the course of the investigation, and that s/he submit the report for checking at the end. | Accepted.   | ●        |
| 50  | Q1 and Q2 2005 | The investigation of criminal allegations and misconduct allegations should be co-ordinated insofar as is possible.   | Accepted.   | ●        |

\*Priority: ● CAC recommendations accepted and being implemented. We recommend that spot checks and audits be conducted by the Chief Inspector's Office as part of future audit and inspection plans to ensure that there is a sound system of controls designed to achieve the system objectives.

● Important business issues to be addressed; improvement area; inadequate risk identification or reduction; non-conformity with regulations.

● Critical business risk not being adequately addressed; weakness in key business control; substantial non-conformity with regulations and accepted standards.

| NO. | AUDIT PERIOD | RECOMMENDATION   | STATUS  | PRIORITY |
|-----|--------------|--|---|----------|
| 51  | Q1 2006      | We recommend that the use of emails to provide speedy and effective contact with complainants should formally be considered by the PAU   | Accepted.   | ●        |
| 52  | Q1 2006      | We recommend that all officials who have contact with the public should wear name badges.  | Accepted.   | ●        |
| 53  | Q1 2006      | We recommend that data sent to the CAC should be quality assured.  | Our quarterly audits continue to highlight significant weaknesses in quality assurance of systems and procedures. | ●        |
| 54  | Q1 2006      | We recommend that CSPD should manage timeliness more robustly to address this important aspect of any good complaints-handling system, as defined in the Cabinet Office guidance.                  | Timeliness performance is well below Cabinet Office guidelines.   | ●        |
| 55  | Q1 2006      | The PAU to target resources to promote improvements in standards of investigations.  | The PSU has been established to conduct serious misconduct investigations.  | ●        |
| 56  | Q2 2006      | There should be a clear policy setting out when force or restraints (especially leg restraints) can be used, what authority is required to use them and what records must be made about their use. | Accepted.   | ●        |
| 57  | Q4 2006      | All 128–138 arrest team cases must be referred to the CAC for advice and guidance.   | The Chief Inspector's Office needs to monitor this area of high risk.   | ●        |
| 58  | Q4 2006      | File numbers from the General Registry should be checked to ensure that there are no outstanding cases to be audited by the CAC.   | Our audits continue to highlight weaknesses in systems and procedures for file handling.                          | ●        |
| 59  | Q4 2006      | Guidance should be circulated to all complaints handlers clarifying the remit of the PAU.  | Accepted.   | ●        |

\*Priority: ● CAC recommendations accepted and being implemented. We recommend that spot checks and audits be conducted by the Chief Inspector's Office as part of future audit and inspection plans to ensure that there is a sound system of controls designed to achieve the system objectives.

● Important business issues to be addressed; improvement area; inadequate risk identification or reduction; non-conformity with regulations.

● Critical business risk not being adequately addressed; weakness in key business control; substantial non-conformity with regulations and accepted standards.

| NO. | AUDIT PERIOD | RECOMMENDATION   | STATUS   | PRIORITY |
|-----|--------------|--|--|----------|
| 60  | Q1 2007      | The PAU should document and flow-chart the entire process of handling service delivery complaints from the receipt of the letter at the first point of entry at the UK Border Agency to its ultimate resolution.                                       | Accepted.  | ●        |
| 61  | Q1 2007      | CSPD should continue to explore activities which are currently being duplicated unnecessarily.   | Accepted.  | ●        |
| 62  | Q1 2007      | The investigation of misconduct complaints in the detention estate should be undertaken exclusively by UK Border Agency officials. Contract staff should have no involvement in these investigations.  | Accepted in part.  | ●        |
| 63  | Q1 2007      | Contractors should be awarded penalty points for failing to register and manage service delivery complaints, to collate management information from these complaints and to demonstrate the use of this information to improve systems and procedures. | This has been rejected by the UK Border Agency.  | ●        |
| 64  | Q1 2007      | CSPD should ensure that all formal misconduct complaint files are sent for audit to the CAC and then the Chief Inspector, even if they have been cancelled, withdrawn or reclassified as service delivery complaints.                                  | This is crucial to data integrity. This is rated red due to its severe impact on the UK Border Agency's complaints systems and procedures. | ●        |
| 65  | Q2 2007      | CSPD should work with General Registry to clarify the numbering system to facilitate tracking, monitoring, analysing and producing good quality, reliable management information by complaints category, department and region.                        | The Chief Inspector's Office should continue to audit this.  | ●        |

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● Important business issues to be addressed; improvement area; inadequate risk identification or reduction; non-conformity with regulations.

● Critical business risk not being adequately addressed; weakness in key business control; substantial non-conformity with regulations and accepted standards.

| NO. | AUDIT PERIOD | RECOMMENDATION  | STATUS   | PRIORITY |
|-----|--------------|---|--|----------|
| 66  | Q2 2007      | CSPD should work with General Registry to check the status of files on a regular basis – at least quarterly – to identify those which have not yet been completed: those for which a number has been given but no action has as yet been taken; those which are being investigated; and those which have been withdrawn and the reasons for their withdrawal. | Accepted.  | ●        |
| 67  | Q2 2007      | CSPD should work with General Registry to produce guidelines on how file numbers are issued and how file movements are tracked and monitored within the UK Border Agency.   | Accepted.  | ●        |
| 68  | Q2 2007      | CSPD should work with General Registry to agree the authorisation levels for those allowed to request files and should ensure that these officials are trained in the guidelines recommended above.   | Accepted.  | ●        |
| 69  | Q3 2007      | We recommend that General Registry and CSPD align their definitions of complaints. The matrix could facilitate cross-departmental categorisation and file management.   | CSPD should ensure that when files are raised the title relates to the appropriate complaint category. | ●        |
| 70  | Q3 2007      | We recommend that the policy on the management of allegations of racism are compliant with the ECHR and other relevant British and European legislation.  | Accepted.  | ●        |
| 71  | Q4 2007      | When a complaint is sent by email, the date on the email should be the date of receipt. A consistent and fair policy must be established by CSPD and implemented in the regions and non-devolved business areas.  | Accepted.  | ●        |

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● Important business issues to be addressed; improvement area; inadequate risk identification or reduction; non-conformity with regulations.

● Critical business risk not being adequately addressed; weakness in key business control; substantial non-conformity with regulations and accepted standards.

| NO. | AUDIT PERIOD | RECOMMENDATION  | STATUS    | PRIORITY |
|-----|--------------|---|-----------|----------|
| 72  | Q4 2007      | The matrix included in the Complaints Registration Form and currently being rolled out across the UK Border Agency should be adopted by detention services as a mechanism for categorising complaints and identifying the appropriate mode of resolution.   | Accepted. | ●        |
| 73  | Q4 2007      | A box marked 'confidential access' should be inserted on the Complaints Investigation Record to ensure that its use is prominently displayed and captured for management information purposes.  | Accepted. | ●        |
| 74  | Q4 2007      | See recommendation 75 below.  | Accepted. | ●        |
| 75  | Q4 2007      | The Race Relations Liaison Officer in each centre should be supported in categorising, investigating and reporting outcomes and management information by the contract monitor, who should quality assure the management of racist complaints and ensure that serious risk complaints are escalated to the PSU for investigation, whether or not they are made through confidential access. | Accepted. | ●        |
| 76  | Q1 2008      | It is imperative that completed files are transferred to CSPD and then submitted to the Chief Inspector for audit in the quarter during which they are completed. Failure to do so results in a corruption of management information for that quarter.  | Accepted. | ●        |

\*Priority: ● CAC recommendations accepted and being implemented. We recommend that spot checks and audits be conducted by the Chief Inspector's Office as part of future audit and inspection plans to ensure that there is a sound system of controls designed to achieve the system objectives.

● Important business issues to be addressed; improvement area; inadequate risk identification or reduction; non-conformity with regulations.

● Critical business risk not being adequately addressed; weakness in key business control; substantial non-conformity with regulations and accepted standards.

| NO. | AUDIT PERIOD | RECOMMENDATION  | STATUS  | PRIORITY |
|-----|--------------|---|---|----------|
| 77  | Q1 2008      | A policy should be formulated for cases in which key paperwork is established as missing. Immediate efforts should be made to recover as much information as possible, and a risk assessment should be conducted to ensure that appropriate mitigating action is taken. The file should be marked accordingly and senior officials should be notified in high-risk cases. | Accepted.   | ●        |
| 78  | Q1 2008      | When two or more files are created to consider different parts of one complaint, a mechanism should be established to ensure that the reply to the complainant is quality assured so that all aspects of the complaint are covered.   | Accepted.   | ●        |
| 79  | Q1 2008      | Where a file is resubmitted for audit because further investigations have been conducted, the file should be clearly marked to alert auditors that it has been previously audited.  | Accepted.   | ●        |
| 80  | Q1 2008      | Where duplicates are identified as part of CSPD's internal audit processes, the Chief Inspector should be informed of any investigation undertaken to discover how the duplication occurred and the measures put in place to ensure the problem does not recur.   | Accepted.   | ●        |
| 81  | Q1 2008      | If there are conflicting medical assessments in high-risk cases, the evidence should be submitted to an independent medical examiner.   | Accepted.   | ●        |
| 82  | Q1 2008      | Escort vans should be equipped with audio-recording equipment for use during transfers between detention centres and ports for removal.   | The Chief Inspector's Office should continue to audit this. | ●        |

\*Priority: ● CAC recommendations accepted and being implemented. We recommend that spot checks and audits be conducted by the Chief Inspector's Office as part of future audit and inspection plans to ensure that there is a sound system of controls designed to achieve the system objectives.

● Important business issues to be addressed; improvement area; inadequate risk identification or reduction; non-conformity with regulations.

● Critical business risk not being adequately addressed; weakness in key business control; substantial non-conformity with regulations and accepted standards.



| NO. | AUDIT PERIOD | RECOMMENDATION  | STATUS  | PRIORITY |
|-----|--------------|---|---|----------|
| 83  | Q1 2008      | We repeat our recommendation from previous audits that a protocol be formulated between the UK Border Agency and the Association of Chief Police Officers to ensure that there is an agreed procedure for the referral of criminal allegations to the police and for a written response to be returned to the UK Border Agency. We have been assured that a protocol is currently being finalised between the UK Border Agency and the Metropolitan Police. | Repeat of recommendation 39. Please see recommendation 39 for comments. | ●        |
| 84  | Q1 2008      | The PSU should ensure that, whenever possible, complainants are interviewed before removal and consent to disclose medical records is obtained from them.   | Accepted.   | ●        |

- \*Priority:**
- CAC recommendations accepted and being implemented. We recommend that spot checks and audits be conducted by the Chief Inspector's Office as part of future audit and inspection plans to ensure that there is a sound system of controls designed to achieve the system objectives.
  - Important business issues to be addressed; improvement area; inadequate risk identification or reduction; non-conformity with regulations.
  - Critical business risk not being adequately addressed; weakness in key business control; substantial non-conformity with regulations and accepted standards.

## APPENDIX

### CAC Audit Approach and Methodology

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## 1. INTRODUCTION AND BACKGROUND

When we commenced our tenure in June 2005, we were concerned about the lack of a proper transfer of information from the former Complaints Audit Committee (CAC). We inherited neither audit notes nor benchmarks. Mindful of the difficulties we faced as a consequence of these critical deficiencies, we agreed that it was imperative to leave a record of our audit approach, methodology and benchmarks as a baseline for comparative analysis for the newly appointed Chief Inspector.

### Our Remit and Goals

Our remit as set out in two Parliamentary Questions is to satisfy ourselves as to the effectiveness of procedures for investigating complaints against the UK Border Agency, to draw management's attention to any weaknesses and quality of service deficiencies in these procedures and to make an Annual Report to the Home Secretary.

Our goals have been twofold. The first and overriding goal has been to promote public confidence in the UK Border Agency by ensuring robust, independent scrutiny of the effectiveness of procedures for investigating complaints against the organisation. The second has been to support a programme of continuous improvement by deriving evidence of both good practice and problems identified through the audit process and by making recommendations aimed at redressing weaknesses.

Meeting our first goal has required us to conduct routine environmental scans. In 2005 the Immigration and Nationality Directorate (IND) of the Home Office's powers and responsibilities had recently been extended as a consequence of the Immigration and Asylum Act 1999 and the Asylum and Immigration (Treatment of Claimants etc.) Act 2004. To undertake new functions, the organisation grew rapidly and the volume of IND casework increased in sensitive areas of public concern such as the actual number of failed asylum seekers currently living in Britain. As a consequence of these changes, the scope for complaints widened substantially.

The move to a shadow agency in 2007 as the Border and Immigration Agency and in 2008 as the UK Border Agency as well as the extension of Independent Police Complaints Commission (IPCC) jurisdiction and the regionalisation of most business areas in 2008 have required major changes in complaints management structures. The inclusion of UKvisas and departments within HM Revenue and Customs from 1 April 2008 has expanded the volume of complaints still further and also diversified the types of complaints lodged against the UK Border Agency.

Meeting our second goal has entailed offering guidance and support for officials handling complaints across the Agency. For example, we designed a matrix for the categorisation of complaints and the designation of appropriate modes of managing them. At the Minister's direction we developed a system of informal resolution (IR) for minor misconduct complaints.

We proposed a simplified, holistic system to replace the fragmented arrangements which raised costs and reduced efficiency through replication of procedures, multiple methods of recording cases and weaknesses in tracking them from registration to conclusion. We provided models for the investigation of serious misconduct complaints and advised officials charged with drafting the legislation and regulations extending the IPCC's jurisdiction to the UK Border Agency.

## 2. OUR AUDIT APPROACH

In June 2005 at the commencement of our tenure we were given misconduct files for the first two quarters of 2005 for audit purposes. We read the previous Committee's Annual Reports. Sampling files, we discovered that they had taken a checklist approach and had commented on some individual files. In our view this methodology severely limited the scope of the Committee's audits and restricted the Committee's ability to fulfil its remit.

To meet our obligations we agreed to follow guidelines set down by the Audit Commission and contained in its Code of Audit Practice. These set the standard of best professional practice with respect to procedures to be adopted by public bodies such as the CAC.

Following this Code has required us to:

- Carry out our quarterly audits with independence and objectivity so that our recommendations can both be, and be seen to be, independent;
- Carry out our audits in a professional manner, as efficiently and effectively, and in as timely a way as possible;
- Plan and perform the audits, determining where to direct our work and to allocate resources to ensure that the audit is tailored to the circumstances of the UK Border Agency;
- Have regard to the work of other auditors, inspectors and statutory review agencies;

- Conduct site visits across the UK Border Agency estate;
- Adopt a constructive and positive approach, wherever possible, and thereby support and encourage worthwhile change, while providing independent scrutiny and assurance;
- Have in place effective follow-up arrangements to review whether the UK Border Agency has properly considered any matters that have been identified during our audits, and where appropriate, has implemented agreed action.
- Report to the UK Border Agency in such a way as to inform its officials of the matters of substance or significant issues arising from our work and the nature and grounds for any concerns and to indicate any corrective actions that may be required;
- Provide an Annual Report.

We subscribe to the 'Seven Principles of Public Life' and have paid due heed to their requirements.

### Risk Assessment

Adhering to Audit Commission guidelines, we have conducted risk assessments to inform our annual audit plans and quarterly audits from January 2005. In 2007 we were given sight of BIA's main risk register as well as departmental registers. It is imperative that the Chief Inspector is given access to the full range of risk registers to inform the audit plan and priorities.

### Audit Plans and Timetable

We have focused our resources and drawn up our audit plans on areas assessed as posing high risks to the organisation and to individuals including arrests, removals and detention (risk of serious injury, death, wrongful arrest and civil liability), contractors (risk as above plus risk of inadequate training and monitoring of contract staff), and asylum interviews (risk of indefensible decisions based on inadequate interviews leading to costly and time-consuming appeals with a heavy impact on the lives of asylum seekers). We have conducted thematic audits of areas of lower risk such as timeliness.

We have worked to timelines agreed with management to cover monthly, quarterly and annual reporting to the Minister, the Agency Board and officials in the Complaints, Standards and Performance Directorate (CSPD). Based on our experience to date, the Chief Inspector may wish to consider the use of a Complaints Audit Planner. A model is included in section 6.

### 3. OUR AUDIT METHODOLOGY

#### Data Collection, Data Analysis and Choice of Software

The Committee agreed the overall metrics for complaints investigations in regard to data integrity, timeliness, complaints categorisation, statutory compliance and quality assurance of the investigations and the replies to complainants. We then agreed the specific metrics in each category and the data that we wished to capture. We decided to use an electronic medium rather than written notes to facilitate data collection and analysis and to provide permanent, accessible audit trails and records, which at the end of our tenure could be made available to CSPD, the Chief Inspector and any other appropriate bodies.

We conducted a pilot on a sample of misconduct files. We agreed the basic management information required for us to report on each of the metrics. We tested our data collection to ensure consistency between Committee members. We then developed an audit tool to enable us to carry out our remit of identifying weaknesses in systems and procedures for complaints management based on our agreed metrics.

#### Choice of Software

We researched software packages which would cost-effectively and flexibly meet our needs. Basing our calculations on the assumption that we would receive no more than 500 misconduct complaint records per annum, we decided to use the Microsoft Access software package because:

- it was compatible with IND's software package;
- it was easy to enter data with a locked fields facility minimising the risk of data errors;
- it allowed us to work with both numerical data fields and text data fields;
- it allowed us to export data between Microsoft Excel and Access programs and utilise the best of both software packages;
- it could produce customised management information reports including trend analysis, identification of hot spots, forensic analysis and forecasting.

#### 4. THE CAC AUDIT TOOL – SERIOUS MISCONDUCT COMPLAINTS

We designed the Audit Tool to enable us to generate a record of our audit investigations. Different sections of the tool have been aligned to each of our agreed metrics and adapted to our changing audit plans based on regular risk assessments. For example:

- Under the timeline metric we originally collected specific metrics to measure the entire process involved in the complaint investigation. This required us to collect data on date of receipt, date of acknowledgement, date sent to investigator/department, date of receipt from the investigator and date of reply to the complainant.
- We did not originally collect timeline information about referrals of alleged criminal offences to the police. When we learned that IND investigations were suspended for the duration of the police consideration of the case, we decided that it was important to segregate out this component of the overall timelines so that we could establish how long IND was taking to investigate a complaint and respond to the complainant, and then to compare this figure with the eight-week target for completion.
- From the outset of our work we collected data on correspondence in writing between IND and the police to discover how much written evidence of the police consideration of the case was passed on to IND. We have used this information to buttress our

recommendation that a protocol be agreed with the police on how referrals should be handled and what information should be shared.

- Since 25th February 2008 misconduct complaints have been classified as either serious misconduct complaints or minor misconduct complaints. A new set of policy guidelines was established by the UK Border Agency to handle minor misconduct complaints. A separate Audit Tool has been developed for auditing minor misconduct complaints, and full details of the relevant policy guidance and the relevant Data Capture Sheet are included in section 5 of this Appendix.

**THE CAC AUDIT TOOL – DATA CAPTURE SHEET FOR SERIOUS MISCONDUCT COMPLAINTS**

**Audit Trail**

Audit Period 2008- Quarter:  Date of audit:  \* Audited by  Box No

**Data Integrity**

Complaint File Ref  HONumber:  CM Reference:  Dept:   
 Surname:  Forename(s):   
 Nationality:   
 Source:

**Timeline**

|                                  |  |                      |
|----------------------------------|--|----------------------|
| <b>Data from IND</b>             | <b>Audited files</b>                         |                      |
| Date Rec: <input type="text"/>   | Audit Date Rec: <input type="text"/>         |                      |
| Date Ack: <input type="text"/>   | Aud Date Ack: <input type="text"/>           | <input type="text"/> |
| FC Reply <input type="text"/>    | Aud FC Rep: <input type="text"/>             | <input type="text"/> |
| Total time: <input type="text"/> | Time: receipt to reply: <input type="text"/> | <input type="text"/> |

**Statutory Compliance**

**Equalities Legislation**  Racial  Disability  Gender  Age  Sexual orientation  Religion

**Complaint relating to 128/138 powers**

**Criminal Allegation**  Assault  Theft  Serious Crime/Injury/Corruption/Fatality  
 Other:  Alleged crime referred to police:   
 Correspondence in writing:  Crime Ref No.:

**Police Timeline** Sent Police:  Reply rec:  Total time

**Location** Detention Centre   
 Contract staff  Contractor:   Enforcement  Removal

**Suitable for informal resolution**  Time spent (days):

**Quality Assurance**

Quality of investigation Complainant interviewed:  Evid gathering equitable/thorough   
 Quality of reply Evidence weighed/balanced against standards  Reasons clear/defensible:

**Auditor's Notes**

Good Practice   
 Problems identified:   
 Recommendations:

The following is a guide to the Data Capture Sheet for serious misconduct complaints.

### Top box: Audit Trail



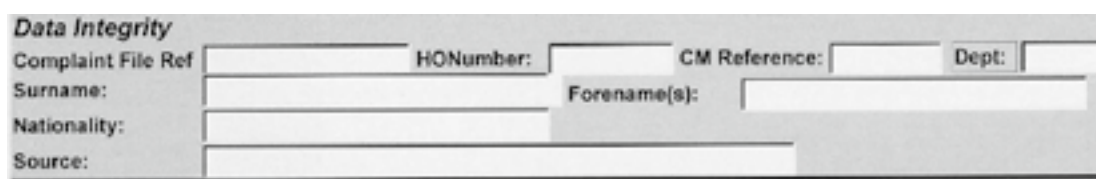
**Audit Trail**  
Audit Period 2008- Quarter:  Date of audit:  \* Audited by  Box No

Files are received in boxes marked according to department. We count the physical files and compare them with the electronic records sent by CSPD. It is important that this exercise is undertaken, as there have been discrepancies in several quarters. We construct our audit sample using the following formula:

- 100% of files from the detention estate are fully audited because of the high risks of detaining and removing failed asylum seekers;
- 100% of files relating to the sections 128–138 provisions which should have been referred to us for early advice are fully audited;
- 100% of all cancelled, withdrawn and duplicate files are fully audited;
- 100% of files are audited for timeliness;
- At least 50% of files from all other departments are selected at random for audit.

Files are allocated between committee members. The audit trail enables us to track the date, the auditor and the box in which the files have arrived to ensure that all files are returned and accounted for at the completion of the audit.

### Data Integrity Metric



**Data Integrity**  
Complaint File Ref  HONumber:  CM Reference:  Dept:   
Surname:  Forename(s):   
Nationality:   
Source:

This section of the audit tool contains file reference data from CSPD electronic records. All fields are locked to ensure that the CAC could not inadvertently alter the Home Office and the UK Border Agency unique reference identifiers. The data that has been collected since January 2005 offers the UK Border Agency the opportunity to conduct trend analyses and forecasting for management information purposes.



After two full years of data collection we were concerned about unexplained gaps in the file numbering sequences and were for the first time able to conduct a forensic audit using data from this section of the tool to check for consistency between General Registry and CSPD data. This exercise involved reconstructing the entire complaints database for eleven quarters from January 2005 to September 2007. It entailed the following steps:

- i. Recreating a master list based on data submitted by General Registry;
- ii. Reconfiguring all the file numbers sent to us electronically by CSPD;
- iii. Securing a list of all live files compiled by CSPD;
- iv. Merging the records contained in ii and iii above ensuring that the data was clean and ready for analysis.

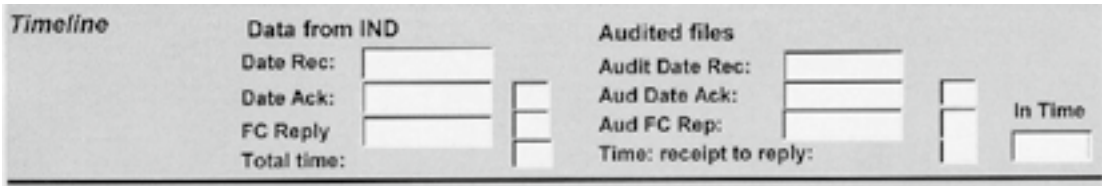
By comparing the master list of file numbers issued by General Registry (list i above) with the merged file numbers (list iv above) we identified the fact that over 20% of file numbers were missing. The background to this forensic analysis can be found in our Annual Report for 2006/7.

**Data Integrity Assurance**

As a result of the forensic audit and data reconciliation exercise, we have been able to identify problems such as delayed files, duplicate files, previously audited as well as withdrawn, cancelled and destroyed files. As a consequence, we have requested that CSPD provide us with a list of outstanding, previously audited, withdrawn, cancelled, destroyed and duplicate files for the audit period concerned. CSPD in turn has asked General Registry to supply the last file number for any sequences relating to complaints for the audit period concerned.

We use this data to update our reconstructed master list with a view to assuring data integrity. We strongly recommend that the Chief Inspector undertake this quarterly assurance exercise until General Registry and CSPD records match for three successive quarters. Until this point is reached, the risk of a qualified audit report due to material differences between the two sets of records remains.

**Timeline Metric**



We audit all files for timeliness. Our initial quarterly audits exposed significant differences between timelines calculated by CSPD and the CAC.

Further investigations highlighted the fact that consistent timeline policies were not being used across the UK Border Agency. Changes introduced as a result of our recommendations have meant that our respective timeline calculations have converged. We nevertheless continue to track and monitor this metric and have been able to recompute benchmarks following the recent change in policy agreed by the UK Border Agency Board to extend the response time for misconduct complaints from 8 weeks to 12 weeks.

**Complaints Categorisation Metric**

Our initial audits used this section of the tool to test and develop different ways of categorising complaints in order to develop the matrix approach. The matrix has now been implemented for categorising misconduct complaints across the UK Border Agency, and categories are being agreed for service delivery complaints. As there is no utility in comparing these categories with the old IND categories, we have removed the IND categorisation metric from the audit tool. We have, however, maintained the matrix categories to test for accuracy of categorisation and to facilitate trend analysis.

**Statutory Compliance Metric**

|   |                                       |   |   |
|---|---------------------------------------|---|---|
| <b>Statutory Compliance</b>                 |                                       |   |   |
| <b>Equalities Legislation</b>               | <input type="checkbox"/> Racial       | <input type="checkbox"/> Disability         | <input type="checkbox"/> Gender                                       |
|   | <input type="checkbox"/> Age          | <input type="checkbox"/> Sexual orientation | <input type="checkbox"/> Religion                                     |
| <b>Complaint relating to 128/138 powers</b> |                                       |   |   |
| <b>Criminal Allegation</b>                  | <input type="checkbox"/> Assault      | <input type="checkbox"/> Theft              | <input type="checkbox"/> Serious Crime/Injury/Corruption/Fatality     |
| Other:                                      | <input type="text"/>                  | Alleged crime referred to police:           | <input type="text"/>  |
| Correspondence in writing:                  | <input type="text"/>                  | Crime Ref No.:                              | <input type="text"/>  |
| <b>Police Timeline</b>                      | Sent Police: <input type="text"/>     | Reply rec: <input type="text"/>             | Total time <input type="text"/>                                       |
| <b>Location</b>                             | Detention Centre <input type="text"/> |   |   |
|   | Contract staff <input type="text"/>   | Contractor: <input type="text"/>            | <input type="checkbox"/> Enforcement <input type="checkbox"/> Removal |
| <b>Suitable for informal resolution</b>     | <input type="checkbox"/>              | Time spent (days):                          | <input type="text"/>  |

**Equalities Legislation**

We devised this metric to identify complaints involving potential breaches of the law. For example, we discovered allegations of racism being treated as service delivery rather than misconduct complaints and as a consequence not being properly investigated. Legal representatives often refer to alleged breaches of the Human Rights Act when making a complaint, and the Equality and Human Rights Commission is taking a proactive stance in investigating allegations of discrimination in regard to race, ethnicity, religion, gender and age. We have made specific recommendations quarterly for the UK Border Agency to address these issues and enable officials to handle these potentially high-profile cases appropriately.

**Complaints Relating to 128–138 Powers**

This metric relates to complaints against warranted immigration officials arresting, detaining and removing failed asylum seekers under provisions set out in Sections 128–138 of the Immigration and Asylum Act 1999. When this Act was being debated in Parliament, concerns were expressed in the House of Lords that complaints procedures might not be appropriate or sufficiently robust to cater for the investigation of officials exercising police-like powers. An assurance was given that complaints arising from the use of these powers would receive an enhanced level of scrutiny. In 2003 the Chair of the CAC and the Director General of IND agreed a Memorandum of Understanding detailing how the CAC would provide this scrutiny (see section 7 of this Appendix).

Using this metric we have collected information on cases which were not referred to us and which therefore did not receive the appropriate level of independent oversight.

## **Criminal Allegation**

This section categorises the type of criminal allegation, e.g. assault or theft, and collects information on police referrals. 'Correspondence' with police does not mean an email simply saying NFA (no further action). It means a clear report on the substantive allegation(s) and how the police have handled it (them). If a crime reference number has been allocated and can be found in the file, it is noted here.

## **Police Timeline Metric**

This seeks to establish the time spent by police when considering a referral. (The background to this specific detail of this metric has been given in the introduction to the audit tool – see page 54.)

## **Location**

This section collects data on the detention centre where the complaint was lodged; on the contractor employing staff against whom a complaint has been made; and on whether the complaint arose from enforcement activity or an aborted removal. By collecting this data we have aimed to identify the precise points of high risk backed by statistical audit evidence. We have, however, only just begun developing the specifics for this metric. The potential for refining it and for using it to forecast problem areas is significant, and we would recommend that this metric be developed further. During visits to detention centres and at a recent meeting where escort contractors and detention centre managers were present, it became apparent to us that there was considerable confusion about logging and allocating complaints and about lines of accountability between officials and contract staff.

## **Suitability for Informal Resolution**

Based on our assessments following file audit, we marked this box to highlight those complaints that we concluded could have been handled by informal resolution.

The 'time spent' data has not yielded much fruit as this box is still not being completed by officials in a consistent manner and there appears to be no clear guidance. We introduced this specific metric to try to obtain a statistical basis for understanding how much resource was being expended on fully investigating minor misconduct complaints that could have been managed more appropriately through the simpler, shorter and less resource-intensive procedures offered through informal resolution.

## Quality Assurance Metric

| Quality Assurance        |   |                          |  |
|--------------------------|---|--------------------------|--|
| Quality of investigation | Complainant interviewed:                    | <input type="checkbox"/> | Evid gathering equitable/thorough <input type="checkbox"/> |
| Quality of reply         | Evidence weighed/balanced against standards | <input type="checkbox"/> | Reasons clear/defensible: <input type="checkbox"/>         |

This section asks for responses to gauge the quality of the investigation of the complaint and of the response.

### Quality of Investigation

Was the complainant interviewed? Yes or No.

Was the evidence gathering equitable and thorough?

- Was evidence collected promptly following the alleged incident?
- Were independent witnesses for both sides identified, contacted and interviewed?
- Was CCTV and medical evidence collected?
- Was any other corroborative evidence collected?
- Was the airline contacted in regard to complaints arising from aborted removals and asked specific information about the incident giving rise to the complaint?
- Was the official or staff member subject to complaint presented with all of the above information and challenged to respond to it?

### Quality of Reply

Was the evidence weighed/balanced against the standard?:

- Was all of the evidence explicitly weighed on the balance of probabilities?
- Were positive assumptions about an official's reputation for good behaviour or negative assumptions about the complainant used as evidence?
- Were unevidenced conclusions drawn and used to buttress unsubstantiation?

Were the reasons clear and defensible?:

- Were reasons presented simply and intelligibly so the complainant could understand why his/her complaint was or was not substantiated?
- Was the alleged behaviour explicitly assessed against the Code of Conduct contained in the matrix?

- Was any breach of the Code clearly identified and explained?
- Was the evidence clearly weighed on the balance of probabilities?
- If legislation such as the Human Rights Act 1998 and the Immigration and Asylum Act 1999 was cited in the complaint, was the matter addressed?
- Was any action to be taken as a consequence of a proven allegation, such as an apology, financial compensation, referral of the official/staff for further training or referral to HR for potential disciplinary action?
- Was that action clearly specified and explained?

### Auditors' Notes

| Auditor's Notes      |                      |
|----------------------|----------------------|
| Good Practice        | <input type="text"/> |
| Problems identified: | <input type="text"/> |
| Recommendations:     | <input type="text"/> |

These are free-flowing text fields for unlimited comment. They have given the Committee the flexibility to track and retrieve key information not picked up elsewhere by the Audit Tool. They have allowed the CAC to highlight:

- Examples of good practice;
- Specific and general problems identified;
- Recommendations made on the basis of our audit.

We considered this data fully and carefully while composing our quarterly audit reports. Examples detailed in these boxes included:

- Reasons given for initial categorisation as a service delivery complaint and subsequent reclassification as misconduct;
- Evidence of a complaint of racism or assault misclassified as rudeness and inappropriately handled as a consequence;
- Evidence that confidential access complaints have not been properly handled according to Detention Service Order 9/06;
- Evidence that the official(s) against whom the complaint has been made has (have) not been interviewed and the complaint has not been put to them;
- Instances in which an apology was given for proven misconduct;

- The collection of medical records and their use as evidence;
- Evidence of complainant vulnerability in regard to age or mental state;
- Photographs of injuries submitted as evidence of unreasonable use of force in a failed removal;
- Details of the availability of CCTV videos and their use as evidence;
- Evidence of lost records or inordinate delays preventing any meaningful investigation;
- Evidence of improper questioning of officials and complainants, e.g. closed questions rather than open-ended ones, leading questions rather than impartial ones;
- Evidence of contractors handling misconduct complaints without reference to the UK Border Agency.

The Audit Tool has the facility to query the auditors' notes to pick up references to specific words (e.g. medical, 128–138) and to enable us to consolidate them for analytical purposes.

Examples collected in these boxes were used as illustrations of good practice and problems and as the evidence to support recommendations made at the end of each quarterly report and in our Annual Reports.

### **Other Sources of Information**

In addition to the Audit Tool, our quarterly audits have been informed by other sources of external and internal information to expand the scope of our formal quarterly audits and to discover evidence to buttress or challenge our findings. Such other sources include:

- Reports by governmental bodies, including HM Inspectorate of Prisons, the Prison and Probation Ombudsman and the Parliamentary and Health Service Ombudsman;
- Audit reports by the Home Office Audit and Assurance Unit and Focus Consultancy;
- Reports by stakeholders, including the IPCC, the Immigration and Legal Practitioners Association, the Independent Asylum Commission, the Refugee Council and the Immigration Advisory Service;
- Visits to a wide range of Agency offices and detention centres; and
- Meetings with Ministers, senior executives and officials across the UK Border Agency.

## 5. POLICY GUIDELINES FOR THE INFORMAL RESOLUTION OF MINOR MISCONDUCT COMPLAINTS

### 1. Introduction

1.1 Informal Resolution (IR) is a means of providing a speedy and satisfactory resolution to a complaint. It is a proportionate way of dealing with minor misconduct complaints.

1.2 IR offers a quick and simple way to deal with a customer's dissatisfaction with the behaviour of a UK Border Agency official without a formal investigation. It resolves minor problems promptly. It benefits the complainant, the official against whom the complaint has been made, and the business.

### 2. Cases when Informal Resolution is appropriate

2.1 IR is appropriate for handling minor misconduct complaints which, even if substantiated, would not lead to criminal or disciplinary proceedings, for example:

- Incivility
- An officer's refusal to identify themselves when asked
- Poor attitude, e.g. being unhelpful, inattentive or obstructive

2.2 It is not an appropriate way to handle complaints which allege:

- Criminal behaviour

- An assault or violence
- An injury, even if it appears that the force used was lawful and justified
- Racism
- Discrimination or harassment of any kind, e.g. on the grounds of race, religion, sex or disability.
- Verbal harassment including swearing or using threatening behaviour

2.3 If at any point evidence of further or more serious matters, which would make the complaint unsuitable for IR, comes to light, the matter should be formally investigated in line with serious misconduct investigation procedures, in which case it should be referred immediately to the Customer Service Unit (CSU) for referral to the Complaints Standards and Performance Directorate (CSPD).

2.4 Consideration will need to be given to instances of repeated minor misconduct as this may require formal investigation. If this is the case, advice should be sought from the CSU and HR.

### 3. Informal Resolution outcomes

3.1 IR is about resolving, explaining, clearing up or settling a complaint. It involves management commitment to improving services and a willingness to acknowledge that a situation could have been handled differently and better.

3.2 To settle their complaint many complainants are seeking:

- An explanation from the official concerned
- An assurance that the same thing will not happen to someone else
- A meeting with a senior official to whom the complainant can convey their feelings of dissatisfaction at the way they were treated
- An apology
- Compensation for financial loss due to an official's actions or failure to act
- Training needs to be identified and implemented

3.3 Complainants often are not seeking a formal investigation or disciplinary action against an individual but a prompt and appropriate response to their complaint.

3.4 IR may include:

- Providing information
- Concluding the matter through correspondence explaining the circumstances of the case and action taken
- Apologising on behalf of the business or the official against whom the complaint has been made

3.5 The aim is to achieve an appropriate outcome to the satisfaction of the complainant, officials involved and the business.

## 4. Those subject to Informal Resolution

4.1 IR can apply to all officials working within the UK Border Agency, including contractors and both warranted and non-warranted staff.

## 5. Guidance to staff conducting Informal Resolution

### *Confirmation that Informal Resolution is appropriate*

5. The official receiving the complaint must be satisfied that it meets the criteria for IR. It is the seriousness (or otherwise) of the complaint that determines whether or not a formal investigation is appropriate. Minor misconduct will not warrant a formal investigation unless serious or criminal misconduct is subsequently revealed. Advice can always be sought from CSPD. Such minor misconduct has always been part of the local line management responsibility to address. If the complaint is part of a larger pattern of repeated behaviour it is for the line manager to address (with training or disciplinary action where appropriate). A formal investigation by CSPD is not part of this process, although HR might want to conduct or advise upon its own investigation.

### *Explaining the procedures to the complainant*

5.2 The official receiving the complaint should contact the complainant and:

- Explain the purpose of IR

- Explain that any individual or organisational learning will be captured
- Discuss the complaint with them and ensure it is fully understood
- Agree a plan of action including who will look into the complaint and approximate timescales for completion
- Manage the complainant's expectations (what kind of outcome are they seeking?)

5.3 Where possible, these steps should be explained in person. A simple 'action plan' including time scales and a leaflet covering the complaints system should also be provided, where appropriate. The action plan should be recorded on the Complaints Registration Form (CRF).

5.4 It should also be explained to the complainant that if evidence comes to light of more serious matters which would make the complaint unsuitable for IR, the complaint would be referred for formal investigation.

### *Providing information to the staff member against whom the complaint is made*

5.5 It is not necessary to obtain consent from the individual against whom the complaint was made in order to follow IR to resolve the issue. However, IR is more likely to be successful with their participation. The line manager needs to explain to the staff member:

- The purpose of the IR

- That there will be no disciplinary action taken as a result of the complaint (unless it is as part of a larger bundle of evidence)
- His or her rights in relation to access to support from a staff association, trade union or friend
- That any training needs that are identified will be followed up

### *Conducting the Informal Resolution process*

5.6 The manager should act as quickly as possible in seeking a resolution. In many cases it will be possible to resolve the case on the spot there and then. The process should be completed within 15 working days. The manager will need to keep a note of all actions and meetings undertaken.

5.7 If there are unavoidable delays, both parties should be kept informed by the manager of the reasons for them and of actions proposed to deal with them. The reasons for delays and actions taken to address them should be recorded.

### *Informal Resolution outcome*

5.8 If IR is carried out while the complainant is not present the manager should notify the complainant in writing that the complaint has been resolved and the action taken to achieve this. The complainant should be informed that the complaint has been officially closed but if they are unhappy with the outcome they can ask the CSU to review the process. The CSU will look at the process used to ensure it was



followed correctly and that IR was used appropriately. The CSU will not ask the CSPD to carry out a new investigation unless the IR process was inappropriate for the seriousness of the complaint.

5.9 Following completion of the IR process the manager will record the outcome on the CRF and ensure that the member of staff concerned is notified of the outcome and what actions were taken to resolve the complaint. For example, that an explanation was given, an apology made, advice/training given to the individual about whom the complaint was made, or a change of procedures put in place.

## 6. Step by step guidance to follow the Informal Resolution process

6.1 Processing of minor misconduct complaints: Instructions for CSUs:

*When a complaint is received directly by the CSU*

1. A complaint may be received in writing (by letter, email or facsimile) or verbally (in person or by telephone). Refer to the complaints [matrix](#) and [Annex B](#) of misconduct investigation procedures to ensure that the complaint fits the criteria for IR. The PSU can advise on whether the complaint should be formally investigated if the recipient is unsure.
2. If the complaint is suitable for IR, complete Section 1 of the CRF with details of the complaint and the complainant.
3. Create a record on the management information Data Capture Sheet.

4. Send the CRF along with any accompanying letters or documents to the line manager (LM) of the subject of the complaint (if known) or to the Nominated Responsible Owner (NRO) in the business to allocate to the LM.

*When a CRF is received by the CSU:*

1. On receipt of a CRF, check the complaints Data Capture Sheet to see if a record already exists.
2. If no record is found, create the record on the complaints Data Capture Sheet and close it if the complaint has been resolved. If a record exists, check if complaint has been resolved and close the record. *(Note: contact the business area if information is missing on the CRF before closing the record, as part of quality assuring the process).*
3. If the CRF indicates that the person who registered the complaint was unable to deal with it, then identify the LM of the subject of the complaint by looking on the Directory of Business or by phoning the section they work in. If still uncertain, send the CRF and complaint papers to the NRO in the business area after consulting them over the phone.
4. If no record is found, create the record on the complaints database and close it if the complaint has been resolved. If a record exists, check if the complaint has been resolved and close the record. *(Note: contact the business area if information is missing on the CRF before closing the record, as part of quality assuring the process).*

5. File the CRF and related paperwork for audit purposes.

6.2 Processing of minor misconduct complaint – Instructions for operational units:

*When a complaint is received directly by the business area:*

1. A complaint may be received in writing (by letter, email or fax) or verbally (in person or by telephone). Refer to the complaints [matrix](#) and [Annex B](#) of serious misconduct investigation procedures to ensure that the complaint fits the criteria for IR. Your CSU or the PSU can advise if you are not sure whether a formal investigation is appropriate.
2. Once the complaint has been identified as being suitable for IR, complete part one of the CRF with details of the complaint and the complainant.
3. If you are *not* the LM of the subject of the complaint, then pass the CRF and accompanying paperwork to the relevant LM for dealing (if known). Explain to the complainant (if present) that the LM will be contacting them.
4. LM should decide whether the complaint can be dealt with immediately (within 48 hrs). If not, send the copy of the CRF to your local CSU to inform them of the IR case.
5. Draw up an action plan for proceeding with the IR. (This should include steps to be taken and the timescales for completing).

6. Contact the complainant to explain:

- That you will be investigating the complaint, to clarify the details of what happened, and to give your contact details
- The purpose of IR – to seek a swift resolution that satisfies all parties
- That any individual or organisational learning will be captured, including the complainant's comments (if any) on how the complaint was handled

7. Arrange a meeting with the subject of the complaint and ensure that he or she understands the benefits of IR for all parties and are comfortable with its use. Also explain:

- His or her rights in relation to access to support from a staff association, trade union or friend
- The purpose of IR
- That there will be no disciplinary action taken as a result of the complaint (unless it is part of a pattern of behaviour)
- Any training needs that are identified will be followed up

8. Following the resolution of the complaint, the complainant should be contacted to inform them of the outcome and that the complaint is closed. In most cases a written reply to the customer would be appropriate, but where a complaint has been dealt with immediately, in person with the

complainant, a brief summary on the CRF will suffice. The CRF must then be forwarded to the CSU.

## 7. Right of Review

7.1 If a customer remains dissatisfied, he or she can ask the relevant CSU to review the process used and ensure it was appropriate and followed correctly. The time limit for review of such a procedure is three months from the date of the incident, but such a request should be made as soon as possible to facilitate any further investigation. Where staff with police powers are involved ("warranted" staff) CSU will seek advice from the CSPD. Only where the CSU or CSPD decide that the use of IR was inappropriate will a formal investigation be carried out by CSPD.

## COMPLAINTS REGISTRATION FORM

*(please enter as much detail as possible & continue overleaf if necessary).*

SOURCE OF COMPLAINT: (please tick one option)

Representative  Sponsor  OSN  MP  3<sup>rd</sup> Party

Date complaint registered :

Medium by which Complaint was made:

Letter  Telephone  Leaflet  E-Mail  Fax

Complaint ID Number (if applicable) :

Business Area complaint refers to (if known)

B&C  LTR  ILR  Asylum  Enforcement  WRS  BaRC  Appeals  Removals  PEO  PBS  SLU  HSMP  SMU

Other  (Please State) .....

**PART ONE**

### DETAILS OF COMPLAINANT

Surname:

First name :

Date of birth:  
(If applicable)

Nationality:  
(If applicable)

Case reference no:  
(If applicable)

Please tick box if the complaint involves children

Correspondence Address:

Postcode:

Telephone:

Email:

DETAILS OF THE COMPLAINT:

**PART TWO**

COMPLAINTS LEAFLET GIVEN: (please tick) YES  NO

WAS COMPLAINT RESOLVED: (please tick) YES  Date resolved : NO

ACTION TAKEN: (Incl. comment from subject of complaint if required)

NEXT STEPS (IF ANY)

WAS COMPLAINT SUBSTANTIATED: (please tick) YES  NO

COMPLAINT ANSWERED BY (STAFF MEMBER'S DETAILS):

Name :

Contact telephone number:

Section :

Date:

DOCUMENTS ATTACHED? : Please state number:

Please send completed form to your Customer Service Unit

THE CAC AUDIT TOOL – DATA CAPTURE SHEET FOR MINOR MISCONDUCT COMPLAINTS

|   |                                  |   |                          |
|---|----------------------------------|---|--------------------------|
| <b>Audit Trail</b>                                      |                                  |   |                          |
| Audit Period:   | <input type="text"/>             | Audit date:   | <input type="text"/>     |
|   |                                  | Auditor:  | <input type="text"/>     |
| <b>Data Integrity</b>                                   |                                  |   |                          |
| Complaint Ref   | <input type="text"/>             | HO Ref  | <input type="text"/>     |
| Source  | <input type="text"/>             | Form:   | <input type="text"/>     |
| Dept  | <input type="text"/>             |   |                          |
| <b>Timeline</b>   |                                  |   |                          |
| Complaint date  | <input type="text"/>             | Date Received:  | <input type="text"/>     |
| Target Date:  | <input type="text"/>             | Audited date received   | <input type="text"/>     |
| Reply Time  | <input type="text"/>             | Date Allocated  | <input type="text"/>     |
|   | <input type="checkbox"/> In time | Replied:  | <input type="text"/>     |
|   |                                  | Audited in time:  | <input type="checkbox"/> |
| <b>Categorisation</b>                                   |                                  |   |                          |
| Business Area:  | <input type="text"/>             | Complaint Type  | <input type="text"/>     |
| Ombudsman Case  | <input type="text"/>             | Complaint Category  | <input type="text"/>     |
|   |                                  | Is a child involved   | <input type="text"/>     |
|   |                                  | Outcome:  | <input type="text"/>     |
| <b>Policy Compliance Metric - see Policy Guidelines</b> |                                  |   |                          |
| <input type="checkbox"/> 1 - Appropriate for IR         |                                  | Does complaint meet criteria for IR?                              | <input type="text"/>     |
| 1 - Comment   |                                  | Any comments  | <input type="text"/>     |
| <input type="checkbox"/> 2 - IR explained               |                                  | Was complaint discussed & purpose of IR explained to complainant? | <input type="text"/>     |
| 2 - Comment   |                                  | Any comments  | <input type="text"/>     |
| <input type="checkbox"/> 3 - Action plan agreed         |                                  | Was action plan agreed with complainant?                          | <input type="text"/>     |
| 3 - Comments:   |                                  | Any comments  | <input type="text"/>     |
| <input type="checkbox"/> 4 - Staff informed             |                                  | Was information supplied to staff?                                | <input type="text"/>     |
| 4 - Comment   |                                  | Any comments  | <input type="text"/>     |
| <input type="checkbox"/> 5 - Action plan followed       |                                  | Was Action Plan followed?   | <input type="text"/>     |
| 5 - Comments:   |                                  | Any comments  | <input type="text"/>     |
| <input type="checkbox"/> 6 - Completed in 15 days       |                                  | Was process completed within 15 days?                             | <input type="text"/>     |
| 6 - Comments:   |                                  | Any comments  | <input type="text"/>     |
| <input type="checkbox"/> 7 - Staff notified of outcome  |                                  | Was member of staff notified of outcome?                          | <input type="text"/>     |
| 7 - Comment   |                                  | Any comments  | <input type="text"/>     |
| <input type="checkbox"/> 8 - Complainant satisfied      |                                  | Was complainant satisfied with outcome?                           | <input type="text"/>     |
| 8 - Comment   |                                  | Any comments  | <input type="text"/>     |

## 6. COMPLAINTS AUDIT PLANNER

| COMPLAINTS AUDIT PLANNER  |           |           |         |                      |
|---|-----------|-----------|---------|----------------------|
| Task  | Frequency |           |         |                      |
|   | Annually  | Quarterly | Monthly | As and when required |
| <b>CI/CSPD work plan</b>  |           |           |         |                      |
| Agree on responsibilities, expectations and needs   | x         |           |         |                      |
| Agree Annual Report timetable   | x         |           |         |                      |
| Discuss release of audit reports (accuracy, frequency and reporting requirements)                   |           | x         |         |                      |
| Review quarterly audits on a risk-assessed basis  |           | x         |         |                      |
| Assess internal control   | x         |           |         |                      |
| CSPD to remain apprised of CI's reporting requirements  | x         |           |         |                      |
| Update status of critical UK Border Agency policies   | x         |           |         | x                    |
| Update the status of significant environmental changes  |           |           |         | x                    |
| Meet with the UK Border Agency Board  |           |           | x       | x                    |
| Evaluate other matters (e.g. adequacy of staffing)  |           |           |         | x                    |
| <b>Internal Auditor</b>   |           |           |         |                      |
| Agree on responsibilities, expectations and needs – resource and expertise on a risk-assessed basis | x         |           |         |                      |
| Review internal audit manual <sup>1</sup>   | x         |           |         |                      |
| Review the scope of the internal audit plan for the upcoming year <sup>2</sup>                      | x         |           |         |                      |
| Review the internal audit costs (budget/actual)   | x         |           |         |                      |
| Ensure co-ordination with independent auditors  | x         |           |         |                      |
| Evaluate the review procedures covering fraud, errors and illegal acts                              |           |           |         | x                    |
| Perform compliance review   | x         | x         |         |                      |
| Review summary of significant audit findings and status update relative to annual plan              |           | x         | x       |                      |
| Meet with the Director of Internal Auditing   |           |           |         | x                    |
| Meet with the Chief Inspector   |           |           | x       | x                    |
| Discuss with the Chief Inspector the critical complaints policies as discussed with management      | x         |           |         |                      |
| Go through other areas requiring special attention  |           |           |         | x                    |
| Review the results of special work or procedures  |           |           |         | x                    |

| COMPLAINTS AUDIT PLANNER  |           |           |         |                      |
|---|-----------|-----------|---------|----------------------|
| Task  | Frequency |           |         |                      |
|   | Annually  | Quarterly | Monthly | As and when required |
| Evaluate other matters (e.g. adequacy of internal audit resources)  |           |           |         | x                    |
| <b>CI and Senior Management</b>   |           |           |         |                      |
| Agree on responsibilities, expectations and needs   | x         |           |         |                      |
| Review and approve the engagement letter  | x         |           |         |                      |
| Determine need and scope of interim reviews and annual audit  | x         |           |         |                      |
| Determine that audit budget is sufficient to perform a quality audit  | x         |           |         |                      |
| Approve audit and significant non-audit services  |           |           |         | x                    |
| Review the results of annual audit (including required communications)  | x         |           |         |                      |
| Review report on internal control weaknesses and other recommendations and management responses   | x         |           |         |                      |
| Review required written communication and related areas of independence   | x         |           |         |                      |
| Review the current developments in National Audit Office principles, auditing standards, independence standards and reporting practices |           |           |         | x                    |
| <b>CI/other management officials</b>  |           |           |         |                      |
| Meet with Information Systems Director  |           |           |         | x                    |
| Review detention estate matters   |           |           |         | x                    |
| Meet <i>inter alia</i> with the Public Correspondence Unit, Managed Migration, NAAS and General Registry                                |           |           |         | x                    |
| <b>Complaints Audit Committee</b>   |           |           |         |                      |
| Report to the UK Border Agency Board  | x         |           |         |                      |
| Liaise with the CI  | x         |           | x       |                      |
| Review annual audit statements  | x         |           |         |                      |
| Evaluate Audit Committee effectiveness  | x         |           |         |                      |
| Evaluate independence of members  | x         |           |         |                      |
| Approve Audit Committee meeting planner for the upcoming year and confirm mutual expectations with management and the CI                | x         |           |         |                      |
| Evaluate performance of internal auditors   | x         |           |         |                      |
| Inquire of management as to any material violations of laws or breaches of statutory duty   | x         |           |         |                      |
| Discuss policies related to risk assessment and management  | x         |           |         |                      |

| COMPLAINTS AUDIT PLANNER  |                 |                  |                |                             |
|---|-----------------|------------------|----------------|-----------------------------|
| Task  | Frequency       |                  |                |                             |
|   | <i>Annually</i> | <i>Quarterly</i> | <i>Monthly</i> | <i>As and when required</i> |
| Approve minutes of previous meeting   |                 | x                | x              | x                           |
| Report significant matters to the UK Border Agency Board                      |                 | x                |                |                             |
| Continuing education (e.g. current auditing and complaints management topics) |                 |                  |                | x                           |
| Review complaints received regarding auditing matters                         |                 |                  |                | x                           |

<sup>1</sup> While this note reflects the key elements of an internal audit framework, our resources prevent us from providing a detailed audit manual. In our view it is imperative that one be constructed, as it is the foundation of the audit process.

<sup>2</sup> We drew up an audit work plan at the commencement of our remit and have updated it quarterly and annually on the basis of risk assessments. Good practice will require an engagement between the CI and CSPD in constructing an audit plan and using it as the basis for monitoring complaints management systems and procedures.

## 7. MEMORANDUM OF UNDERSTANDING RE. SECTION 128/138 COMPLAINTS

### COMPLAINTS ARISING FROM THE EXERCISE OF POWERS UNDER SECTIONS 128–138 OF PART VII OF THE IMMIGRATION AND ASYLUM ACT 1999

This document sets out the procedures agreed between the Complaints Audit Committee of the Immigration and Nationality Directorate ('the CAC') and the United Kingdom Immigration Service ('the Immigration Service') to ensure proper accountability in the investigation of complaints of misconduct or inefficiency made against immigration officers in the course of the exercise of powers under Sections 128-138 of the Immigration and Asylum Act 1999. These arrangements may be reviewed at any time as necessary.

#### THE PROCEDURES

1. Complaints of misconduct or inefficiency made against members of the Immigration Service exercising powers under Sections 128-138 of the Immigration and Asylum Act 1999 ('the Arrest Team complaints') will be handled separately from other complaint cases and will be investigated by specially trained senior officers of the Immigration Service ('special investigators'), or in certain circumstances by an investigator from another Home Office Directorate. Complaints involving criminal allegations will initially be referred to the Police for consideration and any

action they may deem appropriate. No investigation by the Immigration Service or on its behalf will conclude until any action by the Police has been completed.

2. All formal complaints will be scrutinised on receipt at the Immigration Service Complaints Unit ('the Complaints Unit') to identify those requiring special investigation in accordance with these procedures.

3. CAC members will take lead responsibility on a rotational basis for oversight of Arrest Team complaint investigations. Any such complaint will be brought to the attention of an appropriate CAC member as soon as possible. That member will be known as the 'Independent Adviser' (IA), and will be responsible for keeping the CAC Chair advised of any significant issues arising from the investigation.

4. The IA will be informed by the Complaints Unit of the recommended method of investigation, that is whether it is proposed that the complaint should be investigated by a special investigator, by appointment of an investigator from outside the Immigration Service, or referred to the Police. Complaints under Sections 128-138 will also be brought to the attention of the National Arrest Team Co-ordinator to consider whether certificates of competence to perform these duties should be suspended or withdrawn from staff involved in the complaint pending completion of enquiries.

5. In order not to unduly delay enquiries, the method of investigation recommended by the Complaints Unit

will be deemed to have been accepted by both parties unless the IA responds with alternative proposals within seven working days. The investigation will in any event commence as soon as possible, but will be reviewed in accordance with the provisions of paragraph 6 below if alternative proposals are received from the IA within the agreed timescale. An exception to this procedure may be applied in cases involving criminal allegations which the Head of the Complaints Unit considers require immediate reference to the Police.

6. Any alternative proposals put forward by the IA will be considered by the Head of the Complaints Unit, who will consult as necessary with the IA and agree the method to be adopted. If agreement cannot be reached, efforts will be made to resolve the matter by discussion in the first instance between the IA or CAC Chair and the Immigration and Nationality Directorate (IND) Senior Director of Operations, or thereafter between the CAC Chair and the Director General of IND. In the unlikely event that agreement cannot be reached on the method of investigation to be adopted, the matter may be referred to the appropriate Minister of State for a final decision.

7. The IA will not be directly involved in the conduct of the investigation, but will monitor progress throughout. To assist this process, the Complaints Unit will review the status of the investigation at intervals of no more than fourteen days after commencement, and advise the IA of any significant developments or delays. In the light of such developments, the IA may make further



recommendations in writing about the investigation process, which will form part of the investigation record. The investigating officer will record whether or not the IA's recommendations are accepted, and provide written reasons if any recommendation is not accepted.

8. Communication between the investigating officer and the IA will ordinarily be via the Complaints Unit, but provision may be made for direct contact in cases where this would assist the progress of the investigation.

9. The Complaints Unit will copy the investigating officer's report to the IA on receipt, and the IA will then provide any additional comments or recommendations in writing within three working days. The report will be deemed to have been accepted by the IA if no response is received within that time. IND owns the report and is not bound by the IA's recommendations, but will provide written reasons in the event that any recommendations are not accepted.

10. The letter of reply prepared by the Complaints Unit will also be copied to the IA, who may provide further comments or recommendations in writing within three working days. The final content and format of the reply remains a matter for IND, but in the event that the IA's comments and recommendations are not accepted the reasons for this will be recorded on the file and the IA advised. If no response is received from the IA within three working days, the letter of reply may be forwarded to the complainant without further reference.

11. The Complaints Unit will maintain a log on the complaints file recording all actions taken and attaching copies of any exchanges with the IA. The IA will normally be the same CAC member throughout the process, but in the event that the IA becomes unexpectedly unavailable, another member of the CAC may be asked to substitute. The completed complaint file will be monitored by the CAC in the course of their routine quarterly review, and the CAC may raise any issues arising with senior IND managers.

The procedures contained in this document will be reviewed after one year and may be amended, supplemented or discontinued at any other time by agreement between the CAC and the Immigration Service.

Ros Gardner  
Chair  
Complaints Audit Committee of the  
Immigration and Nationality  
Directorate

Bill Jeffrey  
Director General, Immigration and  
Nationality  
Directorate and Chief Inspector of the  
United Kingdom Immigration Service  
June 2003

## ARREST TEAM CASES

1. Arrest team cases are those where a complaint has arisen specifically as a result of immigration officers exercising powers under Sections 128-138 of Part VII of the Immigration and Asylum Act 1999. In practice this means cases which arise from the activities of an arrest team.

2. Immigration officers have always had powers of arrest in relation to immigration offences as set out in the 1971 Immigration Act as amended. Offences include unlawful entry, entry by deception, entry in breach of a deportation order, overstaying, failure to observe entry conditions (e.g. working in breach), absconding from detention or temporary admission, facilitating entry or leave to remain, and harbouring. However, the powers did not extend to entry and search of premises, or seizure of evidence, and in practice were rarely used. The normal procedure was rather for visits to premises and other operations to be carried out by a combined unit of police and immigration officers, and for the police to arrest and process any offenders.

3. In the latter part of the 1990s, police forces increasingly expressed concern at the resource implications for them of this system, and sought to reduce their involvement in immigration work. Provisions were therefore included in the 1999 Immigration and Asylum Act to allow immigration officers to act without a police presence in detaining immigration offenders. Amongst other things, Sections 128 to 138 conferred on immigration officers the power to enter and search premises with or

without a warrant, to seize and retain documents and other relevant evidence, to photograph and copy seized material, and to search arrested persons and seize anything which might be used to cause injury or assist escape.

4. When the new Act came into force, selected officers were trained with the assistance of the police and formed into Arrest Teams, whose prime function is to visit premises and arrest, detain and remove offenders. Arrest Teams may vary in size depending on the nature of the operation, but normally consist of a minimum of five officers, each with a specific function within the team. Checks and risk assessments are carried out prior to visits, together with a police style operational briefing.

5. An initial pilot was carried out in the London area in 2000, and Arrest Teams now operate in many areas of England, Scotland and Wales. Arrest Teams do not operate in Northern Ireland, where for security reasons operations are still carried out in conjunction with the police. Elsewhere in the UK immigration officers may still act jointly with local police forces, particularly where major operations are involved, and the Immigration Service also has dedicated police secondees with particular experience in immigration matters.

6. Arrest teams were originally used only to visit private addresses. However, the remit now extends to business premises. Arrest team members may also undertake pastoral visits prior to an arrest to explain rights and removal processes and identify any new factors or considerations (e.g. medical issues).

Pastoral visits are normally carried out by two officers, and arrest will normally follow within 24 hours. Rate of absconding is low. All officers involved in family removal work are hand picked and receive additional training in dealing with minors. In addition, arrest team officers may be involved in crime reduction operations in support of the police or other bodies, for example checking the immigration status of passengers identified by the police at railway stations.

7. Whilst the 1999 Act was passing through Parliament, concerns were expressed – mainly by Members of the House of Lords – that existing complaints procedures might not be appropriate or sufficiently robust to cater for the investigation of complaints arising from the exercise of the new powers. As a result, enhanced procedures were agreed for the handling of these specific cases.

8. Arrest Team cases may only be investigated by selected investigating officers, who must be of at least substantive Inspector grade and from outside the district where the Arrest Team is based. They must have experience of enforcement work and must in addition have received specialist training in complaint investigation and in Arrest Team legislation and operational procedures. Investigators from outside the Immigration Service who have received the relevant training may be approached to undertake the investigation of particularly sensitive cases, or those where it is felt inappropriate for a member of the Immigration Service to do so.

9. The Arrest Team investigation process is also subject to an enhanced level of scrutiny by the Complaints Audit Committee (CAC). The CAC's terms of reference were extended to reflect this, and the arrangements are set out in a Memorandum of Understanding between IND and the CAC. In essence, this provides for the CAC to be kept informed of progress in the handling of Arrest Team complaints, comment at various stages in the process, and raise any concerns with senior officers. The MOU may be revised by mutual agreement, and this was last formally done in 2003. However, at a meeting in March 2004, it was additionally agreed that the escalation process in paragraph 6 of the MOU was unnecessarily steep, and that the final arbiter in any case of dispute should be the Assistant Director responsible for ISCRU.

10. Where the complainant makes allegations indicating that a criminal offence may have been committed by an immigration officer (usually these involve allegations of assault or theft of/damage to property), the papers are forwarded to the Crime Manager of the police station in whose area the incident took place. A Service Level Agreement exists between IS and the Metropolitan Police regarding the handling of cases arising in the London area. Section 6 refers to Complaints. Further agreements are being negotiated with other police forces as arrest teams extend operations country-wide. Where the police have been asked to undertake enquiries, any IS investigation will be deferred until their enquiries are complete.

11. Summary of procedure:

- On receipt of complaint, matter brought to attention of next rotational IA as soon as possible, together with recommended method of investigation i.e. special AT investigator, external investigator or reference to Police;
- IA has seven working days to produce any alternative proposals for consideration and agreement;
- ISCRU review progress of investigation at 14 day intervals, and advises IA of significant developments or delays. In the light of such developments, the IA may make further written recommendations, which will form part of the investigation record. The decision whether or not to accept the recommendations rests with IND, but in the event that the recommendations are not accepted reasons will be provided in writing;
- ISCRU will copy the investigation report to the IA on receipt, and the IA may then make further comments or recommendations within three working days. IND is not bound by any comments or recommendations, but will provide written reasons if any recommendation is not accepted;
- ISCRU will send the IA the draft letter of reply, and the IA may make comments or recommendations within three working days. The final content and format of the letter is a matter for IND, but if comments or recommendations are not accepted the reasons for this will be recorded on the file and the IA advised;

- In all cases, where no response is received from the IA within the specified time, action will proceed on the basis that the IA is deemed to have accepted the IND proposals;
- ISCRU will maintain a log on the complaint file recording the actions taken and attaching any copies of exchanges with the IA;
- The IA will normally be the same CAC member throughout, but if necessary another member may be asked to substitute;
- The completed case file will be audited by the CAC in the normal manner via the quarterly review procedure, and the CAC may raise any issues arising with IND senior managers at the quarterly meeting.

12. The role of the CAC may be briefly defined as:

- To agree the investigation format;
- To ensure proper and impartial investigation for both complainants and staff;
- To raise concerns about quality of service or procedural issues.



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To make a request email:  
[Sharon.Pearce@homeoffice.gsi.gov.uk](mailto:Sharon.Pearce@homeoffice.gsi.gov.uk)

or telephone:  
CSPD  
020 8760 3243

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