



**Fair, effective, transparent and trusted: rebuilding confidence in our immigration system.**

**An independent and transparent assessment of immigration**

**Policy Statement**

**March 2007**

**AN INDEPENDENT AND TRANSPARENT ASSESSMENT OF IMMIGRATION – POLICY STATEMENT**

## **Foreword**

### **Liam Byrne MP**

Last July the Home Secretary announced the biggest shake-up of the immigration system in its history. To drive through this programme of reform, the Home Secretary made it clear that the IND – which will become the Border and Immigration Agency BIA on 1 April – required more transparency and stronger oversight and accountability arrangements.

Today there are a number of bodies that monitor, inspect or advise on specific parts of the immigration system. What is lacking is a clear and consistent overall view. There is also no external oversight of key areas such as enforcement.

In December 2006 we carried out a public consultation on proposals for an independent inspectorate that would deliver an effective inspection of IND.

We are extremely grateful to everyone who contributed. The responses received revealed very wide support for the idea for an independent inspectorate and how it should be taken forward. This paper sets out the Government's formal response to the consultation exercise.

We propose to create a single inspectorate that will focus on overall efficiency and effectiveness across IND's and its partners' operations, quality of decision-making, enforcement powers, access to information and the treatment of individuals, including a sense of comparative performance in different regions of the country.

Effective assessment of these key themes will provide confidence to Parliament and the public and to those who use and receive services from IND.

I very much hope that everyone who is concerned with the immigration and nationality system will continue to work with us as we seek to develop the improvements and assurance that this new, stronger and more effective inspection will bring.

A handwritten signature in cursive script, reading "Liam Byrne", with a horizontal line underneath.

**Liam Byrne MP – Minister of State for Nationality, Citizenship and Immigration**



# **AN INDEPENDENT AND TRANSPARENT ASSESSMENT OF IMMIGRATION**

## **Background**

On 18 December 2006, the Home Office launched a consultation paper on proposals to create a new, independent body to carry out the inspection of the full range of activities of IND, which will become BIA in April 2007. In the light of the consultation, the Government now intends to bring forward legislation to create an independent inspectorate to provide oversight of the agency.

## **A New Inspection Regime**

2. A new independent inspectorate will provide confidence to the public and to Parliament that the system is working efficiently and effectively and, where there are problems, that these are being addressed in a way that is consistent with the Government's policies and objectives.

3. It will deliver a service fully in line with the Government's principles of inspection in that it will provide an external review that will be independent of IND, provide assurance to Ministers and the public about the safe and proper delivery of IND services, including IND's operations in local communities, contribute to the improvement of those services, report in public and deliver value for money.

## **Scope and Remit of Inspection**

4. The purpose of inspection of IND is to provide assurance to Ministers, Parliament and the public about the safe, proper and effective delivery of immigration and nationality services whilst at the same time delivering on improvements in quality of service.

5. The new inspectorate will have a general duty to inspect and report on the functioning of IND.

6. More specifically the inspectorate will focus on:

- overall efficiency and effectiveness across IND's operations;
- quality of decision-making in the agency and its contracted partners;
- enforcement powers;
- access to information; and
- the treatment of individuals.

7. The inspectorate will not intervene in individual cases or complaints but will review the processes involved including the availability of avenues of complaint, achievement of published service standards for responding to queries and the actions taken to improve the organisation in response to the nature of the complaints received.

8. The inspectorate will be required to report annually to the Secretary of State and will have the power to carry out ad hoc investigations or reviews at the request of the Secretary of State. The inspectorate's reports will be laid before Parliament.

### **Existing Bodies**

9. We intend to place the remit of the Certification Monitor, the Monitor of Accommodation Centres, the Race Monitor and the Complaints Audit Committee within the new inspectorate. In the case of the Race Monitor the remit will expand to look at equality issues more generally.

10. We also intend to place the remit of the Advisory Panel on Country Information (APCI) within the new inspectorate. We believe that there is a very clear and strong link between the work of APCI and the focus of the new inspectorate on quality of decision-making and that there will be a real advantage in tasking the new inspectorate with considering and making recommendations on country information.

11. Given the specialist nature of the work undertaken by Her Majesty's Chief Inspectorate of Prisons (HMCIP) in relation to the immigration detention estate, we are not proposing any changes to the current position. We would envisage suitable protocols being developed between HMCIP and the new Inspectorate. Similarly, we are not seeking to change the current position of the Prisons and Probation Ombudsman and the Independent Monitoring Boards.

12. The Government would like to give further consideration to the long-term role of the non-statutory Advisory Board on Naturalisation and Integration (ABNI). The consultation document indicated we need to consider whether there is still a need for ABNI and where its remit should sit.

13. The Office of the Immigration Services Commissioner (OISC) does not review IND activity, and has therefore been treated as being outside the scope of this consultation exercise. The OISC is, however, being separately reviewed as part of the Home Office's in depth review of its non-departmental public bodies. Depending on the outcome of that review, we would expect the OISC to work closely with the new inspectorate.

14. The Entry Clearance Monitor reports to the Secretary of State for Foreign and Commonwealth Affairs. Its role will continue as it is at present. Again, we expect the Entry Clearance Monitor and the new inspectorate to work closely together.

### **The Governance of Inspection**

15. The inspectorate will be established as an independent office holder with departmental support, in line with the arrangement for the existing inspectorates of the criminal justice system such as Her Majesty's Inspectorates of Constabulary and Prisons.

16. The inspectorate will be funded by the Home Office

# Summary of Responses to the Consultation Paper

## An independent and transparent assessment of immigration

### Introduction

On 18 December 2006 the Home Office published the consultation paper “*An independent and transparent assessment of immigration*”. The paper set out the Government’s proposals to establish a new body to provide a transparent and independent assessment of IND and its services.

### Consultation Exercise

The consultation paper, drawn up by the Home Office, sought the public’s views on the proposals. The paper was specifically distributed to around 50 relevant parties and was also available on the Home Office website.

The consultation exercise ran for 12 weeks between 18 December 2006 and 16 February 2007.

### Responses

- 34 responses were returned, 33 from organisations and one from an individual.
- Some respondents did not complete all of the questions in the consultation paper, preferring to concentrate on areas of interest to them.
- The consultation ended on 16 February and this summary completed by RDS-IND on 26 February.

### The need for an independent assessment

The respondents were broadly supportive of the proposals for independent assessment with 23 respondents clearly indicating agreement. One respondent disagreed with the proposals and one respondent was undecided.

### The role

Additional suggestions for objectives:

- The objectives set out by the Home Affairs Select Committee in their July 2006 report<sup>1</sup>. (Six respondents)
- A focus on processes. (Three respondents)
- The inclusion of the Immigration Service and Office of the Immigration Services Commissioner (OISC) within the monitoring remit of the new body. (One respondent)
- A specific equal treatment or anti discrimination remit. (One respondent)
- The remit to act on complaints. (One respondent)
- The ability to impose financial sanctions. (One respondent)

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<sup>1</sup> The respondents stated these included the following: oversight of every stage of immigration control; high-quality decisions; active management; clear lines of responsibility and reporting; easy communication within and across authorities; meaningful statistics; effective and non-distorting targets; excellent customer service; and promotion of good race relations.

- The development of best practice guidance. (One respondent)
- The inclusion of 'fairness' and quality of decision making. (One respondent)
- A decision as to the verifiable statistical information made publicly available. (One respondent)

There was little disagreement with the proposals to include: overall effectiveness; quality of decision-making; enforcement powers; and access to information in the role of the new body.

The consultation paper suggested that individual cases will not be included within the remit of the new body, this did lead to comments from six respondents. They felt it was essential to consider the urgent need individuals may have for "effective redress" and the new body should have a duty to refer cases where "manifest injustices of abuses" have taken place.

Other suggested themes to be included in the body's role:

- The assessment of processes when considering the quality of service. (Six respondents)
- To ensure that regionalisation goes hand in hand with provision of robust regional data across the full range of IND's core business in order to enhance transparency and the quality of stakeholder engagement. (Six respondents)
- Training on cultural issues for decision-makers. (One respondent)
- To make recommendations for future changes in process and manage the changes in procedures. (One respondent)

Statutory footing

- 22 respondents agreed the new body should be placed on a statutory footing and two respondents were undecided.

Lay reports before Parliament

- 23 respondents agreed that the new body should lay reports before Parliament.

## The relationship with existing immigration monitoring, advisory and inspection bodies

Complaints Audit Commission

- 21 respondents agreed the remit of the Complaints Audit Commission should be placed within the new role of the new body. One respondent disagreed and one respondent was undecided.

Certification Monitor

- 17 respondents agreed the remit of the Certification Monitor should be placed within the role of the new body. Two respondents disagreed and two respondents were undecided.

#### Monitor of Accommodation Centres

- 16 respondents agreed the remit of the Monitor of Accommodation Centres should be placed within the new body. Two respondents disagreed and three respondents were undecided.

#### Race Monitor

- 21 respondents agreed the remit of the Race Monitor, appropriately extended, should be placed within the new body. Two respondents disagreed.

#### Advisory Panel on Country Information (APCI)

- One respondent agreed the remit of the APCI should be placed within the new body. 17 respondents disagreed and one respondent was undecided.
- Nine respondents agreed the APCI should remain a separate body but report directly to the new body. Nine respondents disagreed and two respondents were undecided.
- Eight respondents agreed the APCI should continue as a separate independent body with no direct links to the new body. Nine respondents disagreed and two respondents were undecided.

#### Advisory Board on Naturalisation and Integration (ABNI)

- Three respondents felt the ABNI should be considered as part of this exercise. Of these two respondents felt its remit should be subsumed within the new body and one respondent was undecided. 15 respondents felt the ABNI should not be considered as part of this exercise.

#### Her Majesty's Chief Inspector of Prisons (HMCIP)

- 18 respondents agreed the HMCIP should retain her role, but the new body should have regard to her reports. One respondent disagreed and one respondent was undecided.

#### Prison and Probation Ombudsman (PPO)

- 18 respondents agreed the PPO in respect of immigration issues should remain unchanged and the new body should reflect his reports in an overall assessment of IND. One respondent disagreed and one respondent was undecided.

The consultation paper mentioned, but did not ask questions regarding, the relationship between the new body and the Independent Monitoring Boards and the new body and the OISC.

### Relationship with the Entry Clearance Monitor

The consultation paper did not include specific questions on the Entry Clearance Monitor.

### Other Issues

A number of other issues were mentioned by respondents in regard to the independent assessment of IND.

14 respondents commented on the scope of the new body:

- The body should have strong working links with the Migration Advisory Committee". (Two respondents)
- The "clear focus of the new body should be to ensure that the new IND discharges its duties in a manner, which is consistent with other forms of UK law". (One respondent)
- Liaise with the Healthcare Commission. (One respondent)
- IND officers "should be subject to similar levels of scrutiny as the police themselves". (One respondent)
- "A broader body would provide greater consistency; have a better perspective and develop expertise, as well as offering efficiency savings in providing support and research." (One respondent)
- In terms of resources "this body, whatever its scope, must have independent statistical and research support to provide a rigorous basis for giving advice, for assessments and for monitoring. It is also important that it has adequate resources for support so that the assessment or inspection staff have the necessary back up in administration". (One respondent)
- "The new body's role clearly extends beyond the work done by existing bodies, and its resources should reflect this." (One respondent)
- "For the new independent body to be effective in meeting the objectives set out in the consultation paper it must have [1] sufficient financial and human resources to be able to monitor activities in close detail and report to Parliament and [2] a comprehensive remit covering all decisions relating to immigration control exercised both within the UK and overseas." (One respondent)
- "There is also a role for the inspectorate to assess whether the delivery requirement set for IND is proportionate to the resource provided." (One respondent)
- "A careful balance must be struck in order to ensure sufficient scrutiny of the totality of IND's work". (One respondent)
- "The current monitoring bodies do not have authority to implement change. Unfortunately the proposed new body will only be able to recommend changes as well." (One respondent)
- "Consideration of disability, gender, sexual orientation, age and religion & belief should be included, as well as the need to meet the public duties on race, disability and gender". (One respondent)
- "We would like to see a pro-active position by IND with regard to immigration as a whole, with education of the public at the forefront." (One respondent)

Nine respondents commented on the creation of the new body:

- "Overall, we urge the Home Office to consider carefully the process by which the new body will be created, having particular regard to the impact of the broader organisational change agenda within IND. In our view resourcing will be crucial, ....., and the far broader remit of the new body will require significant investment in personnel and organisational infrastructure. Many of the existing bodies enjoy a high level of ministerial access, and it is essential that this level of influence be built into the work of the new body, rather than watered down in its creation. Finally, the new

body must have a clear commitment to human rights standards.” (Six respondents)

- “Need for the new body to be absolutely independent, and for the best aspects of the existing monitoring regimes, which are to be subsumed in the main body to be preserved”. (One respondent)
- “Badly needed links between monitoring of enforcement and treatment of individuals.” (One respondent)
- “We see the real challenge as one of creating an effective interface between the inspectorate, the remaining monitoring and inspecting bodies and the Executive Board.” (One respondent)

Seven respondents look forward to working with the new body.

Five respondents welcomed the proposals.

Three respondents wanted further clarity:

- “Needed in relation to oversight arrangements for the exercise of police-like powers in the community by IND.” (One respondent)
- “The consultation paper [is] cumbersome and lacking in clarity.”
- “Our ability to give a detailed response to the proposals is limited by the fact that the consultation document does not have many details on how the new body might be resourced and organised, or how the work of existing monitoring bodies will be incorporated into the new body in practice.” (One respondent)
- “Whilst we welcome the new body as a significant move towards improvement of the current system, we have some concerns that the legislation referred to within the document will not be relevant in Scotland.” (One respondent)

Two respondents expressed concerns:

- “Many checks on IND have steadily been removed....One overall body would fail to measure the effectiveness of IND but would be seen as a mechanism of government control.” (One respondent)
- “..Whilst we agree that there should be independent monitoring of the Home Office, we have concerns with this taking place within a single body. Many of the functions of the existing bodies are specialised and therefore should remain as they are.” (One respondent)

Two respondents mentioned diversity:

- The proposed body should include diversity in its representation.
- “There needs to be people from a range of cultures in decision making positions.”