

**THE INDEPENDENT POLICE COMPLAINTS COMMISSION  
OVERSIGHT OF BORDER AND IMMIGRATION AGENCY  
INCIDENTS AND COMPLAINTS  
CONSULTATION PAPER**

JULY 2007

Please send your responses electronically to:  
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<b>DATE</b>	17 <sup>th</sup> October 2007
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1. SHOULD THE IPCC HANDLE BORDER AND IMMIGRATION AGENCY CASES IN THE SAME WAY AS IT HANDLES THOSE FROM ITS OTHER JURISDICTIONS (SUCH AS THE POLICE AND HM REVENUE & CUSTOMS) IN ORDER TO ENSURE CONSISTENT AND COMPARABLE PROCEDURES?  
(PLEASE SEE PARAGRAPHS 2.4, 2.5, 2.6, 2.8, 2.9, 2.10, 2.12, 2.16, 2.17)

YES / (DELETE AS APPROPRIATE)

PLEASE EXPLAIN THE REASONS FOR YOUR RESPONSE BELOW

The Refugee Council agrees that there should be consistent standards of practice and procedures between jurisdictions. However, there must also be recognition that the circumstances and context of possible immigration

complaints present distinct challenges. In particular the relative speed at which events may occur in relation to removals often means that no matter what has occurred there is in practice no effective remedy. People may be injured during the process of removal but there will be no record of this and no possibility of lodging a formal complaint. This combines with the fact that the IPCC will be dealing with a category of people who are already disempowered, often lacking access to adequate legal advice and often with limited English language ability. Thus in order to achieve comparable standards, which are clearly imperative, the IPCC will need to take the particular profile of users of this complaints provision into account. The IPCC will need to be able to respond robustly and urgently in order to make the complaints mechanism meaningful.

**2A. SHOULD SURVEILLANCE ACTIVITY UNDER THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) BE ADDED TO THE LIST OF SPECIFIED ENFORCEMENT FUNCTIONS IN THE REGULATIONS (PLEASE SEE PARAGRAPH 2.2)**

YES (DELETE AS APPROPRIATE)

PLEASE EXPLAIN THE REASONS FOR YOUR RESPONSE BELOW

No comment

**2B. WOULD YOU LIKE TO SEE ANY OTHER ENFORCEMENT FUNCTION ADDED TO THOSE LISTED IN THE REGULATIONS? (PLEASE SEE PARAGRAPH 2.1 AND 2.2)**

YES (DELETE AS APPROPRIATE)

PLEASE EXPLAIN THE REASONS FOR YOUR RESPONSE BELOW

We do have concerns about the proposed scope of IPCC jurisdiction. Information from detainees and the organisations which support them shows that concerns about ill-treatment and abuse include actions by Removal Centre staff and escort service staff both of whom are privately contracted to the BIA, as well as immigration officers. The IPCC complaints mechanism should cover the detention estate and contracted escort and removal staff. We are also unclear about the position of immigration officers in holding centres at ports and believe that these should certainly be covered by IPCC.

Given the wide range of organisations involved in the enforcement and removal process, we believe that, in practice, it will be very difficult to draw a meaningful distinction between them when investigating incidents. As such, we would like to see the IPCC remit extend to all those acting on behalf of the BIA to carry out the detention and removals process.

**3A. THE REGULATIONS WILL SPECIFY THAT CERTAIN CATEGORIES OF INCIDENTS MUST BE REFERRED TO IPCC (PLEASE SEE PARAGRAPH 2.7). ARE THERE ANY OTHER CATEGORIES WHICH SHOULD BE INCLUDED?**

NO (DELETE AS APPROPRIATE)

PLEASE EXPLAIN THE REASONS FOR YOUR RESPONSE BELOW AND GIVE DETAILS OF WHICH CATEGORIES YOU FEEL SHOULD BE ADDED.

We do not have additional categories to add and it is clearly essential, given the concerns expressed above, that there is a system of mandatory referral. What is not clear from the consultation document is how it will be decided whether any particular incident comes within any of the mandatory categories and by whom? Who will be deciding what constitutes a "serious assault" or a "criminal offence aggravated by discriminatory behaviour" and using what criteria? This is of equal significance and needs spelling out if those using the complaints mechanism are to understand it.

4. SHOULD THE IPCC HAVE THE POWER TO DIRECT THE POLICE TO INVESTIGATE CERTAIN BORDER AND IMMIGRATION AGENCY CASES? (PLEASE SEE PARAGRAPH 2.10 AND 2.11)

YES (DELETE AS APPROPRIATE)

PLEASE EXPLAIN THE REASONS FOR YOUR RESPONSE BELOW

We assume that the reference to the police is where there are criminal matters that go wider than the incident itself - such as trafficking or corruption - and this seems logical. We are concerned about the final point at 2.10 (BIA carrying out their own investigation) but assume this would be where the issues were clear cut, BIA are able to take action and that there will be a reporting back mechanism to the IPCC on outcomes.

5. THERE WILL BE A WORKING CONVENTION THAT STATES THAT NO COMMISSIONER WITHIN THE IPCC WHO HAS ANY CONNECTION WITH THE BORDER AND IMMIGRATION AGENCY OR THE JUDICIAL PROCESS THAT UNDERPINS IT, WILL DEAL WITH ANY BORDER AND IMMIGRATION AGENCY REFERRALS. SHOULD THIS BE INCLUDED IN THE REGULATIONS? (PLEASE SEE PARAGRAPH 2.13)

YES (DELETE AS APPROPRIATE)

PLEASE EXPLAIN THE REASONS FOR YOUR RESPONSE BELOW

No comment

6. DO YOU AGREE WITH THE RIGHTS OF APPEAL? (PLEASE SEE PARAGRAPH 2.18)

YES (DELETE AS APPROPRIATE)

PLEASE EXPLAIN THE REASONS FOR YOUR RESPONSE BELOW

No comment

7. IS THE PROTOCOL REGARDING THE REMOVAL OF COMPLAINANTS A SUITABLE WAY OF ADDRESSING THE ISSUES REFERRED TO IN PARAGRAPH 2.20?

NO (DELETE AS APPROPRIATE)

PLEASE EXPLAIN THE REASONS FOR YOUR RESPONSE BELOW

This is the section about which we have the most concern for reasons advanced in our response to question 1. In our view, removal of complainants or witnesses during an IPCC investigation should be avoided, and a clear prohibition on this should be included in the Regulations. If this does not happen and a protocol is the agreed mechanism, it is essential that this is a) devised and implemented promptly, b) is consulted upon, and c) is reviewed regularly as to whether it is effective.

8A. DO YOU THINK THE REMIT OF THE IPCC IN RELATION TO THE EXERCISE OF ENFORCEMENT FUNCTIONS BY IMMIGRATION OFFICERS AND OFFICIALS IS CLEARLY EXPLAINED / WILL BE CLEARLY UNDERSTOOD?

UNSURE (DELETE AS APPROPRIATE)

**PLEASE EXPLAIN THE REASONS FOR YOUR RESPONSE BELOW**

The main concern is that suggested above - that there will be real problems of meaningful access given the environment in which potential problems might arise with speed of procedures, lack of understanding and poor grasp of English. Thus it is essential that all material is translated and that there are clear procedures with timelines included in the guidance and publicity. We also believe that the grey areas in relation to the IPCC's remit concerning Removal Centres and contractors will lead to confusion unless they are addressed.

**8B. HOW IS THIS BEST COMMUNICATED TO YOUR OWN STAKEHOLDERS TO ENSURE THE REMIT IS CLEAR?**

**PLEASE RATE THE FOLLOWING OPTIONS BY HOW EFFECTIVE THEY WOULD BE IN COMMUNICATING THIS INFORMATION.**

POSTAL LEAFLET	A LOT	(DELETE AS APPROPRIATE)
EMAIL LEAFLET	A LOT	(DELETE AS APPROPRIATE)
WORKSHOPS	A LOT	(DELETE AS APPROPRIATE)
PRESENTATIONS	A LOT	(DELETE AS APPROPRIATE)

**8C. ARE THERE ANY OTHER OPTIONS THAT YOU FEEL WOULD BE EFFECTIVE IN COMMUNICATING THIS INFORMATION?**

**PLEASE GIVE DETAILS BELOW AND RATE EFFECTIVENESS**

A LOT (DELETE AS APPROPRIATE)

Advisory Group: We would like to see the establishment of an Advisory Group of Stakeholders to feed in experiences of how the procedures are working in practice and likewise inform our members of progress and issues as they arise. Whilst leaflets and publicity are essential these need to be supplemented with a regular appraisal of how things are going, what is working, and what is not working. It will be particularly important to involve communities affected by BIA activity, and we invite the IPCC to make use of the Refugee Council's contacts with Refugee Community Organisations and those of other organisations, to develop an effective two way channel on how effective the procedures are and highlighting problem areas.

A LOT (DELETE AS APPROPRIATE)

Monitoring and reporting: an integral part of the advisory group process is the monitoring of the incidence of complaints with details of how these were dealt with and what the outcomes were. These should be summarised in regular reports with recommendations for changes of practice where appropriate.

**DO YOU WISH YOUR RESPONSE AND NAME TO BE KEPT CONFIDENTIAL?**

NO (DELETE AS APPROPRIATE)