



House of Commons
Home Affairs Committee

UK Border Controls

Seventeenth Report of Session 2010–12

Volume II

Additional written evidence

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The Home Affairs Committee

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

Current membership

Rt Hon Keith Vaz MP (*Labour, Leicester East*) (Chair)
Nicola Blackwood MP (*Conservative, Oxford West and Abingdon*)
James Clappison MP (*Conservative, Hertsmere*)
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Mr David Winnick MP (*Labour, Walsall North*)

The following members were also members of the committee during the parliament.

Mr Aidan Burley MP (*Conservative, Cannock Chase*)
Mary Macleod MP (*Conservative, Brentford and Isleworth*)

Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via www.parliament.uk.

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at www.parliament.uk/homeaffairscom.

Committee staff

The current staff of the Committee are Tom Healey (Clerk), Joanna Dodd (Second Clerk), Eleanor Scarnell (Inquiry Manager), Darren Hackett (Senior Committee Assistant), Sheryl Dinsdale (Committee Assistant), Victoria Butt (Committee Assistant), John Graddon (Committee Support Officer) and Alex Paterson (Select Committee Media Officer).

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Written evidence

Correspondence from the Chair to the Home Secretary

Thank you for coming to give evidence to the Home Affairs Committee today. You agreed to provide us with some additional information about the UK Border Agency.

I would be grateful if you could supply us with answers to the following questions:

1. When was the Interim Operational Instruction of 28 July 2011 (Issue No. BF 01 29 11), or a draft of it, first seen by Home Office officials? Was it approved by the Home Office before being issued, and if so by whom?
2. When did you agree to extend the original pilot from mid-September to November 2011?
3. Please could you supply the Committee with copies of all communication between the Home Office and the UKBA relating to the pilot?
4. Please could you supply the Committee with further details of the *factual* basis for the proposal for the introduction of the pilot—for example, any anticipated reductions in queuing time or improvements in security—as well as the terms of the pilot which you approved.
5. Can you supply a complete list of those ports of entry where the pilot was introduced and details of the criteria under which they were selected for participation in the pilot?
6. Please could you supply the Committee with the timetable for evaluating the pilot, as well as a copy of any evaluation which has already been conducted by UKBA?
7. A paragraph on the second page of the Operational Instruction refers to the need to consult the Border Force Duty Director if it is considered necessary to take further measures, beyond those listed in the Operational Instruction. You said that this referred to an earlier Instruction concerning health and safety, first issued in 2007. Please could you supply a copy of that instruction?
 - (a) Can you indicate how many times this piece of health and safety instruction was utilised prior to the pilot commencing in July 2011
 - (b) How many times was the operation instruction utilised during the pilot period?
8. You mentioned that you “told officials explicitly that the pilot was to go no further than we had agreed.” How did you notify UKBA officials of your request and why did you feel it was necessary to be explicit on this issue?
9. How many times have you met with Brodie Clark in the past year, and how many times between July and November 2011?
10. When were you informed that border checks had been further relaxed?
11. When were you informed that Brodie Clark had been suspended?
12. What evidence was provided to you that indicated the reasons behind Rob Whiteman suspending Brodie Clark?
13. Have you spoken with Brodie Clark or a representative for him since he was suspended last Thursday and since he resigned on 8th November 2011?
14. What is the total number of people who entered Britain by month between July–November 2011? Please could you also provide these details for July–November 2010?

We are inviting Brodie Clark, Rob Whiteman and Damian Green to give evidence to the Committee next Tuesday morning. It would be helpful to have your responses by midday on Friday 11 November so that we can consider them before that meeting.

9 November 2011

Correspondence from the Home Secretary to the Committee

I am writing to follow up a number of issues raised by your Committee at my evidence session on 8 November and subsequent letter dated 9 November.

1. *When was the Interim Operational Instruction of 28 July 2011 (Issue No. BF 012911), or a draft of it, first seen by Home Office officials?*

Was it approved by the Home Office before being issued, and if so by whom?

Interim Operational Instruction (101) Issue No. BF 01 29 11 dated 28 July 2011 was signed off at Border Force Director level within UKBA. It was not cleared with Home Office officials. This is in line with standard practice.

2. *When did you agree to extend the original pilot from mid-September to November 2011?*

I agreed to extend the pilot until early November on 14 September 2011.

3. *Please could you supply the Committee with copies of all communication between the Home Office and the UKBA relating to the pilot?*

As I explained to the House of Commons last Wednesday, I will be providing copies of all communications between the Home Office and the UK Border Agency relating to the pilot to the Chief Inspector, John Vine, for his investigation. I consider that is the proper approach to take.

4. *Please could you supply the Committee with further details of the factual basis for the proposal for the introduction of the pilot—for example, any anticipated reductions in queuing time or improvements in security—as well as the terms of the pilot which you approved?*

The clear aim of the pilot was to enable UKBA Border Force to deliver improved security performance at times of high passenger volumes.

5. *Can you supply a complete list of those ports of entry where the pilot was introduced and details of the criteria under which they were selected for participation in the pilot?*

The pilot applied to all ports and airports and the measures were used at the following ports—

Aberdeen, Belfast, Birmingham, Bournemouth, Bristol Airport, Calais, Cardiff, Coquelles, East Midlands, Edinburgh, Exeter, Gatwick, Glasgow, Harwich, Heathrow, Leeds Bradford, Liverpool, London City, Luton, Manchester Airport, Newcastle, Newhaven, Norwich, Plymouth, Poole, Portsmouth, Prestwick, and Stansted.

6. *Please could you supply the Committee with the timetable for evaluating the pilot, as well as a copy of any evaluation which has already been conducted by UKBA?*

The results of the pilot have not yet been fully evaluated but initial UKBA statistics show an almost ten per cent increase in the detection of illegal immigrants and a 48 per cent increase in the identification of forged documents compared to the year before.

7. *A paragraph on the second page of the Operational Instruction refers to the need to consult the Border Force Duty Director if it is considered necessary to take further measures, beyond those listed in the Operational Instruction. You said that this referred to an earlier Instruction concerning health and safety, first issued in 2007. Please could you supply a copy of that instruction?*

(a) *Can you indicate how many times this piece of health and safety instruction was utilised prior to the pilot commencing in July 2011?*

(b) *How many times was the operation instruction utilised during the pilot period?*

We do not release copies of operational instructions to do so could have a detrimental impact on the operational effectiveness of border controls. Guidance, published in 2007, makes clear that Warnings Index checks should be conducted on all passengers and only be lifted on a limited basis on health and safety reasons. It does not permit the extent of the unauthorised activity which appears to have taken place. Management information records indicate that the policy instruction was used more than 100 times since 2008. The internal investigation being carried out by David Wood and John Vine's independent investigation will consider this further.

8. *You mentioned that you “told officials explicitly that the pilot was to go no further than we had agreed.” How did you notify UKBA officials of your request and why did you feel it was necessary to be explicit on this issue?*

On 22 July I authorised a temporary pilot which—in limited and specific circumstances—allowed UK Border Force officers to use more intelligence-led checks against higher-risk passengers and journeys instead of always checking EEA national children travelling with parents and in school groups against the Warnings Index and always checking EEA nationals' second photographs in the chip inside their passport. In response to further communication from Brodie Clark's office requesting clarification on the scope of the pilot, my private office repeated the terms of the pilot I had authorised. My office further emphasised that I did not authorise further measures. On 26 July my office confirmed this again.

9. *How many times have you met with Brodie Clark in the past year, and how many times between July and November 2011?*

In the past year, ie since November 2010, I have met Brodie Clark on ten occasions, with only one of these meetings occurring between July and November 2011. This meeting was not to discuss the pilot.

10. *When were you informed that border checks had been further relaxed?*

11. *When were you informed that Brodie Clark had been suspended?*

12. *What evidence was provided to you that indicated the reasons behind Rob Whiteman suspending Brodie Clark?*

I will deal with these three questions together. On the morning of 3 November the Permanent Secretary for the Home Office, Dame Helen Ghosh, informed me of Rob Whiteman's decision to suspend Brodie Clark. She explained that Mr Clark had apparently failed to carry out biometric checks on non EEA nationals.

13. *Have you spoken with Brodie Clark or a representative for him since he was suspended last Thursday and since he resigned on 8 November 2011?*

I have not spoken to Brodie Clark or anyone representing him since 3 November.

14. *You asked for information regarding the number of people who entered Britain between July 2011 and November 2011 and comparable figures for the same period in 2010. The figures below relate to the number of journeys taken. Therefore, one passenger travelling on three separate occasions will be counted three times. The figures also include transit passengers. The 2011 figures are based on management information and as such they have not been quality assured. They are provisional and subject to change. Quarter 3 figures for 2011 are currently scheduled to be published in February 2012*

<i>Total number of people entering Britain</i>		<i>Total number of people entering Britain</i>	
July 2010	10,967,192	July 2011	10,028,076
August 2010	11,904,488	August 2011	10,244,316
September 2010	10,462,359	September 2011	To be published in Feb 2012
October 2010	9,423,009	October 2011	To be published in May 2012
November 2010	6,695,558	November 2011	To be published in May 2012

14 November 2011

Correspondence from the Chair to Dame Helen Ghosh DCB

I am writing in regarding the operation of the UK Border Agency and specifically on relaxation of passport controls at the border and any further measures introduced between July and November 2011.

I would be grateful if you could supply the Committee with answers to the following question:

1. Did you approve the Interim Operational Instruction of 28 July 2011 (Issue No. BF 01 29 11), or see a draft of it?
2. When you were first informed about the original pilot from September to November 2011?
3. How many times have you met with Brodie Clark in the past year and how many times between July and November 2011?
4. When were you informed that border checks had been further relaxed?
5. When were you informed that Brodie Clark had been suspended?
6. Can you confirm that no Minister or official at the Home Office knew of measures taken by the UKBA, beyond those listed in the Operational Instruction?
7. Can you describe the arrangements for the oversight of the UKBA by (a) the Home Secretary, (b) other Ministers and (c) Home Office officials?
 - (a) What are the logging systems in place within the Home Office for decisions made within UKBA?
 - (b) What processes are in place to notify UKBA staff of new procedures and who is responsible for authorising these notifications?

We are inviting Brodie Clark and Rob Whiteman to give evidence to the Committee next Tuesday morning. It would be helpful to have your responses by midday on Friday 11 November so that we can consider them before that meeting.

9 November 2011

Correspondence submitted by Dame Helen Ghosh DCB to the Committee

I am writing in response to your letter of 9 November in which you raised a number of questions regarding the operation of the UK Border Agency and controls at the border. Firstly, I would like to make the point that the UK Border Agency is part of the Home Office, so any overall governance arrangements for the Department include the UK Border Agency (UKBA).

1. *Did you approve the interim operational instruction of 28 July 2011 (issue NO.BF 012911), or see a draft of it?*

No. Interim Operational Instruction (101) Issue No. BF 01 29 11 dated 28 July 2011 was signed off at Border Force Director level within UKBA. This is in line with standard practice.

2. *When were you first informed about the extension of the original pilot from September to November 2011?*

I was informed in an email copied to me that both the Minister of State for Immigration and the Home Secretary had agreed to the extension of the pilot on 14 September 2011.

3. *How many times have you met with Brodie Clark in the past year and how many times between July and November 2011?*

Excluding routine meetings with Home Office senior managers, which happen on at least a weekly basis, I have met with Brodie Clark on 15 occasions in the last year and 6 times since July 2011.

4. *When were you informed that border checks had been further relaxed?*

I was first informed that border checks had gone further than the pilot authorised by the Home Secretary in the morning of 3 November by the Chief Executive of UKBA, Rob Whiteman and that as a result of this he intended to suspend Brodie Clark.

5. *When were you informed that Brodie Clark had been suspended?*

Rob Whiteman informed me that he had suspended Brodie Clark later in the morning on 3 November.

6. *Can you confirm that no Minister or official at the Home Office knew of measures taken by the UKBA, beyond those listed in the Operational Instruction?*

This is one of the matters being covered by John Vine's investigation.

7. *Can you describe the arrangements for the oversight of UKBA by (a) the Home Secretary, (b) other Ministers and (c) Home Office officials?*

- (a) *What are the logging systems in place within the Home Office for decisions made within UKBA?*
- (b) *What processes are in place to notify UKBA staff of new procedures and who is responsible for authorising these notifications?*

The Home Secretary exercises oversight of the Agency through:

- The Home Office Supervisory Board, which the Home Secretary chairs and which includes all Home Office Ministers; most of the Department's Director Generals (including the UK Border Agency Chief Executive) and four NonExecutive Directors. The Supervisory Board monitors overall performance against overall delivery by the Department, high level risks and finances.
- Advice and briefing from officials in the Agency and in the Home Office on specific strategic, policy and operational matters.
- Advice and information from independent bodies, including the Independent Chief Inspector of UKBA, your Committee, the Public Accounts Committee, the National Audit Office, and the bodies that oversee the Agency's use of detention and coercive powers.
- Specific advice from me or from other senior Home Office officials on matters that emerge from the official-level oversight functions I describe in the next paragraph.

In addition the Immigration Minister exercises oversight by:

- Weekly reports from the Chief Executive on the Agency's performance and key strategic, policy and operational issues.
- Weekly meetings with the Chief Executive and the Director General for Strategy Immigration and International to discuss key strategy, performance, operational and policy issues.
- Attending the Agency's Board meetings at least once a quarter to discuss, among other things, performance and risk. UKBA Board has seven Non-Executive Directors, including ones representing the Association of Chief Police Officers the Foreign and Commonwealth Office and HM Revenue and Customs.

At official level, the key components of the Department's oversight of the Agency are:

- THE EXECUTIVE MANAGEMENT BOARD (EMB), which I chair and includes the Departments' Director Generals, including the Chief Executive of the UKBA. It maintains oversight of performance and corporate risks. It also discusses and progresses the development of the Home Office's key policies and programmes.
- THE UKBA OPERATING REVIEW, which I chair and includes the Director Generals for Strategy, Immigration and International; for Financial and Commercial, the Chief Executive of the Agency and key members of his Board. This provides a monthly opportunity for me to review the Agency's risk and performance. I chair a regular Operating Review for each part of the Home Office.
- THE GROUP INVESTMENT BOARD, a sub-board of the EMB which is chaired by Director General for Financial and Commercial. This reviews, approves and maintains oversight of all the Department's high-risk programmes, including UKBA.
- THE CAPITAL AND PORTFOLIO MANAGEMENT BOARD, which is chaired by Home Office Director of Performance and Finance. This manages the Department's capital budget and assures and oversees the Department's portfolio of capital projects and programmes, including UKBA.
- THE AUDIT AND RISK ASSURANCE COMMITTEE, which is chaired by a Home Office Non-Executive Director. It reviews and assures the effectiveness of systems for the management of finances, risk and governance across the department. It includes the Chairs of the Audit Committee in the Agencies including the UKBA.
- THE RISK COMMITTEE, which is chaired by the Director General for Financial and Commercial. This reviews and monitors the main risks to the Home Office as a whole.

These structures are supported by a range of teams across Home Office HQ that also provide day to day liaison, support and monitoring in relation to the Agency.

In addition, following a decision by the Home Secretary, the strategic policy function of the Agency moved across to Home Office HQ in August this year. This will allow the Agency to apply greater focus to improving its operations. The Immigration and Border Policy Directorate (IBPD) now forms part of the Strategy, Immigration and International Group under the Director General, Mike Anderson.

The Directorate works closely with the Agency, and its responsibilities include advising Ministers on the following areas:

- reducing net migration;
- providing a strategic policy framework to protect the UK from illegal immigration, crime and terrorism, through effective end-to-end border controls;
- providing an effective set of policies that protect the public by removing illegal immigrants, deporting foreign national criminals and denying the privileges of British nationality to those who harm the UK;
- an effective asylum system, through effective policies, both in the UK and in Europe; and
- building a fit-for-purpose legal framework, and ensuring we manage litigation effectively.

Key features of the new arrangements include cross-Departmental programme boards on the following areas: reducing net migration, border security, asylum, enforcement and litigation. These Boards ensure that HO policy officials are closely engaged with Agency staff on the development and implementation of new policies. This provides a better connection to other areas of Home Office Policy such as counter terrorism and organised crime, as well as to other Government Departments' policy agendas.

In relation to your specific questions about systems for logging decisions made within UKBA and the process for notifying UKBA staff of new procedures:

- Home Office HQ does not systematically log operational decisions made in UKBA. Ministers and senior officials in the Department receive regular summaries of the key operational decisions and activities of the Agency in the form of the weekly report from the Chief Executive that I referred to above. This will not generally cover detailed operational instructions such as those given to staff working at the border. Also, as noted above, Home Office officials are engaged with Agency staff on policy development and implementation in key areas, including border controls, through cross-Departmental Programme boards. In this context they will be aware of a range of operational decisions by the Agency.
- On your question about arrangements for notifying UKBA staff of new procedures, it is the Agency's responsibility to prepare operational instructions for its staff that reflect the policy decisions made by Ministers. IPBD officials will often be closely involved in the preparation of such instructions, particularly where they have been involved in the policy development work. Such instructions are not "authorised" formally by the Home Office.

Correspondence submitted by Rob Whiteman to the Committee

Thank you for your invitation to attend the Home Affairs Committee on Tuesday.

In advance of this, I thought it would be helpful to set out some information for your Committee as background to the border security issues discussed in Parliament this week.

First of all, it is important to remember the context of the matter in hand. Over 200 million passenger journeys are made each year. The vast majority of them are legitimate travellers. The UK Border Agency is focussed on identifying the minority who are not.

The agency has highly trained, professional and dedicated staff who are committed to doing this in a number of ways. For obvious reasons, it is not Government policy to discuss publicly aspects of our security checking arrangements. However, I thought the following summary would be helpful:

CHECKS PRIOR TO TRAVEL

Our process begins overseas before travellers even begin their journey to the UK:

- Three quarters of the world's population require a visa to come to the UK.
- As part of the visa application process we take biometric details, which we check against crime and immigration databases.
- Since May last year we have taken over 3.7 million sets of biometric information and made over 17,000 database hits.
- We also check visa applications carefully for forged or fraudulent documents. We detected 27,000 forged documents in 2010–11.
- Overall in 2010 we received 2.5 million visa applications overseas and refused nearly 385,000.
- Alongside the visa application process, we have an overseas network of risk and liaison officers which works with security agencies and overseas Governments. Last year they prevented more than 68,000 people without the correct documents travelling to the UK.

E-BORDERS CHECKS

E-Borders checks individual passenger details against police, security and UK Border Agency watchlists in advance of arrival which allows interceptions before boarding or on arrival. Officers either prevent passengers identified through this process from boarding the plane or apprehend them on arrival. E-borders currently covers over 90% of non-EU flights and over 55% of all flights into and out of the UK and we are extending the number of routes and carriers. Ten thousand wanted criminals including murderers, rapists and illegal immigrants have now been arrested at the border as a result of e-borders.

CHECKS AT THE BORDER

Once passengers arrive at the border, they are assessed by experienced border officers. At the primary control point, these officers make a number of checks including identity and watchlist checks and, for non-EEA passengers, a decision is made on whether the passenger is eligible to enter. They use a range of information systems and technology to assist them in this.

Targeted secondary checks are then made on some passengers. These are vital to detecting irregular migration, drugs, weapons and other issues. In 2010 18,276 people were refused entry at a UK port and subsequently removed.

THE RISK-BASED PILOT

The aim of the risk-based pilot agreed by Ministers and under discussion this week was to improve border security, to ensure resources were targeted properly and focus on passengers and journeys which intelligence showed posed greatest risk.

The terms allowed, under limited circumstances, EEA national children, travelling with parents or part of a school group, not to be checked against watchlists. The pilot also allowed, also under limited circumstances, border officers the discretion to judge when to open the biometric chip—which contains a second photograph and no further information in the passports of EEA nationals. The measures would always be subject to a risk-based assessment. The pilot is being evaluated but early evidence is that the discretion given has led to higher detection by focussing more resources on secondary checks.

Last week it came to light that unauthorised activity had been taking place in addition to what had been agreed as part of the pilot:

- biometric checks on EEA nationals and watchlist checks on EEA national children are thought to have been abandoned on a regular basis, without ministerial approval.
- adults are thought not to have been checked against the watchlists at Calais; and
- the verification of the fingerprints of non-EEA nationals holding biometric visas was suspended.

I have appointed David Wood, head of our Enforcement and Crime Group and a former Metropolitan Police Officer, to carry out an investigation in to exactly how, when and where the suspension of checks might have taken place.

The Home Secretary has appointed the Independent Chief Inspector of the UK Border Agency, John Vine, to conduct a thorough review to find out exactly what happened across the agency in terms of the checks, how the chain of command in Border Force operates and whether the system needs to be changed in the future.

I hope the above is helpful. I look forward to discussing it further with you on Tuesday.

11 November 2011

Correspondence from the Chair to Rob Whiteman

On Monday 7 November, in her statement on the UK Border Force, the Home Secretary told the House that she “told officials explicitly that the pilot was to go no further than we had agreed” (*Hansard*, 7 November 2011, col 45).

When you appear before the Committee tomorrow, I would be grateful if you could bring a copy of the document in which this instruction is contained. If you can hand it to the Clerks when you enter the Committee Room, they will be able to make and distribute copies to Members.

As you know, the Committee has a formal power “to call for persons, papers and records”, under House of Commons Standing Order No 152.

I look forward to seeing you tomorrow.

14 November 2011

Correspondence from the Chair to the Home Secretary

I am writing to you following the Committee’s formal evidence session yesterday with Brodie Clark, the former Head of the UK Border Force and Rob Whiteman, the Chief Executive of the UKBA. The Committee would be grateful if you would provide it with the following papers which are relevant to our inquiry:

1. any paper or papers which contain your explicit instruction to UKBA officials not to go beyond the agreed terms of the trial of risk-based processes at the border, as set out in the Interim Operational Instruction of 28 July, or otherwise set out the terms of your agreement to that trial;
2. the Operational Instruction or similar document issued in 2007, which describes the temporary changes to border arrangements which the UKBA may take in order to mitigate serious health and safety risks at a port or airport;
3. the e-mail sent by Brody Clark to Rob Whiteman at about 7 am on 3 November 2011 (which we have been told draws a distinction between the two policies described in the documents requested above);
4. copies of the periodic updates (which we understand were weekly, in the first instance) which were sent to you on the operation of the trial between July and November;
5. a copy of the UK Border Force Operations Manual (if it is currently being updated, we would be happy to receive a copy of the last edition that was issued), or the complete URL where it can currently be found on-line; and
6. A copy of the webpages which appeared on the UKBA website before the 2010 election under the heading “Managing our border”, or the complete URL where they can currently be found on-line.

The Committee would be happy to respect any protective marking which appeared on any of the documents requested.

I understand that some of the papers requested have been or will be supplied to one or more of the three inquiries you have established to consider these events. We nonetheless believe that it is necessary for the Committee to receive copies in order for us to pursue our own inquiries.

Whilst writing, I have noted that David Wood’s interim report has in the words of the Daily Mail (16 November, page 8) “been leaked to the newspaper”. As it appears the report is ready, it would greatly assist us with our inquiry if you could provide the Committee with a copy.

Could I also remind you that the Committee is awaiting two further pieces of correspondence from you:

- (a) On 7 November, you told the House following a question from Douglas Carswell MP that you would “be making information available on the issue involving Raed Salah to the Home Affairs Committee” (*Official Report*, col 57). We have been waiting some time for this information and I would be grateful if you could now provide it.
- (b) When you gave evidence to the Committee on 8 November, Mark Reckless MP raised a question about whether police and crime panels would have to power to trigger referendums on police precepts

(QQ 62–66). You undertook to write to the Committee with fuller details of the reasons why the policy in the Act does not reflect the policy in the Coalition Agreement and the White Paper.

I would be grateful for a response by noon on Monday 21 November 2011 so that it can be circulated before the Committee's next meeting on Tuesday 22 November 2011.

I remain most grateful to you for your assistance and continued cooperation on this matter.

16 November 2011

Correspondence from the Home Secretary to the Committee

Thank you for your letter dated 16 November 2011.

On paragraphs 1, 3 and 4 of your letter, as I explained to the House of Commons on Wednesday 9 November, I will be providing copies of all relevant documentation as appropriate to the inquiries that are underway. I consider that is the proper approach to take.

On paragraph 2, specifically regarding the Operational Instruction from 2007, as I stated in my letter dated 14 November, we do not release copies of operational instructions as to do so could have a detrimental impact on the operational effectiveness of border controls. Guidance, published in 2007, makes clear that watchlist checks should be conducted on all passengers and only be lifted on a limited basis on health and safety reasons for low risk EEA nationals. It does not permit the extent of the unauthorised activity which appears to have taken place. Management information records indicate that the policy instruction was used more than 100 times since 2008 and was used during the course of the pilot.

Regarding questions 5 and 6, I can confirm that the Border Force Operating Manual was removed from the external UK Border Agency's website in February 2010. It is being refreshed and will be available shortly. The Agency will ensure that the Committee receives a copy. The latest internal guidance remains available to all Border Force officers.

The "Managing Our Borders" section of the website was removed by the agency at the time of the General Election. It can be accessed in the UK Government Web

Archive at:

<http://collections.europarchive.org/tna/20100419081706/http://ukba.homeoffice.gov.uk/managingborders/>

Updated information is in development and will be published shortly.

You have also requested a copy of the investigation by David Wood. David Wood is undertaking an investigation under the terms of the Home Office disciplinary procedure. As you know, Cabinet Office guidance on *Giving Evidence and Response* to Select Committees makes clear that information should not be given about Departmental disciplinary proceedings until the hearings are complete. There may also be related legal proceedings pending. As set out in the *Guidance*, I undertake to come back to the Committee to provide it with an account of what has happened and to inform it of the outcome of the disciplinary investigation, including, where necessary, an outline of what actions have been taken to prevent a reoccurrence. I am expecting that most of these issues will be picked up by John Vine's report.

21 November 2011

Written evidence submitted by Mr Brodie Clark

Following my initial evidence to the Committee given orally on 15 November 2011 I have become aware of documents supportive of my explanation that the temporary suspension of secure ID checks was an operational response to front line issues. The response was used openly, known about by Board colleagues and not an unauthorised extension of the Home Secretary's Pilot.

I made a full presentation to the UKBA Strategy Board (chaired by Lin Homer and with David Wood and Jonathan Sedgwick in attendance, along with the rest of the UKBA Board and non-executive members) in December 2010. The subject was "Failure to Maintain Robust Border Controls" which is one of 18 headings on the UKBA Risk Register. Each risk is examined by the Board throughout the year. It was a 9 page slide presentation and Point 2 on slide 8 focussed on suspension of secure ID and WI suspensions. The subject of the suspensions was considered by the Board in relation to its use to that point, and how collectively to reduce the occurrences. It was included under the heading of "contingencies". I believe that inspection of the distribution of documents will confirm that all Board members at the time received the document and that an inspection of the minutes will confirm that the presentation took place with no dissent from colleagues regarding the operational approach or advice to me that ministers should be alerted.

The Committee may also wish to consider that when Mr Vine raised with me, after his visit to Heathrow, the issue of Secure ID suspension he did so in the context of frequency rather than the use of the practice itself. I did however make it clear to him that it was for exceptional use as a contingency measure. Further support, I believe, that this had been an accepted operational approach for some time and separate from the pilot.

I have also attached my letter to Graham Kyle following the Conversation with Mr Vine in support of my earlier oral evidence to the committee. I did speak to Graeme Kyle on the matter prior to him receiving the letter.

There is also further support for my position that this was an entirely separate operational “contingency” arrangement, and that it was widely known about across the business, when the operational instructions regarding the pilot are considered along with the Board paper and the letter to Mr Kyle. The Committee are aware that the operational instruction openly refers to “further measures, beyond those listed above” (those “listed above” were the pilot). Those “further measures” were distinct and separate to the pilot and the instruction was referring to existing operational contingencies which required a higher authority.

I remain concerned that the only independent inquiry into matters is that of the Home Affairs Select Committee. I took from some of the exchanges in evidence with others that the HASC shares some of my concern. The investigation by Mr Wood is unsafe as he is a participant. He was at the Board meeting referred to above and as the committee noted, Mr Vine is a witness.

It was asserted in evidence by Dame Helen Ghosh that my final meetings with Mr Rob Whiteman had a disciplinary context. They were certainly not. They were never described as such to me and my conduct at them was as a conscientious manager trying to explain the above, without the benefit of preparation or evidence to hand to support my explanations. It was a manager and “new boss” conversation. Had they been correctly described to me as disciplinary meetings I would have been afforded the proper preparation and protections, but I was not.

The announcement of a view on my culpability and suspension in the House of Commons by the Home Secretary, in derogatory terms, together with Rob Whiteman telling me I should leave my employment, caused the end of my contract of employment and with it my access to evidence.

It was also asserted in evidence to the committee by Dame Helen Ghosh that my weekly reports should have had reference to the use of suspension of Secure ID Checks. And that further, those weekly reports negated the need for frequent briefing from me to the Home Secretary. There is no logic to that assertion. The weekly reports were in relation to the narrow subject of the pilot not long standing and well known operational practices. The Home Secretary had specifically asked for reports on the pilot, nothing else. It simply was not obvious to me therefore that I should have included such detail or that it would have been appropriate to do so.

Further support for this is that for the Industrial action of 30 June 2011 the Home Secretary did herself sign off the suspension of secure ID checks as a way of mitigating the disruption. On that occasion it was appropriate to seek permission as this was proactive planning for a known event rather than an operational response to an emergency.

I am very concerned that the Committee obtains a full picture to enable it to conclude its deliberations properly. I hope the above and attached are of assistance and I would be pleased to provide further evidence as the committee feels appropriate.

24 November 2011

APPENDIX

Memorandum from Brodie Clark to Graeme Kyle, 11 October 2011

I had a conversation with John Vine recently—part of which was an update on his current review of aspects of the work at Heathrow.

In passing, he mentioned the occasional and temporary cessation of fingerprint verification. I explained that this was rare—it did not surprise me that it had been invoked during the early September period, given the substantial influx of students. I confirmed that under circumstances where the port infrastructure was at risk of collapse or where there was an imminent likelihood of the police or the port operator requiring us to “open our gates” on the basis of order and control problems or health and safety risks, then I had accepted the authority through my Duty Director to approve a temporary relaxation on one aspect of our checking process (in favour of retaining the rest of them).

This is the agreement we had reached and I know that you have taken it seriously and cautiously. Nevertheless, I would be grateful if you could follow up his observation and confirm that the particular measure is not being deployed more than is absolutely necessary for the safety and security of the port.

Correspondence from the Chair to Dame Helen Ghosh DCB

I am writing to you regarding the UK Border Agency's use of statistics. There are a number of questions regarding the evaluation of the pilot which the Committee would like to be made available to them.

We understand from your evidence to the Committee that the pilot is still being evaluated, however we require answers to the following questions:

1. If the pilot was authorised for six weeks in August to mid-September in 2011, what was the comparison period?
2. What is methodology underpinning the pilot evaluation?
3. What other outcome measures were included in the pilot evaluation?
4. For each outcome measure, what were the results for the 2011-target-period and for each control-period?
5. Does the number of illegal immigrant detections during the pilot refer to the total number detected over the whole 12 week pilot period or the specific periods at those ports when the pilot was in effect?
6. Similarly, does the comparator period refer to the whole 12 weeks period or the specific periods at those ports when the pilot was in effect?
7. What has been the trend in detections over a five-year period?
8. How do the figures for the 12 week period immediately before the pilot compare with the same period a year earlier?
9. Are there any changes in detection policies/procedures that may have increased detection, other than the pilot?

Following Sir Michael Scholar's letter to Damian Green regarding the use of drug seizure statistics, the Committee would also like a response to the following questions:

- Why did UKBA publish drug seizure statistics for part of 2011–12 three days before the audited National Statistics for 2010–11 were released?
- Would the UKBA have taken that decision if there had been a fall in the quantity of seizures?
- Do you agree that this constitutes a clear breach of the Code of Practice for Official Statistics?

I would be most grateful if you could provide the Committee with this information by Friday 2 December 2011.

Thank you for your continued cooperation.

23 November 2011

Correspondence submitted by Dame Helen Ghosh DCB to the Committee

Thank you for your letter dated 23 November 2011, I apologise for the delay in responding.

In answer to question 1, the pilot was initially authorised at the end of July to run until 19 September and it was then extended until early November. Therefore the full evaluation will look at the same period in previous years.

With regard to your questions 2–4, and 6, as I said during my evidence, the pilot is still undergoing a thorough full evaluation. It is not possible to undertake a full evaluation of the pilot until we understand exactly what took place by way of checks in the pilot period. Therefore the final methodology for evaluating the pilot will be influenced by the findings from John Vine's report, at which point we should know the extent of adherence, or not, to the conditions of the pilot, as authorised by the Home Secretary. This report is due in the New Year and once all investigations and evaluations are complete the Committee will be updated accordingly. However, as the Home Secretary reported to the House early figures, taken from management information, showed performance had increased from the previous year—these figures will be looked at in context, once we have received the findings of the John Vine Report.

Regarding question 5 I am making the assumption that you are referring to the initial evaluation figures. In answer to your question, the number of illegal entrants (clandestines) detected during the pilot, refers to the first month of the pilot, August 2011. These figures were based on early management information, so have not been statistically evaluated and are therefore subject to change.

For questions 7 and 8 it should be noted that the figures given are taken from management information, so they have not been statistically evaluated and are therefore subject to change.

In answer to question 7, the trend in the detection of illegal entrants over a five year period is below:

2006–07	2007–08	2008–09	2009–10	2010–11
6,942	10,068	15,380	12,567	10,138

While the number of vehicles checked has remained stable, we have seen fewer attempts to cross the Channel illegally due to factors such as the closure of camps in Calais in 2009 which have made it increasingly difficult for would-be illegal immigrants to evade border controls and reach the UK; increased joint working by the UK Border Agency and the French Authorities at the northern French ports, the creation of a Joint Intelligence Unit in Folkestone dedicated to the fight against illegal immigration networks.

Regarding question 8, 2,806 illegal entrants (clandestines) were detected at the border during the 12 week period (5 May 2011 to 28 July 2011) leading up to the implementation of the Level 2 pilot on 29 July 2011. This compares to 2,146 illegal entrants (clandestines) who were detected over the same period for the previous year (5 May 2010 to 28 July 2010).

On question 9, I can confirm that there were no changes in detection policy or procedures during the period of the pilot.

You also asked a number of questions regarding the use of drug seizure statistics and my views on their release ahead of the National Statistics release. The numerical information published in the press notice on 7 November was labelled as management information and was designed to contextualise, for the public, a number of Agency seizures which had already been publicised through its regional media and communications team. This included a record seizure of cocaine which was reported in the national media in the summer. These seizures, which had already been made public and which form part of the management information released, are listed in the press notice.

The objective of publishing these statistics was providing the public with the context of a number of agency seizures which had already been publicised. It was important in showing action against the two Class A drugs which cause communities in the UK the most harm.

In his 16 November response to Sir Michael Scholar, the Immigration Minister made clear he is, and remains mindful of, his obligations under the Ministerial Code in this and all matters.

In this case, the Department's Chief Statistician held discussions within the department after the issuing of the press release and before the publication of the National Statistics on 10 November. In addition he ensured that the release on 10 November, accompanying the official figures, contained a clear explanation of the differences between management information released under embargo on 4 November and the official statistics.

7 December 2011

Further written evidence submitted by Brodie Clark

During his evidence of two weeks ago, Damian Green put to the Committee that he had referred the final decision on the introduction of "risk based controls" (the initial three propositions) to the Home Secretary for her decision.

That was at odds with my own evidence—I indicated that Damian and Pauline Neville-Jones both agreed with all three (risk based) propositions and that we should proceed on that basis (in January).

I went on to say, that before implementing the changes I did raise the issue with the Special Advisors and the Home Office Communications Directorate to ensure that they were sighted and that they had no final concerns (they had been copied into all the previous submissions and had offered no comment). It was only then that the Special Advisors raised concerns (on all three propositions) and we subsequently went forward with various (April/May) meetings with the Home Secretary.

It may seem a small point; however I am satisfied that Damian Green had given early agreement for implementation, and that both I and Jonathan Sedgwick believed that we could and should proceed on that basis. The attached e-mail chain supports that version of events. It was indeed Jonathan who asked me to do a final check with the Special Advisors to ensure that they were fully aware and content.

November 2011

Correspondence from the Independent Chief Inspector of the UK Border Agency to the Committee

Thank you for your letter of 23 November requesting information in regard to the Committee's inquiry into relaxation of security checks by the UK Border Agency. You ask the following questions:

What, specifically, you discovered at Heathrow during your inspection of Terminal 3 which led you to discuss the relaxation of security checks with Rob Whiteman on 2 November?

My inspection at Heathrow formed part of my overall Inspection Plan for 2011–12 as published in March.

The methodology for the inspection included observation of the actions of immigration officers at the Primary Control Point (PCP) together with the examination of records relevant to the PCP. I noted there was inconsistency in the way immigration officers were handling the arrival of both EEA and non-EEA nationals with clear evidence that the fingerprints of non-EEA nationals were not being scanned in all cases.

In subsequent interviews and focus groups with staff and managers at all levels, I noted a degree of confusion amongst both immigration officers and more senior management about what was permitted under "Level 2" measures, resulting in inconsistent implementation.

The evidence I received from staff included that the operation of "Level 2" checks was routine between the hours of 6.00 am to 9.00 am and again between 6.00 pm to 9.00 pm. In this period immigration officers were instructed not to open the biometric chips on EEA passports or check the passports of children travelling in EEA family groups (or as part of a school party) against the Warnings Index unless the immigration officer perceived there to be a risk. I also established that immigration officers were instructed not to ask questions of visa nationals whilst "Level 2" was in operation unless they believed this to be a risk.

In addition, and in line with my observations of the PCP, staff indicated that they were instructed to suspend the use of Secure ID Fingerprint scanners on non-EEA nationals with different views as to when this was permitted to happen and under whose authority.

Where my initial findings raise particularly important issues for the safety of individuals or the security of the UK, I believe it is right to bring these to the attention of the Chief Executive of the UK Border Agency in advance of publication. Before doing so, I will verify the findings by checking appropriate records and interviews with staff and managers. The Committee may wish to be aware that I have done this on previous occasions including where my inspection of Manchester Airport indicated the potential for international passengers transferring between terminals to be able to walk out of the airport without passing through the PCP. I formed the view that the inconsistency in checks at Heathrow Terminal 3 was an issue that needed to be highlighted with the Chief Executive and therefore raised this with him at the meeting on 2 November 2011.

Whether you have seen anything similar during previous inspections of UK ports? If yes, how many times and for what duration were the relaxations that you saw implemented?

I have assessed Bristol, Cardiff, Manchester, Aberdeen, Edinburgh and Belfast airports and Plymouth and Holyhead seaports. I have also completed an inspection of Gatwick North Terminal and am assessing that evidence before publication in the New Year.

On no occasion at any of the above ports did I observe relaxation of the checks as identified at Heathrow Terminal 3.

Were you previously aware of the 2007 HOWI guidelines? On how many occasions of inspection of UK ports did you see situations which could have legitimately led to the implementation of these guidelines?

I was not aware of the HOWI guidelines when carrying out my inspections at the ports referred to above. In the circumstances I cannot speculate as to occasions when the application of the guidelines might have been legitimate.

1 December 2011

Correspondence submitted by Jonathan Sedgewick to the Committee

Thank you for your letter dated 23 November 2011. You asked me to inform the Committee of the answers to the following questions:

1. *What specifically, you discussed with Rob Whiteman on 2 November?*

As Rob Whiteman told the Committee on 15 November, I met him on the evening of 2 November to discuss comments made by John Vine regarding the level of security checks observed during a recent investigation at Heathrow. Given my previous role as Acting Chief Executive, Rob Whiteman asked me to clarify whether Ministers had ever given authority for secure ID to be suspended. I confirmed that Ministers had been very clear that, whilst they agreed to other aspects of the pilot, fingerprinting should always take place and that I had never authorised any such suspension.

2. *Whether you were previously aware of the “unauthorised” relaxation of security checks?*

I was not previously aware of the “unauthorised” relaxation of security checks for secure ID.

3. *In February 2011, Brodie Clark made you aware of serious problems with the length of queues in Calais. What action did you advise him to take?*

Mr Clark did make me aware of his concerns regarding the length of queues at Calais in February. We discussed using arrangements under existing criteria within the HOWI policy that permitted targeted checks for coaches carrying school groups of children under 16 years of age subject to certain criteria.

4. *Did you ever meet with Brodie Clark to discuss the HOWI 2007 guidelines whilst you were Acting Chief Executive of the UKBA?*

Whilst I did not meet with Mr Clark specifically to discuss the HOWI 2007 guidelines, I was aware of the existence of the policy and its potential use in specific circumstances where health and safety concerns were such that it would be necessary.

5. *Did you ever make a Home Office official or a Minister aware of the problems that were taking place at Calais or any other UK port related to queues? If yes, on how many occasions did you inform them of these issues?*

Concerns about queues were discussed with Ministers and on a number of occasions were referred to in written advice. This was always in the context of our focus on security and targeting of risk to ensure appropriate checks were maintained.

2 December 2011

Correspondence from the Chair to Rt Hon Alan Johnson MP

I am writing to you in relation to your previous role as Home Secretary. The Committee request that you inform us as to:

- Whether you had ever been made aware that the suspension of Secure ID had taken place under the HOWI guidelines during your time as Home Secretary?
- Whether you had ever been made aware that the suspension of the checking of adults against the warnings index at Calais had taken place under the HOWI guidelines during your time as Home Secretary?

I would be most grateful if you could send this information to the Committee before Wednesday 14 December.

29 November 2011

Correspondence from Rt Hon Alan Johnson MP to the Committee

Whilst I wasn't aware of any suspension of Secure ID during my time as Home Secretary, I was certainly aware that the guidelines included sensible arrangements for such a suspension when disruption, crowded entry halls and suspended flights etc. could represent a threat to public order. This was a matter for UKBA to determine along with the police.

I was not aware of any suspension of the checking of adults against the warnings index at Calais during my time as Home Secretary.

12 December 2011

Written evidence submitted by John Rippon

THE MATTERS OF THE DISMISSAL OF MR BRODIE CLARK AND THE GOVERNANCE OF THE HOME OFFICE AND THE UK BORDER AGENCY : GOVERNANCE ISSUES FOR GOVERNMENT DEPARTMENTS AND AGENCIES

I wonder if I might make a few comments about general issues of governance and administrative controls which I think are relevant to the above:

1. In any body which has statutory powers or may exercise statutory discretions there ought to be *fully* documented delegation arrangements stating which powers and discretions may be exercised by whom and according to what criteria. There may also be provisions dealing with exceptions allowed for exceptional cases.
2. Criteria should be set out as fully as possible, including criteria for identifying cases where exceptions may be allowed by persons with delegated authority. There should be upward reporting requirements

for any cases where the application of the criteria is not clear cut. Such reports should be made as quickly as possible. Relevant senior persons, eg the Home Secretary, should be required to set out the principles which should guide authorised persons on the exercise of their discretions, insofar as the criteria are not fully objective and involve a judgemental or subjective element. Such principles should be reported to the Home Secretary.

3. The delegation documentation should be accompanied by, or include, detailed requirements on timely reporting in summary form or otherwise information on the actual exercise of powers and discretions, including any use of the exceptions provisions.
4. The documentation should provide for the immediate upward reporting [to the highest levels] of any failure to comply with the delegation arrangements, whether judged material or not.
5. The delegation and reporting arrangements should be complemented by rules and manuals for more junior staff and specialist areas.
6. Great care should be taken to ensure the consistency of all such documentation.
7. Compliance with the above arrangements should be incorporated into staff's key aims and objectives and enforcement encouraged by the staff annual review process.
8. Compliance with the above arrangements should be incorporated into any codes of conduct or rules for staff, including anything relating to disciplinary proceedings and action— subject of course to the *overriding imperatives* of fairness and other natural justice considerations.
9. The delegation and information/ reporting arrangements should be commented on and approved at the highest levels, that is ultimately by the Home Secretary following review by the Permanent Secretary and relevant department and agency heads. It should be an early task for all new senior staff, including the Home Secretary and below, to become familiar with the delegation and reporting arrangements— this should be a high priority element in a mandatory early induction programme for newcomers. The Permanent Secretary should seek to ensure compliance with such induction requirements and report on failures to comply in a document like an annual report.
10. The delegation and reporting arrangements should be kept under review in the light of experience and, in any event annually, through a systematic department-wide process.
11. There should be systematic “new product” procedures which ensure that delegation and reporting arrangements are considered (and ideally trialled and tested) prior to introducing material changes in business procedures, resourcing [eg staff cuts] or new functions or procedures.
12. There should be systematic risk assessments capturing all material Home Office and agency functions—looking at the likelihood of risks crystallising, the impact of such crystallisation and the adequacy of the current safeguards—plus possible enhanced safeguards. Risk assessments should be part of “new product” procedures.
13. An internal, or ideally external auditor, should keep under review and report on [eg annually] the adequacy of procedures on delegation and reporting arrangements and on “new product” procedures. This report could also go the Select Committee/Parliament.
14. There should be occasional spot checks by the auditors on the above, with quick upward reports on any concerns emerging.
15. The above represents what *should be* good practice in public bodies, although I do not know how adequately such approaches are applied in practice.
16. It would seem relevant to know whether, and if so, to what extent, the Home Office and the UK Border Agency apply the kind of documentation and procedures indicated above. These might be issues to put to the Home Secretary, the Permanent Secretary [Dame Helen Ghosh], and the current and previous heads of the UK Border Agency [Mr Whiteman and Ms Homer]. It would be interesting to know to what extent Mr Whiteman has familiarised himself with the relevant documentation on delegation and reporting; and what his views are on their adequacy, in terms of rigour, comprehensiveness, clarity and comprehension by staff . It might be relevant for Mr Whiteman to contrast the delegation and reporting arrangements that he left in Barking & Dagenham Council.

I hope these comments are helpful. If any points are not clear, please do not hesitate to contact me. Many of the comments are, of course, applicable *mutatis mutandis* to many government departments and other public bodies. I have no knowledge of the Home Office, the UK Border Agency and the UK Border Force beyond what I have seen on the television, heard on the wireless and read in the newspapers; and my own and experience with UK border staff for UK passport holders. I have not been a civil servant.

16 November 2011