

News story: The Chief Inspector's report on the Home Office's approach to learning from immigration litigation has been published

It is important that the Home Office, with support from the Government Legal Department (GLD), manages litigation claims made against decisions and actions by its Borders, Immigration and Citizenship System (BICS) business areas both efficiently and effectively.

In addition to being an opportunity to acknowledge errors and provide appropriate remedies to claimants, there are the substantial costs of processing and defending cases, and of sums paid out to settle claims, or in compensation when cases are lost. There are also risks to the Home Office's reputation and functioning from poorly handled claims and adverse judgements.

Between 2004 and 2013, the number of Judicial Reviews lodged against the Home Office increased seven-fold. In 2013, the Home Office's Legal Strategy Team (LST) produced a document entitled 'Litigation – Blueprint for a Target End to End Process'. This 'Blueprint' recognised that learning "should be used to identify improvements and refine our processes, or suggest actions to other units to improve the handling of litigation.

In this inspection, my focus was the mechanisms the Home Office had put in place since 2013 to manage litigation claims, and to capture and use the learning from litigation in order to improve the way claims are handled and to reduce the number of future claims and associated costs through better ("right first time") decision making.

Litigation Operations manages the bulk of the Pre-Action Protocol letters, Judicial Reviews, and Private Law Claims that relate to BICS business areas. I found that since it was created in 2013, and particularly in the last two years, Litigation Operations had made various process improvements and, at the time of the inspection, was looking to build on these.

However, I identified room for further improvements in the processing of claims, and the need for clearer communication to original decision makers about litigation outcomes in order to avoid repeated claims citing the same issues.

In 2016-17, the relevant Legal and Compensation budgets were both significantly overspent, which raised concerns about the Home Office's ability to control its expenditure in this area. The overall budget is planned to reduce substantially in 2019-20, which will require an exceptional level of cost saving efficiencies. I found no evidence that would support such optimism.

Others, including potential claimants and the Courts, will affect the actual numbers and costs of future claims. However, the Home Office needs to make a more deliberate and determined organisational effort to learn lessons from litigation, and to apply these systematically to initial decision making, if it is to have greater influence over the financial and other consequences of such claims.

My report makes 7 recommendations. These include formalising, and possibly extending, the involvement of GLD; creating a closer and more structured working relationship between Litigation Operations and decision-making business areas; enhancing Litigation Operations' analytical capabilities, reviewing performance targets, and aligning responsibility for deciding which claims to settle or defend with budgets and financial authority.

The Home Office has accepted all of my recommendations fully or in part, in the latter case addressing the substance of concerns. I look forward to revisiting this area in due course to check on progress, and will also look in future inspections to test that lessons from litigation are reaching decision making business areas and improving initial decisions.