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Dear Chair

Inappropriate use of Home Office Twitter account

As you will know, on 26 August 2020 the official, verified Twitter account of the Home Office tweeted a video in relation to small boat crossings in the Channel and reform of asylum law following the UK's withdrawal from the EU. The video makes grossly misleading claims effectively amounting to an attack on the rule of law. It is an entirely improper use of Civil Service communications. We believe there must be an investigation into how the video came to being and into the use of the Home Office Twitter account more widely.

Constitutional implications of the video

The video begins by suggesting that those making crossings by boat in the Channel have “no right to remain in the UK”. This is wrong and betrays a seemingly wilful misunderstanding of the law: many of those making crossings are refugees under international law and have an entitlement to be recognised as such under UK law. In the most recently published [statistics](#) on asylum claims, the Home Office said “[T]he UK has seen an increase in Iranian nationals applying for asylum since the year ending June 2018 ...corresponding with the growth in arrivals on small boats in the English Channel”. 66% of asylum claims by Iranians were successful at initial decision, which rises on appeal. The Home Office therefore knows that many of those arriving on small boats are refugees and therefore have legal rights.

The video then claims that “current return regulations are rigid and open to abuse” and that “activist lawyers...delay and disrupt returns”. Any removal of an individual from the United Kingdom must be in accordance with the law. A lawyer cannot stop a plane. Removals are prevented either by the Home Office deciding that removal may not be lawful or by a court order made by a judge after hearing submissions from both the individual and the Home Office. If the Home Office is unsuccessful in persuading the judge that the removal is lawful, then the rule of law dictates that the removal must be prevented.

Access to justice means that individuals are entitled to independent legal representation to support them in establishing their legal entitlements. The courts have powers in order to ensure that lawyers conducting litigation abide by the rules of the court and observe proper standards of behaviour. Immigration lawyers are also bound by professional standards and supervised by regulators. Despite repeated claims that there is an increase in improper legal challenges, we have never been presented with any evidence to substantiate these claims. They are false. The suggestion that lawyers “disrupt” returns is an attack on the very notion of due process and rule of law because it implies that the Home Office should be able to remove individuals without undergoing judicial scrutiny. It is a necessary

feature of any democratic society that government decisions should be amenable to review by a judiciary independent of government and popular opinion. Without this, vulnerable individuals would have no recourse to defend themselves against those in power.

Finally, the video suggests incorrectly that, once the UK has left the EU, it will become easier to remove asylum seekers to countries through which they passed before arriving in the UK. This is incorrect. As the Home Office knows, at the end of the Brexit transition period, the UK will leave the Common European Asylum System and will no longer use the Dublin returns process. The EU has rejected the UK's proposed replacement for this system and there is no evidence to suggest the UK will be successful in negotiating individual bilateral arrangements.

In any event, we believe the evidence is clear that any attempt to deter Channel crossings through increasing returns is a futile effort. If the Home Office wants to prevent small boat arrivals then it is entirely within their power to do so, by putting in place safe and legal routes by which individuals can reach the UK.

Improper use of government communications

The Home Office Twitter account, as that of a central government department, is bound by the [Government Communication Service's Propriety Guidance](#). The Propriety Guidance states on page 12:

“All government communication through social media...must be consistent with the Civil Service Code and the established criteria for government communication that our work:

- Should be relevant to government responsibilities*
- Should be objective and explanatory, not biased or polemical*
- Should not be – or liable to be – misrepresented as being party political*
- Should be conducted in an economic and appropriate way, and should be able to justify the costs as expenditure of public funds.”*

The Home Office video is not objective. It is biased and polemical: for the reasons set out above, it presents an incorrect picture of the legal position and undermines the integrity of the legal profession.

The production of the video clearly involved the use of public money, involving graphic design, music production and video editing. It is likely to have involved a sizable number of Civil Servants. Given the issues we have highlighted above, we believe the Home Office cannot “justify the costs as expenditure of public funds” of the production of this video. It is clearly an inappropriate use of public funds and Civil Service resource at a time when the Home Office faces an overwhelming demand on its functions.

The Guidance further states government communicators using social media should “*be sensitive to tone and guard against perceived attacks on particular interests, organisations or individuals*” (page 13). The Home Office video infringes this principle. It amounts to an attack on the independence and work of the legal profession, who by subjecting removal decisions to legal challenge are upholding their ethical obligations to represent their client's best interests and are applying the law enacted by Parliament.

The Ministerial Code further requires ministers to uphold the impartiality of the Civil Service: they must not ask civil servants to act in any way that conflicts with the Civil Service Code. If it transpires that this video was produced as a result of a ministerial direction, we believe that this principle will have been violated.

We do not consider this tweet to be an isolated incident. For some time, we have noticed an increasing hostility towards criticism and recklessness with the truth from the Home Office Twitter account. The account regularly directly attacks civil society organisations as “misleading” when in reality these organisations are drawing attention to legitimate problems within the Home Office’s responsibilities.¹ While it is proper for the Home Office to justify and explain its actions, it must do so in compliance with the Civil Service Code and Government Communication Service’s Propriety Guidance.

The creeping politicisation of the Home Office Twitter account has the effect of undermining trust and confidence in the independence of the Civil Service at a time when it is needed more than ever. It contradicts the [assurances](#) the Home Secretary has given to Parliament that she will change the Home Office’s “openness to scrutiny” following the recommendations of the Wendy Williams Windrush Lessons Learned Review.

We therefore believe the Home Affairs Committee should conduct an independent investigation of the circumstances surrounding the production and publication of this video, as well as the use of the Home Office Twitter account more widely. We are gravely concerned about any further decline in public standards. We have copied this letter to the Lord Chancellor in light of his sworn oath to defend the independence of the judiciary.

Yours sincerely

Adrian Berry
Chair
Immigration Law Practitioners’ Association

¹ Examples include <https://twitter.com/ukhomeoffice/status/1278381108430876673>;
<https://twitter.com/ukhomeoffice/status/1258081297068634112>;
<https://twitter.com/ukhomeoffice/status/1243222206781558785>;
<https://twitter.com/ukhomeoffice/status/1252619023604424707>;
<https://twitter.com/ukhomeoffice/status/1252619023604424707>;
<https://twitter.com/ukhomeoffice/status/1261652933495717890>;
<https://twitter.com/ukhomeoffice/status/1168930876371152896>.