Written evidence submitted by Tony Smith CBE (COR0136)

Background

Tony Smith CBE is a former Head of UK Border Force. He served at all levels from immigration officer to DG in a career spanning 41 years (1972 – 2013) in the UK Home Office / UK Immigration Service / UK Border Agency. He was also Director of Ports of Entry in Immigration Canada 2000 – 2003 (spanning the 9/11 period).

Since retiring from govt service in 2013 he has been an international border management consultant and is now chairman of the international border management and technologies association (IBMATA)[1] promoting collaboration and best practice in current and future border management processes.

Context

1. The UK government is considering the introduction of measures to control the entry of international travellers to limit the spread of the COVID 19 pandemic in the UK. Given that the UK already has one of the highest rates of infection in the world, this is to support a strategy to prevent a "second wave" epidemic once the virus is declining and under control within our borders.

History

2. The Border Force has primary responsibility for inspecting all passengers arriving at the UK border. This role was undertaken by immigration officers between 1905 and 2008, whereupon the immigration service was abolished in favour of the UK Border Agency and the creation of the UK Border Force, merging immigration officers and customs officers into a new single Department comprised of Border Force Officers (BFOs).

3. The primary role of the Border Force is to implement laws to support public policy, public security and public health measures at the UK Border. Passengers who are subject to immigration control may be refused or restricted entry under any of these categories in accordance with UK immigration rules. Those that are not subject to control (British citizens) may still be examined and referred to other agencies (such as police) if they pose a threat. The Border Force is also responsible for the examination of goods and freight arriving at UK ports.

4. In terms of public health, BFOs are empowered to refer passengers to a Port Medical Inspector (PMI) for further examination. Passengers subject to control may be refused entry or granted restricted entry on health grounds (mental or physical) where the condition is certified by the PMI.

5. Passengers arriving at UK ports are not routinely examined for medical purposes. There is no physical check against vaccination certificates. Passengers arriving with British, Irish or EEA passports – and visitors from the B5JSSK countries[2] holding e passports may enter via an e gate without seeing an immigration officer. Other passengers – including those requiring prior entry clearance – are physically examined by a BFO to determine admissibility. Where there are doubts, they may be referred for a secondary examination. This would include on medical grounds.

6. In the past, each port and airport had their own port health office, with a Port Medical Inspector (PMI) available at all times. Immigration Officers could require inbound passengers to submit to further examination by the PMI if there were concerns about a passenger's medical condition

[1] http://www.ibmata.org/

[2] Australia, Canada, New Zealand, USA, Japan, Singapore, South Korea

(physical or mental) which might raise questions about their admissibility on public health grounds. These facilities have been steadily eroded over time; to the point now there is very little medical expertise present or available at our ports of entry. This varies by location but essentially BFO's contact local health centres for support if they have concerns about a passenger's health on arrival.

7. Passengers from "visa countries" must obtain a visa before they travel; and they will be refused entry if they do not have one. Visitors from "non visa countries" who are coming for visits of less than 6 months may be admitted without an entry clearance, upon satisfying the BFO that they are genuine visitors.[3]

8. All non-EU / EEA nationals coming for more than 6 months require an entry clearance to do so. Those requiring entry clearance may be required to produce a health declaration and / or undergo a physical examination prior to entry if they are coming from a country with a high rate of disease (eg tuberculosis).[4]

9. The government has announced changes to UK visa and immigration requirements following the departure of the UK from the EU and the ending of "free movement" of EU / EEA citizens at the UK Border. This could include a requirement for all citizens (apart from British and Irish citizens) to obtain a "digital permission" to enter and remain in the UK. At the time of writing it is not clear how this will work in practice at the UK Border; but it is likely to involve the introduction of an electronic traveller authority (ETA) for all non-visa visitors, similar to the US ESTA system.

Pandemics and Borders: Previous responses

10. International Borders have in the past responded to global pandemics in different ways. There are no global standard for this. The WHO may provide guidance, but admissibility and examination is determined at national and not international level. Previous examples include:

- Severe Acute Respiratory Syndrome (SARS) – 2002
- H5N1 Bird (Avian) Flu - 2005
- H1N1 Swine Flu – 2009 – 2010
- Ebola – 2014 – 2016

11. In each case countries have responded by introducing selective controls at their borders on specific segments of arrivals, with additional measures such as temperature checks and isolation imposed upon specific flights or groups arriving from "hot spots". Their ability to impose such checks depend to a great extent upon their capacity to do so; this is much easier at airports than at seaports or land borders.

12. In the UK, recent practice has been to follow the advice of health authorities. BFOs are not trained in medicine or health and cannot routinely identify symptoms based upon a brief encounter at border control. Airport authorities are better placed to divert flights and passengers to more remote areas of the airport away from the international arrivals hall, where secondary examinations can be undertaken by health experts. Where cases are identified demanding specific measures - such as immediate health care or quarantine - arrangements can be made with the Border Force to enable those passengers to be admitted away from the primary control and from other travellers.

COVID 19 – Global Responses

[3] Save for passengers from B5JSSK countries who may enter via e gates without meeting this test
[4] https://www.gov.uk/tb-test-visa

13. At the outbreak of the current virus in Wuhan, countries responded in different ways. For example, Singapore introduced temperature screening at Changi Airport for all inbound travellers from China in January; and extended these to all land and sea checkpoints later that month. All Chinese nationals with passports issued in Hubei Province were referred to health screening stations at the airport; and from 28 January all returning residents and long term pass holders with travelling history in Hubei were quarantined. In February, all work pass holders with travel history to mainland China were required to get prior entry clearance to return to Singapore. On 25 February, any visitors (regardless of nationality) with travel history to Daegu or Cheongdo were no longer allowed to travel. These restrictions were extended to those who had visited other countries (Iran, Northern Italy and Korea) on 4 March. These were further extended almost daily to other groups throughout March, culminating in an announcement on 23 March that Singapore was closed to all short-term visitors or transit passengers anywhere in the world. From 9 April all returning residents and long-term pass holders are required to serve a 14 day self-isolation period at dedicated facilities, and submit a health and travel declaration via the Singapore Arrival Card e service prior to arrival.

14. In the USA, the entry of all foreign nationals who have travelled to China, Iran or the EU has been banned; and non-essential travel to Mexico and Canada is also banned. US citizens and permanent residents may return; but they must fly into one of the 13 international airports with extended health screening capabilities.

15. EU responses have been introduced at national rather than EU level with most countries introducing restrictions on visitors, even within the Schengen zone. France has excluded passengers arriving from non-Schengen countries; but has specific exemptions for other EEA Member States and the UK. Meanwhile Spain has denied travel to all foreign nationals and has closed its land borders to non-nationals save for specific exemptions (returning residents, diplomats). This is the position at the time of writing; but the situation is changing daily as more countries have passed the peak and seek to reopen their borders to tourists to stimulate economic growth.

16. This has given rise to the possible creation of “air bridges” where segments of air traffic may fly to and from specific destinations with a low infection level without going through quarantine. If implemented this would require bilateral or multilateral agreement with other countries; and airports will need to make arrangements to ensure that passengers travelling on quarantine free flights are segregated from those that are not. This requires consultation with the airports and airlines on a case by case basis.

UK Response

17. The UK did introduce strict quarantine measures for passengers returning from Wuhan in January. Special arrangements were made to isolate British returnees on evacuation flights and move them to special isolation units in the UK for 14 days. They also announced requirements for passengers travelling from specific “hot spots” such as Northern Italy and Iran to self-isolate; although no enforcement measures were applied. No measures were introduced for flights or arrivals from other destinations, increasing the risk that the virus would be imported from other countries by British citizens returning or by those who had contact with it elsewhere. As the virus spread rapidly in country the focus shifted away from border controls into in country containment measures. Although legislation was tabled to enable ports and airports to be closed if UKBF were unable to service them due to staff sickness shortages, traffic reduced to a trickle as international aviation closed down. Therefore, there have thus far been no further border closures or quarantine measures imposed at the UK Border until now.

18. At the time of writing, there remain no restrictions imposed on health grounds at the UK Border for international arrivals. Although most visa operations have now shut down; with little or no opportunity for applications to be made due to closure of visa application centres (VACs) around the world.

19. On 10 May the government announced its intention to impose quarantine on people arriving by air, once in country transmission rates had been reduced. No specific date has been set to introduce these requirements; and so far few details have been released in public.

Commentary

20. Whilst the introduction of a 14 day quarantine period for all inbound arrivals would be in line policies introduced in many other countries, it would require significant planning between source and transit countries, airlines, airports, ports and government agencies to implement in practice.

21. Any proposal to distinguish passengers arriving by air from those arriving by sea or rail would need to be justified as proportionate; and aligned to the risk posed by different groups. Whilst it might be acceptable to ban flights and passengers from specific countries where the epidemic is at it's height to limit the risk of transmission, it is hard to see how this could be extended to different modes of travel from the same location (eg France).

22. It is sensible to exempt travellers moving within the Common Travel Area from the quarantine requirement. There are no passport controls on travellers moving by land or sea around the CTA area so any requirement for air passengers would be disproportionate.

23. There will be a need to segment travellers based on their immigration status in the UK. British and Irish citizens have a right to enter; permanent residents and long-term permit holders have an expectation that they would be permitted to do so. The government would need to decide what physical checks (eg temperature checks) would be undertaken; where; and by whom. Equally, the format of any health declaration would need to be agreed. In the interests of efficiency and expediency, this would best be submitted prior to travel via the carrying company as part of the booking process rather than by manual completion of a form in flight or on landing. A mechanism for verifying that the declaration has indeed be submitted (as a pre-requisite for entry) would also need to be established.

24. UKBF moves more people through e gates than any other country in the world. Whilst this has the advantage of "contact free" passage through the UK Border (thus reducing the risk of transmission between the traveller and our officers through the handling of passports) the e gates are not programmed to check health declarations. Also admissibility via an e gate is based primarily on the possession of an e passport and was recently (erroneously in my view) opened to travellers from non-EEA countries based purely on expediency of passage and low immigration risk rather than a broader risk assessment. For example, passengers from South Korea and Singapore with e passports have been able to enter the UK via e gates throughout the pandemic period; whereas passengers from the UK travelling to those countries cannot do so at all. This highlights the absence of international standards or mutual recognition agreements between countries on risk assessment – be it for health, security or immigration reasons.

25. The imposition of 14-day isolation requirements at the border raises operational issues over admissibility. For example, EU citizens crossing the UK Border at Calais still benefit from free movement; and need only produce an EU travel document to enter. They are not usually interviewed. Those that can't or won't give a specific location where they intend to self-isolate could

be denied entry until such time as they can do so. Criteria for the admission of such cases needs to be drawn up and publicised to travellers in advance.

26. Service of "stay at home" (SHN) notices by the UK Border Force is likely to be a time-consuming process, especially if issued on an individual basis. One of the major challenges in recent years for UKBF has been to keep down queues at the border to agreed service standards. Airport operators employ staff to place a stopwatch on us at arrivals; and waste no time is reporting breaches to the media and to wider government. They would need to work with the Border Force and the carrying companies to agree a process as to where and how these additional requirements might be met. Again, this would be best achieved by completion of a declaration prior to travel, rather than on arrival. Those that fail to meet the requirement could then be denied boarding.

27. For those who are admitted, the government will need to decide what to do with those that have no UK address, and those who have symptoms. Our ports are not configured to have large scale testing and quarantine facilities adjacent to them. As advised above, the presence of port health facilities at our ports and borders have also been steadily eroded over time. If health screening is to become a major factor in the future UK Border, then we will need to determine when and how this might take place.

Enforcement

28. Neither the UK Border Force, Immigration Enforcement nor the police are resourced to verify that the conditions of temporary admission are routinely being met – until or unless some form of universal track and trace capability is developed. It is more likely that this would form the suite of health regulations already imposed in country, so that those found to be in breach of them could be penalised. As many potential offenders of quarantine rules may be British or not subject to immigration controls, it may be inappropriate to deploy Border Force or Immigration Enforcement Teams to conduct spot checks either in public places or at home addresses. This function should be undertaken by police officers, and preferably by safer neighbourhood teams who could be provided with the names and addresses of those issued with SHN, for occasional spot checks.

29. The government would however need to decide whether any such breach by foreign nationals might also be punishable by administrative removal, rather than by the criminal justice system. In those circumstances where foreign national offenders are identified as in breach of SHN they could contact the local immigration, compliance and enforcement (ICE) team through standard channels for follow up action as appropriate.

Health Passports

30. Finally, much has been said and written about "health passports". In the past, border agencies have relied upon vaccination certificates as evidence of entitlement to travel to and from specific countries where specific diseases are rife. These have largely fallen into the background with globalisation; and apart from occasional requirements in the visa and booking processes they are seldom inspected on arrival.

31. As borders move towards the digital age, there is an increasing recognition that many traditional passport and visa services can be delivered remotely rather than by paper documents. Passengers are now able to transfer passport data and biometric identifiers directly onto a mobile device; and to send these securely to a Border Force / Visa Officer remotely from anywhere in the world. This technology has been widely successful in the UK Home Office recently in registering EU citizens wishing to settle in the UK. With the advent of the digital traveller credential (DTC) as an adjunct to

the traditional passport booklet, border agencies are moving more and more to mobile technology and seamless travel based on electronic pre-clearance. Therefore, in the longer term it would be possible to upload a health credential alongside any application for travel or visa approval. With appropriate standards agreed at international level, this credential could then form part of the traveller identity and verification process; and those with the relevant "health credential" could be segmented from those without one and offered expedited clearance and exemption from quarantine requirements on arrival at the destination country. In the UK, this could form part of the "digital permission" process proposed in the White Paper.

32. Whilst I am confident that technology could facilitate this, I am not yet confident that scientists have been able to identify a comprehensive test that would be available to the international traveller community and acceptable from a risk management viewpoint. Where immunity could be medically verified then this would become an option; but as I understand it any current test could only show the presence of the virus at the time or the presence of antibodies, which in themselves do not (yet) assure immunity. This means border controls (as with other controls) come down to risk assessment in the end – and the extent to which countries are prepared to allow unfettered access through their borders in pursuit of economic growth or restrict it in pursuit of protecting public health remains a challenge.

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