

## Briefing

**S3M-7490# Anne McLaughlin: UKBA's Contempt Agenda for Scotland**—*That the Parliament condemns the UK Border Agency (UKBA) for its actions that, it believes, imply a complete lack of respect for the Parliament and the people of Scotland; deplores what it considers to be the chaotic and unfeeling manner in which hundreds of asylum seekers in Glasgow were informed of the cancellation of UKBA's contract with Glasgow City Council and their subsequent imminent removal to elsewhere in Scotland; condemns, in particular, UKBA's decision, following a review, to continue, in its view, to refuse to engage with members seeking to represent constituents; believes that this policy is unique among all UK and Scottish governmental agencies, and considers that both examples demonstrate contempt for asylum seekers, the Parliament and Scotland.*

### 1. Corresponding with MSPs

In a recent UK parliamentary, the Immigration Minister, Damian Green, stated that the policy of corresponding with MSPs on individual matters was under review.

The subsequent outcome of this review was revealed in a letter to MSPs on 24 November outlining two reasons why the UK Border Agency would not respond to members of Devolved Legislatures. Firstly, due to the volume of correspondence the Agency deals with from MPs<sup>1</sup> and secondly, because immigration is a *"reserved matter and the lines of accountability for the Agency are through me and my ministerial colleagues to Parliament at Westminster."*

#### ***Immigration as a reserved matter***

Whilst immigration is a reserved matter, there are policy areas impacting on migrants and the asylum process where competence has been devolved to the Scottish Parliament. An example would be the provision of legal advice which is a vital element in a complex legal process. Access to quality legal representation can clearly have a material impact on an individual case. As such a member of the Scottish Parliament should be able to make representations on an individual's behalf with the reasonable expectation of a substantive response. There are a range of other areas such as health, education, child protection and policing which all interact with immigration processes. For example, if a woman seeking asylum approached an MSP about issues relating to domestic violence and how they have been treated by public bodies including the impact that this will have on their immigration status and support, then the MSP should equally be able to contact the police, health authorities and the UK Border Agency.

This week the Equal Opportunities Committee of the Parliament published its report into Migration and Trafficking. Paragraph 78 of the report described the confusion that exists in the UK Border Agency about devolution:

*"The Committee remains extremely concerned, however, by the evidence it received which suggests that confusion does appear to exist in the UKBA with regard to devolution issues. People have the right to expect accurate advice from all public agencies, and the Committee is disappointed by the criticisms that have been levelled at the UKBA in this regard. The Committee therefore expects the UKBA to provide appropriate training for its staff to ensure they are fully aware of devolution issues so that the best possible advice can be provided. "(Paragraph 78)*

We hope that the Committee's recommendation on this issue will be taken forward.

### ***Volume of correspondence***

Scottish Refugee Council refutes the argument that the volume of correspondence it handles from MPs should be a mitigating reason for not engaging in corresponding with MSPs on individual cases. The UK Border Agency is unique amongst Government agencies in the potential gravity of the impact that its decisions can have on lives of vulnerable individuals and families. In asylum cases the decisions it makes can literally be life or death and thus must be subject to the most anxious scrutiny. The high volume of correspondence it receives from MPs is a telling indicator of the Agency's poor performance and also in failing to learn from the mistakes it makes. In July this year the Chief Inspector of the UK Border Agency admonished the Agency precisely on this issue: *"The UK Border Agency has yet to provide compelling evidence that it is truly using complaints and issues raised by MPs in correspondence as a real driver to improve its overall service and behaviour. As yet there is no systematic analysis of the reasons behind complaints, and no evidence that, for example, complaints about an issue such as lost documents are used to overhaul procedures and practice across the Agency."*

*"I expect the Agency to develop a much more dynamic approach to addressing the root cause of complaints and MPs' correspondence. That is the real test for an organisation if it is to convince the public that it is committed to continuous improvement. It is a significant step that the UK Border Agency has yet to make."*<sup>1</sup>

Scottish Refugee Council believes the Agency must learn from the continuing errors and mistakes it makes and not simply curtail representations from elected officials in Scotland and other devolved nations.

## **2. Termination of UKBA's contract with Glasgow City Council**

Scottish Refugee Council set out its concerns regarding UKBA's termination of the contract with Glasgow City Council on 5 November 2010 in a briefing circulated to MSPs (attached). We remain concerned about the lack of formal communication on what is happening, especially as we approach the festive break and the contract is due to end on 2 February.

On 1 December Under-Secretary of State for Scotland David Mundell said in the UK parliament that the letter sent to 600 households of people seeking asylum living in Glasgow City Council accommodation on 5 November was 'inappropriate' and 'regrettable'. He went on to say: *'There is a recognition that the correspondence was inappropriate, and a number of measures have been taken. For example, everyone affected will have at least 14 days' notice if they have to move. Progress has been made. The initial letter was regrettable, but the situation will be better in future.'*

The UK Government must ensure that the *"situation will be better in the future"*. The UK Border Agency's action in sending a letter to individuals and families without confirmed plans in place paid scant regard to its human rights obligations, obligations to safeguard and promote the welfare of children and any assessment of safety.

<sup>1</sup> In the year 2009 the UK Border Agency received 66,320 inquiries by letter or email, and 25,322 inquiries by telephone, a total of 91,642 inquires from Members of Parliament. Hansard source (Citation: HC Deb, 16 September 2010, c1214W)

<sup>2</sup> See: Lessons to Learn: The UK Border Agency's handling of complaints and MPs' correspondence A Thematic Inspection: October 2009 – January 2010 <http://icinspector.independent.gov.uk/wp-content/uploads/2010/07/Lessons-to-learn-The-UK-Border-Agency's-handling-of-complaints-and-MPs-correspondence.pdf>