

**INVESTIGATION INTO GUIDANCE ON
THE HANDLING OF EUROPEAN COMMUNITY ASSOCIATION
AGREEMENT APPLICATIONS**

FINAL REPORT

PART 1: INTRODUCTION

On 8 March 2004, the Minister for Citizenship and Immigration (Beverley Hughes) announced (Hansard, Column 1245) that she had ordered a full investigation into guidance which had been issued to Home Office staff in the Immigration and Nationality Directorate (IND). The guidance changed the way in which the checks on applicants covered by the European Community Association Agreements (ECAA) were to be applied by staff working in the Managed Migration Directorate of IND.

2. The statement made by the Minister of State followed an article in The Sunday Times on 7 March 2004 which reported disclosures made by Steve Moxon, a member of IND's staff. The Home Office suspended Steve Moxon pending a separate investigation into whether his disclosures were protected by the Public Interest Disclosure Act 1998.

Terms of Reference

3. As a Senior Director in IND, but not responsible for the Managed Migration Directorate, I was asked to conduct the first of these two investigations, into the guidance which had been issued, with the following terms of reference:

“To investigate:

- the circumstances in which guidance has been issued to IND staff in the General Casework Section in Sheffield since September 2003 on the handling of applications made under the EC Association Agreements, in particular;
- on what authority this guidance was issued;
- what steps, if any, were taken to seek higher authority or consult more widely within the organisation;

To establish the facts; and

To make recommendations for addressing deficiencies in management which are revealed, to prevent any recurrence;

To make an interim report on the factual position by 18 March, and a final report by the end of March.”

Relevant allegations

4. My investigation needed to take account of the series of allegations that had been linked to Mr Moxon’s disclosures. Among them was that the changed guidance was intended to reduce the number of citizens of countries acceding to the European Union from 1 May who might be counted as arriving in this country, or settling here after that date. The argument was that, by easing the checks for business applicants from Eastern Europe, their applications would be granted and out of the way by 1 May. It was further alleged that Ministers must have authorised the relevant new guidance. References in one part of the new guidance to it not being a published policy were taken by some commentators as supporting the picture painted by these allegations.

Relevant context

5. My investigation is bound to reflect on the context, both the relatively small scale of the type of cases involved, when set against the wider immigration caseload; and the character of the cases themselves.

6. Specifically, the following points are worth noting:

- ECAA cases form part of the "general casework" undertaken by IND;
- over the last year, over half a million cases have been dealt with as general casework;
- ECAA cases, over the last year, represent less than 8% of this workload;
- within the ECAA casework, up to 80% of people applying will already be in the UK lawfully;
- a typical example could be a Romanian student coming to the end of their course of study in this country and planning to set up in business as a cleaner. Another example might be an applicant from Poland seeking entry clearance in order to establish themselves in business in the UK in the construction industry;
- in none of the periods I have examined have I found evidence of the practice amounting, literally, to one of granting every case. Sheffield staff continued to refuse cases even during the period covered by the most recent guidance.

Methodology

7. Between 9 March and 23 March I conducted one to one interviews and group discussions with staff in Croydon and in Sheffield. Most of the investigation was taken up in discussion with members of the management team in Sheffield and in Croydon. But, I also discussed the application of the guidance with caseworkers in Sheffield; and I interviewed Steve Moxon, who, though not a member of the specialist ECAA team, had been part of the effort to deal with a developing backlog of ECAA cases. As part of the investigation, I have examined documentary evidence and a sample of the files on which decisions were taken before and after the guidance was in place.

Content of Report

8. This is my final report. It comprises:

- an Executive Summary (Part 2);
- the background to the system for deciding ECAA applications, the different types of applications and how those applications were handled before the period covered by the new guidance (Part 3);
- the circumstances in which the new guidance was issued (Part 4);
- on what authority the guidance was issued and any steps taken to seek higher authority or consult more widely (Part 5);
- Part 6 sets out the recommendations addressing the deficiencies that have been identified and these recommendations are listed in full in Part 7.

PART 2: EXECUTIVE SUMMARY

Key facts

9. The investigation has established the **key facts** to be as follows.

- The Sheffield casework group is new (July 2002) and has expanded rapidly from less than 140 full time equivalent staff in January 2003 to around 440 before the end of last year.
- From May 2003, the Sheffield casework group was given full responsibility for the ECAA cases, previously decided by one of IND's units in Croydon.

- The Sheffield group accepted responsibility for this workstream with a determination to achieve the same service standards that would apply to the different types of cases that would be subject to charging from 1 August 2003.
- A specialist ECAA team was established in Sheffield in August 2003, but it was already apparent that the size of the backlog of cases it had inherited and new cases arriving would be too big for it to achieve its ambitions while applying the “full consideration process”. This was particularly true because the other cases that were subject to charging commanded a priority.
- The senior management of the Sheffield group, none of whom were Senior Civil Servants, decided to issue new guidance. This took the form of the Flexibility Guidance, introduced in September/October 2003, and a second phase of guidance, introduced in January/February 2004. Since there was now no other group in IND dealing with these cases, the senior management in Sheffield felt it was able to move in this direction.
- There was a relative lack of experience in the Sheffield group. This hampered consultation within the group about possible guidance. It ought to have made the senior management in Sheffield all the more careful to ensure that they consulted widely and formally outside the group.
- There were discussions with more senior officials about the desirability of managing backlogs and achieving service standards. In particular, from a discussion with the Director, General Group, the senior management in Sheffield believed that they were being encouraged to come up with an approach that would allow them to get through the backlog more quickly. I am clear that this was a misunderstanding and that the senior management in Sheffield over-interpreted what they had heard.
- Neither set of guidance was authorised by Ministers or by the senior officials in IND, Croydon.
- The senior management in Sheffield believed that what they were doing was in line with guidance previously authorised by IND covering periods of backlog clearance. But the guidance they issued went beyond that previously authorised by purporting to cover cases, whether or not they were old enough to meet the qualifying threshold.
- The decision of the Sheffield management team to proceed with the guidance was based on their determination to avoid the operation being damaged by backlogs. It had nothing to do with wanting to suppress the number of people coming here from EU Accession

States after 1 May (by waving through their applications before that date).

- One part of the new guidance said that, as this was not a published policy, no reference should be made to it, either to applicants or their representatives, or on the IND computer database. The purpose of this reference was to protect the ability to return to a fuller consideration of these applications as soon as the immediate backlog had been resolved. But, in their determination to keep on top of the business, the Sheffield group went too far in easing the checks, particularly in February 2004, under the second phase of the new guidance.
- Mr Moxon referred to the granting of ECAA applications, regardless of merit, in the course of an e-mail dated 12 February to the Senior Director for Managed Migration Directorate. But by then, let alone when the Senior Director returned from leave and saw the e-mail, both sets of guidance had already been issued and acted upon.

Recommendations

10. Having established these facts, I make a number of **recommendations** to address the deficiencies revealed and to prevent any recurrence.

11. The facts highlight the absence of a system of standardised guidance in IND. I make a number of recommendations in order to achieve that and to put in place a change control mechanism with transparency over the authorisation of new guidance. The authorisation must be at a senior level and reflect the agreement of IND's Policy Directorate as well as the relevant operational Directorate.

12. There should be a framework or template available to IND staff setting out the core components of any well written guidance. The process should include a prompt to make sure that a risk assessment is conducted first, covering the impact on the effectiveness of the control. IND should produce, for all staff, a guidance note outlining how policy is developed.

13. Among the lessons of this affair are that, where IND utilises staff whose experience is not directly within the area, it should take special care to ensure that there is structured, tailored induction that includes policy and process development, and working with Ministers.

14. Even where the guidance is subject to the fuller process of authorisation and control described, in future there will be a need to ensure compliance against that guidance. IND Directorates should put in place processes to enable them to provide such assurances to IND's senior programme management board.

15. Backlog exercises, if needed, will continue to require especial care even if these other arrangements are in place. With this in mind, I recommend that targets that are specifically to do with backlog reductions should be held at Director level, not below.

16. Managing a significant casework operation requires a balancing of business and technical, caseworking considerations. To achieve that, aside from good management, there is a need for a strong corps of well prepared caseworking advisers. To this end, I recommend that technical caseworking should be considered a specialism within IND.

17. Finally, the events exposed a weakness in terms of quickly and accurately responding to media inquiries about IND guidance. Getting the system for that guidance right will help. But I include one recommendation designed to ensure that the relevant guidance is accessible, including out of hours, with contact numbers for the relevant lead officials.

PART 3: BACKGROUND TO THE ECAA SYSTEM

18. ECAA cases are part of the work of General Group in the Managed Migration Directorate of Immigration and Nationality Directorate. General Group was originally based solely in Croydon, but since July 2002 has also operated from Sheffield.

19. The European Community Association Agreements (ECAA) provide for nationals of Poland, Hungary, Bulgaria, the Czech Republic, Romania, Slovakia, Lithuania, Latvia, Estonia and Slovenia to be treated on a par with European Economic Area nationals for the purpose of establishing themselves in business in the Member States.

20. The process is a linear one. Applicants initially apply from abroad, or, if already legally in the UK in another category, for example, as a student they may apply to “switch” into the ECAA category. An initial, successful application will result in a grant of leave for a period not exceeding twelve months.

21. Those who successfully establish themselves in business in this category within twelve months may apply for an extension of leave for a period not exceeding three years. At the end of this period, an application for indefinite leave to remain in the UK may be made.

22. Typically, an initial application will include a business plan, evidence of a sufficiency of funds to maintain the applicant and establish the business and declarations by the applicant that they will not undertake paid employment or make recourse to public funds. As the business develops, an applicant for further leave will be expected to provide, in addition to the above, evidence of their engagement with UK taxation and National Insurance requirements, and evidence of the financial position of the business.

23. At the point the application for indefinite leave to remain is made, in addition to the above, a successful applicant will be expected to have been resident in the UK for the majority of the four year period from the initial application, and will be expected to provide information about business performance during that time.

24. When an application for indefinite leave is considered, therefore, this will be at least the third time that an IND caseworker has considered the case, ie:

firstly, (i) direct application from abroad

or

as a "switch" from another category;

secondly (ii) further leave to remain; and

thirdly (iii) indefinite leave to remain.

25. All of those being considered under (ii) and (iii), and the majority of those in (i), will already be in the UK lawfully.

26. Generally speaking, full consideration of an ECAA case would result in a caseworker requiring an applicant, or their representative, to produce a range of documents including business forecasts, and plans, accounts, bank statements, tenancy agreements, tax details, and declarations. In practice, some of this information will be duplicated. A thriving business, for example, will produce, in its financial statements, evidence of income and expenditure. For a period up to the introduction of revised procedures in Sheffield in September 2003, caseworkers were encouraged to look at cases in the round, and make a judgement based on the information available to them, particularly when applications had been made some time previously.

27. Sheffield had been set up as a caseworking unit in July 2002, but until April 2003, ECAA cases were processed in both Croydon and Sheffield. In May 2003, responsibility for all ECAA work transferred to Sheffield and in August 2003, a specialist ECAA team was set up there. In September/October 2003, guidance issued in Sheffield – the Flexibility Guidance – allowing caseworkers to reduce the level of checking being done, initially for the "switching" cases, and then for the entry clearance and further leave to remain categories. Following a risk assessment in January 2004, further guidance was issued to staff which re-instated a higher level of checking for entry clearance cases and reduced further the extent of checking to be done on "switching" cases. This guidance was withdrawn on 8 March 2004 (when full consideration was re-instated for all categories of ECAA cases).

28. Alongside their operation of the new guidance, from time to time, the specialist ECAA team was supplemented by other Sheffield staff deployed to help with the backlog. This was a feature particularly in February 2004.

PART 4: THE CIRCUMSTANCES IN WHICH THE GUIDANCE WAS ISSUED

29. This investigation has established that there were four circumstances which came together in the Autumn of 2003, creating a predisposition to look for ways of dealing more quickly with the ECAA casework.

Sheffield casework operations – increase in size

30. The first of the four contributory circumstances was the rapid establishment and growth in size and scope of operations of IND's Sheffield casework office.

31. IND began to transfer some of its general caseworking functions to Sheffield in the Summer of 2002 when it was based in Foundry House. Since then, the Sheffield operation has gone through a period of considerable expansion, including the establishment of a second office in Sheffield, the recruitment, selection and training of all staff, and transfer of responsibility for new case types from IND in Croydon.

32. In January 2003, when only Foundry House was in operation, there were 137 full time equivalent (FTE) staff in post in the Sheffield casework operation. In September 2003, just after the opening of the second office – Aspect Court – numbers had grown to 380. Through August to October, 2003, further recruitment (including the recruitment of Mr Moxon) brought the total numbers up to 440 – and these levels have been maintained since then. In the space of some nine months, therefore, the staffing levels in General Group North had trebled, resulting in much inexperience at all levels. Posts at more junior levels were generally filled by open recruitment. Some substantive appointments were made to the team at Senior Executive Officer (SEO) levels and above: an analysis of the Sheffield team, at this level and above, in February 2004 shows that, of 15 members of staff at or above this grade, 6 were on temporary promotion. Of the remaining 9, one had substantial experience in the grade; one was relatively new to the Home Office; and, for the remaining 7, the average time since substantive promotion was just 5 months.

33. Those responsible for providing technical caseworking advice in general casework, at Chief Caseworker level, appeared to have insufficient knowledge themselves to provide that technical support. I return to this issue later in the report and in one of my recommendations.

Sheffield casework operation: extension of scope of work

34. Initially, Sheffield had responsibility for three workstreams – marriage cases, student applications and ECAA. Applications made in these three categories were lodged with Croydon, who sifted them, and sent, on demand, batches of backlog work to Sheffield. The flow of cases to Sheffield was therefore tightly controlled. Sheffield proved their ability to deal with the volume of work generated and exceeded their targets by around 8,000 cases in the period up to March 2003.

35. The second set of contributory circumstances was the planning for the introduction, with effect from 1 August 2003, of charging for the majority of the work handled in Sheffield.

36. During early to mid 2003, the management of General Group, both in Sheffield and in Croydon, considered the likely impact on their business of its introduction. Whilst ECAA work itself is not chargeable, charging was relevant to how ECAA cases would be processed for two reasons:

- (i) the introduction of timeliness and volume targets for charged work almost inevitably resulted in ECAA work being afforded a lower priority. The impact of charging on case volumes had been difficult to predict and this, coupled with an additional stage in the well established process, ie the processing of the payment by IND's banking contractors, introduced a high level of volatility into the workload/resourcing balance. Staff at Sheffield were routinely moved from lower to higher priority tasks to keep on top of unpredictable volumes of chargeable work being received, and ECAA backlogs began to build.
- (ii) the management of the Sheffield group wanted to prove that they could achieve the newly established processing target of deciding 100% of charged cases in 13 weeks, and, in some periods, focused almost exclusively their attention on this.

Sheffield's ambitions to meet service standards and avoid backlogs

37. Having begun their life as a backlog clearance operation, Sheffield staff were very conscious of the difficulties, in terms of the application of effective immigration control, such backlogs can bring. Against this backdrop, their ambition and determination to avoid backlogs building was, at least to some extent, understandable. Their purpose in focusing on backlog reduction as a key activity was to allow them to achieve steady state quickly in order to then be able to apply controls more fully again. This ambition was the third of the contributory circumstances.

38. There are, of course, particular difficulties in seeking to apply immigration checks some time after applications have been lodged, in that, at the point of consideration of the application, the circumstances may then be

quite different. The Sheffield management team was determined to move away from this situation as soon as possible.

39. This was the context in which the transfer of responsibility for ECAA work from Croydon to Sheffield took place in May 2003. Sheffield wanted to deal effectively with all of this work from the start and their stated intention was to apply a process of full consideration to their new intake.

Increase of volumes of ECAA cases

40. The fourth circumstance relevant to the issuing of the guidance was the volume of extra (old, as well as new) ECAA cases received in Sheffield.

41. At May 2003, General Group in Croydon and Sheffield believed they had already cleared the majority of the previously accumulated backlog of ECAA work. But, in the event, high volumes of old cases, and higher than predicted volumes of new cases, quickly arrived in Sheffield. Some were unactioned cases from elsewhere in IND, including a batch of some 2,000 from Croydon. Later, several hundred Bulgarian entry clearance cases would arrive in one batch. Unpredictable intake set the pattern then for the team, who, to their disappointment, began to struggle to keep on top of new intake. Whilst the charging application volumes were high, and resource was being targeted to processing them, the specialist ECAA team could not cope by themselves. Even by injecting a period of overtime working, they could not keep pace with intake and so ECAA backlogs began to increase. The backlog would build up from around 4,000 in August to over 6,000 in October.

42. These were the circumstances that laid the ground for the guidance and set Sheffield on the path that led them, quite clearly, to going too far in easing the application of the checks. This was particularly the case by the time, in February 2004, when the second guidance was in place.

PART 5: AUTHORISATION OF GUIDANCE AND ANY CONSULTATION

Authorisation of Guidance

43. This investigation has been able to piece together the sequence of events leading to the issuing of the guidance. This has established the respective roles played by the Director, General Group, by the Head of General Group North and by the senior operational and caseworking officers.

44. The position on authorisation is clear and can be stated simply as follows:

- the decision to introduce both sets of new guidance - the Flexibility Guidance - in September/October 2003 and the second phase of guidance in January/February 2004, was taken by the senior

management of General Group North in Sheffield, none of whom were Senior Civil Servants;

- the senior management in Sheffield ensured that there was some prior consultation before the guidance issued. But, this extended only to within the Sheffield team. No submissions were made to Ministers or to senior officials of IND in Croydon;
- the Director, General Group, had discussions with the senior management at Sheffield about the importance of managing backlogs and achieving service standards. I am clear that there was an element of misunderstanding in a discussion which took place in Sheffield on 13 October 2003. I believe that there is a simple explanation. The Director, General Group, saw herself as promoting good management of the business and challenging it to respond with proposals: if, having thought about it, the Sheffield team proposed to make changes, she was ready to receive them. The senior management in Sheffield, already very concerned about the ECAA backlog, heard the comments as much more specifically addressing the ECAA backlog issue. They believed that they were being encouraged to come up with a specific approach that would allow them to get through the backlog more quickly. I am clear that they were over-interpreting what had been said; but that, in any event, they had accepted that they would put a submission to the Director, General Group. They did not do so. When they did not do so, the Director, General Group, did not follow up the previous conversation specifically, presumably on the basis that, if there were any proposals, they would be put to her for clearance.
- neither set of guidance was authorised by Ministers or by the senior officials of IND in Croydon;
- From time to time over the years, as part of its management of the overall workload of cases, IND has authorised its managers to have decisions taken by caseworkers on the basis of information already available as part of the application, other relevant material already on the file and of any previous immigration history. Arrangements of this general character have been found to be necessary over a lengthy period. Latterly, this took the form of two exercises, the Accelerated Clearance Exercise (ACE), in 2002, and its successor, the Backlog Reduction Accelerated Clearance Exercise (BRACE), in 2002/3. The senior management in Sheffield believed that their new guidance was in line with the second of these two exercises. But, both phases of the new ECAA guidance went beyond these exercises because they purported to cover cases whether or not they were older cases.

45. The motivation for the introduction of the new guidance also clearly emerges from the circumstances described in this report.

- Sheffield's decisions to proceed with each of the two phases of new guidance were based on their determination to avoid being defeated by backlogs, in their pursuit of getting fully on top of the business.
- It had nothing to do with somehow wanting to suppress the number of people coming here from EU accession countries after 1 May. The Sheffield team wanted to clear the backlogs, if at all possible, by the accession date: in fact, when they embarked on the exercises, they were looking to achieve this by the end of March 2004. That is to say they were looking to go into their new Business Plan year, 2004-05, having got their workload fully under control. Since Ministers were not consulted about the guidance, it follows that there was no question of their seeking to influence the debate over numbers and post accession by arranging for the position of ECAA applicants to be resolved more quickly than they would otherwise have been.

“Not a published policy”

46. I have also been able to establish why one part of the new guidance says:

“As this is not a published policy, however, no reference should be made to this, either to the app/ reps [applicants or their representatives] or on G-CID etc.”

G-CID is the part of IND's computer database which covers General Casework including ECAA applications.

47. This reference was included by the Sheffield team in an attempt to avoid what was intended as merely a temporary relaxation in the checks being applied, undermining the effectiveness of the control. This is an argument that needs to be carefully understood, not least because it has been taken to imply some impropriety. From time to time, IND has needed to adjust the application of some of the procedures, in order to overcome significant backlogs. If it were to provide a full running commentary on precisely how it was doing this, that commentary would, itself, lead to a weakening of the control. Applicants and their representatives might be tempted to provide fewer details in support of their applications. This would mean that there would be less material available to caseworkers than would otherwise be available to them; and that it would be more difficult again, having overcome particular backlogs, to step back up to a process of fuller consideration.

48. This was the thinking behind the reference in the guidance. It was an attempt to protect the process of checking, not an attempt to disguise its relaxation. Linked to this, the reference to the IND computer database is explicable. The thinking was that, if a particular reference on the case notes section on the computer database referred to an accelerated backlog

clearance exercise, under IND's arrangements for handling telephone enquiries, callers to its telephone bureau would have been informed of that by its telephone bureau staff. It was felt that disclosing that, particularly to the representatives who were commonly involved, would risk leading to the same process of lowering the standard of evidence provided by those representatives on behalf of applicants; and make restoring the fuller consideration process more difficult. All other case specific information, for example data of application, was recorded on the database in the normal way.

49. I note here that determining whether an adjustment in the process should be made public is clearly, in itself, a significant decision. In order to provide more assurance about that, I cover this point in the first of my recommendations in Part 6.

50. The position on the issuing of the guidance, though now clear, is not satisfactory. Through a combined strategy of deploying additional resources on to deciding ECAA work, and applying, for a period, a lighter touch control, the backlogs in this work were cleared substantially. But the guidance drafted was not clear in its purpose or effect.

51. Before turning to the recommendations, there is one further issue to address.

52. On 12 February 2004, Mr Moxon sent an e-mail to the Senior Director, Managed Migration. The e-mail was very lengthy and, in the main, related to personnel and diversity. Mr Moxon had raised those issues previously with the Senior Director and his e-mail of 12 February returned to them and raised further personnel matters. The very last paragraph of the e-mail included a reference to the application of ECAA checks. The Senior Director was on leave at that time but her office arranged to forward the e-mail to IND's Human Resources Directorate (HRD), who had dealt with the earlier points. On return from leave and acting on the advice received from HRD, the Senior Director responded to Mr Moxon by pointing to the fact that local managers were dealing with the personnel points.

53. The second phase of the new ECAA guidance had been acted upon before Mr Moxon's sent his e-mail of 12 February.

PART 6: RECOMMENDATIONS

54. Though a number of the circumstances here were specific to the Sheffield operation, as this report brings out, the remedies are of general application across IND. In the rest of this report, I make a number of recommendations designed to ensure that the deficiencies here are overcome, not just in Sheffield, but throughout IND.

55. It is essential that the guidance in force throughout IND should be expressed clearly and be authorised at the appropriate level. Following discussions instigated by the Minister of State, IND had already begun a

process of reviewing its guidance and instructions with a view to standardising their format and authorisation.

56. The first two of my recommendations reflect the absolute need for clarity around the guidance in force and its authorisation at an appropriate level. I judge that to be Senior Civil Service (SCS) Director level in IND's structure. The operational guidance must be consistent with the policy which, in IND's structure, is the responsibility of the Policy Directorate. Accordingly, I recommend:

Recommendation 1:

That IND should press ahead with and complete its plans to introduce a standard set of guidance in each IND operational area. This guidance should be authorised by the Directors of both the operational and policy Directorates responsible for it.

In addressing the issue of authorisation, the responsible Directors should consider, specifically, whether that piece of guidance needs to be submitted to the Minister of State. The responsible Directors should also consider any question of publishing or not publishing the proposed guidance with a view to referring that issue to the Minister of State.

Recommendation 2:

A framework or template should be made available to IND staff setting out the core components of any well written guidance.

57. One of the consequences of Recommendation 1 is that, if accepted, it would mean that, amongst the guidance that would need to be freshly reviewed and authorised, would be any guidance covering backlog exercises.

58. Establishing clear guidance across IND's business will be essential. But, so, too, will be embedding new arrangements for subsequent change to that guidance.

59. A year ago, IND introduced a new programme management structure covering the whole of its plan for delivery. The senior tier of this structure is a Joint Programme Board ("joint" with the Department for Constitutional Affairs), chaired by the Director General of IND. Reporting to that Joint Programme Board are a number of Sub Programme Boards, each covering one strand of the IND Delivery Plan. For example, one of the Sub Programme Boards

covers Managed Migration. Changes in guidance should be brought within the ambit of these Boards.

60. But, an effective system for setting and revising guidance is only a necessary not a sufficient condition. There needs to be an assurance that the practice complies with the authorised guidance.

61. In the case of the ECAA guidance, for example, this investigation has seen signs of varying practice in the application of that guidance. Specifically, the specialist ECAA team appears, at times, to have continued to apply checks more rigorously than those applied by the additional staff brought in to help with this caseload.

62. The following recommendations reflect these needs, for the introduction of a change control process for guidance, coupled with an assurance that the guidance is complied with in practice, and a clear audit trail of the dates changes to guidance have been made.

Recommendation 3:

That a process should be put in place within each Directorate to ensure that all changes to this standard set of guidance, once introduced, are approved by the relevant operational and policy Directors; that all such changes should be advised to the relevant Sub Programme Board and that this should be included as an agenda item at each Sub Programme Board.

The process should include a prompt to make sure that, before fresh guidance is prepared and issued, a risk assessment has been completed covering, among other things, the impact on the effectiveness of the control.

Recommendation 4:

That all IND Directorates should put in place processes to enable them to provide assurance to the Joint Programme Board (as required) that their processes are compliant with published guidance.

Recommendations for better equipping its staff

63. Part 3 of this report explains the extent to which the management of General Group North in Sheffield lacked wider experience across IND.

64. This is partly a point about the extent to which junior staff, or inexperienced staff, have been asked to act up, in a higher grade. And it is partly a point about the extent to which IND has engaged, at a more senior level, officials drawn from outside the Home Office, and indeed outside the Civil Service. IND, and the Home Office as a whole, have benefited in recent years from this practice.

65. But both junior and more senior staff share a need to be properly prepared for the roles they are now expected to fulfil: this includes, for a Directorate like IND, whose work is of constant public interest, and sensitive, guidance on how policy, as well as operational work, is to be developed and on working with Ministers. I make two recommendations accordingly.

Recommendation 5:

That IND produces for all staff a guidance note outlining how IND policy is developed.

Recommendation 6:

That all staff new to IND joining at Grade 7, Grade 6, or SCS level, or promoted within to that level, should undergo structured, tailored induction that includes policy and process development, and working with Ministers.

Ensuring technical (caseworking) and operational (backlog) impacts are assessed and fully considered, one with another

66. It is a common feature of IND's work that senior managers need to be able to judge different considerations together. Some of these are technical, caseworking factors: what requirements, when applied by caseworkers, have what effect?; and how could that effect be influenced, if the operation changed? Other considerations are operational: what are the volumes of cases and what effect is that having on the business' ability to deal with other work, including other casework?

67. This investigation has seen how this balancing requirement was skewed, in the case of the ECAA work, in the direction of giving almost complete priority to the operational backlog arguments. I make two recommendations designed to ensure that this balancing task is carried out more effectively in future.

Technical caseworking

68. Given the relative levels of experience and inexperience at AA/AO and EO level in Sheffield following expansion, it was particularly important that strong, clear, consistent casework advice was made available on site. Most Directorates within IND have now established posts solely for the provision of such advice, and Sheffield also adopted that model.

69. Those appointed at Grade 7 level to these roles in Sheffield did not consider themselves to be particularly technical. They had been successful in the generalist assessment centre process, and had been appointed or accepted postings to Sheffield partly because this was within relatively easy travelling distance of their homes, when compared to other available posts.

70. Caseworking operations, like the one in Sheffield, require a mix of skills in their top team. Amongst these skills is technical, caseworking expertise. IND needs to establish effective selection processes, to ensure that the right people, with the right skills, are found for the posts; and that they are given the right training and other support.

71. In order to help achieve this, I recommend.

Recommendation 7

That technical caseworking should be considered a specialism within IND and that whatever assessment method is used, technical expertise should be included as a specific competency, along with some other more generic competencies

72. The above recommendation will help to ensure that technical, caseworking considerations are identified accurately and pursued purposefully. But, there remains, in respect of any backlog clearance exercise, a residual risk that strong individuals at middle management level will pursue the achievement of backlog targets exclusively, and lose sight of the need for a full assessment of the caseworking impact, before proceeding.

73. To help manage this risk, I make the following recommendation:

Recommendation 8

That responsibility for backlog reduction targets should be held at Director level.

Handling of media enquiries on 5 March 2004

74. In line with my terms of reference, I have concentrated on the issue of the guidance and recommendations that might help to avoid the difficulties raised on this occasion in future. But in making these recommendations, I cannot help but comment on the way the media enquiries about changes in the ECAA guidance were handled on 5 March.

75 It is clear that the official who was contacted by the Home Office Press Office did not have at his/her fingertips the information needed to be able to answer the media inquiries about ECAA guidance accurately. As a result, the official concerned was dependant on who, from the Sheffield team, they were able to locate and talk to, by telephone, on that Friday evening. They did not have the guidance in front of them when advising on the line to take, which had to be prepared quickly in order to be deployed by the Home Office Press Office. As a result, without the new guidance available, information was given in good faith, but mistakenly.

76 By the weekend itself, IND had been able to pull together the various guidance notes that were relevant to responding to the story which appeared in The Sunday Times.

77 There is a clear need for IND to be able to deal quickly, accurately and authoritatively with media inquiries about its work, including its guidance. Earlier recommendations in this report will help by establishing a clearer set of guidance, with the person responsible for the guidance locally and for its authorisation at more senior level more clearly identified. But the circumstances of Friday, 5 March, before the guidance became available, was instructive in pointing to the need for this information to be readily accessible by those who might be contacted by the Home Office for help. To this end I make the following recommendation:

Recommendation 9

Approved guidance should be available and therefore accessible electronically across IND and should include 24 hour contact details, not just of the local lead manager but also the authorising Director. This will help to ensure press and media enquiries are accurately dealt with, including over weekends.

PART 7: SUMMARY OF RECOMMENDATIONS

78 To sum up, these are my recommendations:

Recommendation 1: That IND should press ahead with and complete its plans to introduce a standard set of guidance in each IND operational area. This guidance should be authorised by the Directors of both the operational and policy Directorates responsible for it.

In addressing the issue of authorisation, the responsible Directors should consider, specifically, whether that piece of guidance needs to be submitted to the Minister of State. The responsible Directors should also consider any question of publishing or not publishing the proposed guidance with a view to referring that issue to the Minister of State.

Recommendation 2: A framework or template should be made available to IND staff setting out the core components of any well written guidance.

Recommendation 3: That a process should be put in place within each Directorate to ensure that all changes to this standard set of guidance, once introduced, are approved by the relevant operational and policy Directors; that all such changes should be advised to the relevant Sub Programme Board and that this should be included as an agenda item at each Sub Programme Board.

The process should include a prompt to make sure that, before fresh guidance is prepared and issued, a risk assessment has been completed covering, among other things, the impact on the effectiveness of the control.

Recommendation 4: That all IND Directorates should put in place processes to enable them to provide assurance to the Joint Programme Board (as required) that their processes are compliant with published guidance.

Recommendation 5: That IND produces for all staff a guidance note outlining how IND policy is developed.

Recommendation 6: That all staff new to IND joining at Grade 7, Grade 6, or SCS level, or promoted within to that level, should undergo structured, tailored induction that includes policy and process development, and working with Ministers.

Recommendation 7: That technical caseworking should be considered a specialism within IND and that whatever assessment method is used, technical expertise should be included as a specific competency, along with some other more generic competencies.

Recommendation 8: That responsibility for backlog reduction targets should be held at Director level.

Recommendation 9: Approved guidance should be available and therefore accessible electronically across IND and should include 24 hour contact details, not just of the local lead manager but also the authorising Director. This will help to ensure press and media enquiries are accurately dealt with, including over weekends.

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25 March 2004