

Mr David Bolt
Independent Chief Inspector of Borders and Immigration
5th Floor
Globe House
89 Eccleston Square
London SW1V 1PN
Sent by email



6 March 2019

Dear Mr Bolt,

Re: Call for evidence

I am writing to contribute to your call for evidence regarding the complaint handling of the Home Office's Borders, Immigration and Citizenship System (BICS).

We have looked at investigations into UK Visas and Immigration (UKVI), Border Force, Immigration Enforcement and HM Passport Office that we closed in 2017/18 and so far in this financial year.

In line with previous years, the majority of our investigations relate to UKVI rather than the other agencies. This means that we hold the greatest insight in relation to the former's complaint handling. It is important to note, however, that the relatively small proportion of complaints we handle about these organisations should be seen in the context of the vast number of interactions that they have with their customers every year.

Details on the statistical trends we see in relation to UK government departments and agencies, including the Home Office, are set out in our annual reports on this subject.¹

The most common complaint handling themes we have seen are the following:

- Delays in responding to complaints;
- Not thoroughly investigating complaints or responding to the points raised by the complainant; and
- Not being 'open and accountable' - according to our *Principles of Good Complaint Handling*² this includes organisations not providing clear explanations for their decisions or actions when responding to complaints.

¹ Our 2017-18 report is available at: <https://www.ombudsman.org.uk/publications/complaints-about-uk-government-departments-and-agencies-2017-18-0>

² PHSO. *Principles of Good Complaint Handling*. Available at: <https://www.ombudsman.org.uk/about-us/our-principles/principles-good-complaint-handling>

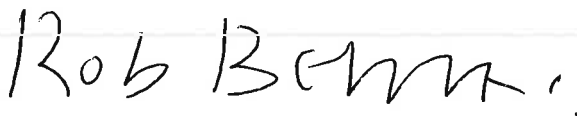
Aside from these specific complaint handling issues, the fact that we upheld complaints about UKVI and the other agencies tells us that there is work that these agencies need to do to improve the way they handle complaints. When we uphold a complaint, it is because we found that someone had suffered an injustice and the organisation had not put this right. This may be because the organisation failed to identify a problem during their own investigation. Or, if they did, they did not acknowledge this and/or sufficiently recognise the impact on the individual and put things right.

A published summary of a complaint we investigated about Border Force and UKVI is annexed to this letter. We found that failings in how both organisations dealt with an individual and her complaint resulted in significant injustice for the complainant.

Our *Principles*, particularly our *Principles of Good Complaint Handling* and *Principles for Remedy*³, can help organisations to respond to complaints appropriately and put things right when things go wrong. More recently we have published guidance about the use of financial remedy to help put things right.⁴ This can support organisations in determining suitable levels of financial remedies when responding to complaints locally.

One of our key strategic objectives is to work in partnership with others to improve how the public sector responds when things go wrong. We are committed to helping improve frontline complaint handling across the organisations we investigate and are leading work to progress this. I would be pleased to meet with you to discuss this further.

Yours sincerely,



Rob Behrens CBE
Ombudsman and Chair
Parliamentary and Health Service Ombudsman

³ PHSO. *Principles for Remedy*. Available at: <https://www.ombudsman.org.uk/about-us/our-principles/principles-remedy>

⁴ PHSO. *Our guidance on financial remedy*. Available at: <https://www.ombudsman.org.uk/sites/default/files/Our-guidance-on-financial-remedy-1.pdf>



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Annex: Case summary⁵

UK Visas and Immigration's incorrect advice led to a series of injustices including an order to leave the UK

In April and May of 2014, Mrs T sought advice from UK Visas and Immigration (UKVI) on whether her leave to remain in the UK would be affected if her husband, who is a British citizen, accepted a job offer overseas. Mrs T was assured that there would be no effect on her immigration status, provided they could prove their relationship was subsisting.

Having obtained this advice, Mrs T's husband accepted the job in June 2014. Mrs T remained and continued to work in the UK. In December of that year, Mrs T visited her husband overseas for Christmas and New Year. At the end of that visit Mrs T and her husband spent a few days together on holiday in the Middle East.

Mrs T returned to the UK from the Middle East on 3 January 2015 but was detained at Gatwick Airport by Border Force. She was held for 12 hours whilst Border Force examined her status, which included interviews and searches of Mrs T's baggage. Border Force concluded that as Mrs T was not entering the UK to live with her husband, and as he was not physically present in the UK, there had been a change to her circumstances since she had been granted her last leave to remain in the UK. Border Force cancelled Mrs T's leave to remain in the UK and served her with a removal decision which said she had to leave the UK on 17 January 2015 and return to the Middle East. They also told her that she would no longer be entitled to work in the UK, unless she lodged an appeal against their decision and engaged a solicitor to help her resolve the matter. Border Force allowed Mrs T into the UK temporarily pending her appealing against the decision.

However, despite being told that she would be able to resume working in the UK if she lodged an appeal, Border Force's acknowledgement letter to Mrs T's appeal stated she was not entitled to work. Mrs T complained through her local MP to the Home Office about incorrect advice she had received regarding her status and her treatment by Border Force. The restriction on Mrs T to work was lifted in February 2015 and she immediately returned to work. However, the restriction was later put back on Mrs T erroneously in May 2015 and despite Mrs T and her MP trying at length to get this decision corrected, it was not until September 2015 that Border Force lifted it. As a result of these restrictions, Mrs T was unable to work for over five months during 2015.

⁵ PHSO. *Complaints about UK government departments and agencies, and some UK public organisations 2016-17*. Available at: <https://www.ombudsman.org.uk/publications/complaints-about-uk-government-departments-and-agencies-and-some-uk-public-1>

In December 2015, HM Courts and Tribunals Service decided Mrs T's appeal in her favour. Although her immigration status was now restored and she was back at work, Mrs T still had not had been able to resolve her complaint to the Home Office from January 2015.

Our investigation found failings in how both Border Force and UKVI had dealt with Mrs T and her complaint. We concluded that these failings had resulted in significant injustice for Mrs T. To put things right for her, we made a number of recommendations to UKVI and Border Force which both organisations accepted. UKVI wrote to Mrs T to apologise for providing her with incorrect advice when she made enquiries about the impact of her husband taking a job overseas would have on her immigration status and for the delay in resolving her complaint. They paid her £1,600 in respect of her solicitor's fees for the appeal she was compelled to make and £500 in recognition of the distress and inconvenience she experienced as a result of their errors when dealing with her case throughout. Border Force compensated Mrs T for her lost earnings during the time she was unable to work and other costs and paid an additional £100 in recognition of the distress and inconvenience she suffered.