



9 March 2007

Report for the Balanced Scorecard based on the file sample covering January to September 2006

Basis for conclusions

1. I have reviewed 1117 files within my remit, 49 files that should have been notified of full appeal rights, 30 cases that should not have been part of the sample and 54 files that were associated with cases within my remit. I am satisfied that, overall, I have assessed a sufficient number and range of files to allow me to draw conclusions.

UKvisas global rating

2. From the file sample 86% of Refusal Notices were reasonable *and* provided accurate information on rights of appeal.
3. For the cases with my remit, a reasonable Refusal Notice is one which is in accord with the Immigration Rules, Diplomatic Service Procedures and AECIP guidance, and where the decision has been based, even loosely, on the evidence.

Regional ratings

Africa West and Central	85%	fair
Africa Southern and East	86%	fair
Americas and Caribbean	89%	good
Asia South	91%	good
Asia North East	96%	excellent
Asia South East	84%	fair
Australasia	88%	good
CIS	87%	good
Europe East	79%	poor
Europe West	82%	fair
Gulf	87%	good
Near/Middle East/N Africa	85%	fair
Pakistan	88%	good

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Larger samples

Where the sample produced more than 20 cases per Post, I am able to provide a reasonableness rating for that Post.

Abuja	81%	fair
Chennai	95%	good
Islamabad	87%	good
Lagos	89%	good
Mumbai	95%	good
New Delhi	88%	good
Tirana	67%	poor

Deep slices

4. In addition to the sample from across all Posts, I asked to see 100% of the applications that had been refused with limited rights of appeal from 6 small to medium Posts. I have included my full comments and case studies for these assessments as these will allow UKvisas to explain the ratings should there be queries.

Lusaka

5. I examined 48 files from Lusaka refused with limited rights of appeal. Zambians are visa nationals and all of the cases had been registered as visit applicants. I noted that one was a student, and 16% of the visit applications were for business visits and that does raise concerns about data entry accuracy.
6. Files from Lusaka demonstrated improving practice as the months went by. Refusal Notices tended to be brief, and there's nothing wrong with that, but in January and February 2006, there was no mention at all of the Immigration Rules. By March, a brief mention of "paragraph 41 of HC295" had crept in to some, though not all Notices. In May, some Notices included some of the subsections of Rule 41. By the middle of the year, Notices contained more detail, though there were still signs of inconsistency in whether the Rules were set out in detail.
7. I did find plenty of evidence of good practice. I was pleased to see that information in a letter of denunciation was put to the applicant in detail in a balanced and well structured interview. That meant that she had the chance to comment on the information, or to refute it. As the applicant did not reply to the information, the Refusal Notice, which summarised the information and the applicant's response, was entirely reasonable.

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8. Given previous concerns that students on sandwich courses were being told that there was no right of appeal against a refusal for one section of the course, because the section was for less than 6 months, one Lusaka case raised an interesting point.

Case Study

The applicant had been accepted on to a MSc programme run by a UK University. His visa to attend 2 mandatory weekend residential workshops was refused and he was told there was no full right of appeal. I checked with the course provider who confirmed that the remainder of the MSc programme is on-line and can be completed from anywhere in the world. The applicant had also noted in the VAF that he would complete the rest of the course at home. For the remainder of the MSc programme he was not therefore going to be “at a publicly funded institution of further or higher education in the UK”, as Rule 57 requires. On that basis, I thought that the appeal information was correct. I was not, however, satisfied that the Refusal Notice reflected the position adequately when it simply referred to a 5 day course rather than setting the weekends in context.

9. Lusaka had a higher than average number (6%) of cases where incorrect information had been given about appeal rights. I also noted that only three quarters of the Refusal Notice were adequately signed by the Entry Clearance Officer. I noted good evidence of co-operation with Zambian authorities to verify documents and that the resulting information was included in Refusal Notices. Assessing performance overall, and in particular noting the improvements in the second half of the year and a reasonableness rating of 92%, I class Lusaka as **Good**.

Port of Spain

10. I examined 12 files from Port of Spain refused with limited rights of appeal; 8 for visit visas, 1 business visit, 2 prospective students and 1 unaccompanied child visit visa.
11. From UKvisas’ data, there should have been 4 more files, but these were not sent and there was no explanation.
12. Trinidad and Tobago citizens are not visa nationals. A number of the applicants had travelled to the UK in the past and had been stopped and refused entry on arrival. I was pleased to see that the files held records from the Home Office on the circumstances and that Entry Clearance Officers made good use of that information both in interviews and in Refusal Notices.

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Case Study

The applicant wanted to visit the UK for 2 months. He said that he had travelled frequently and had had no problems, but had had his previous passports stolen. At interview, the Entry Clearance Officer asked again about any previous UK travel problems and the applicant explained that he had, on one occasion been held back (not allowed to enter). Nine days after the interview, the Entry Clearance Officer asked the Home Office for information, and that was returned 2 days later. In the Refusal Notice, drafted 4 days after obtaining all the relevant information, the Entry Clearance Officer was able to set out in detail what had happened when the applicant had been turned back. The decision to refuse a visa was, in the circumstances, entirely reasonable.

13. Port of Spain's overall sound performance was let down by failing to provide correct information on appeal rights in 25% of the cases I examined. Most, but not all, happened before UKvisas provided detailed practice advice. I class the overall performance as **Poor**, because Port of Spain's reasonable rating of 75% is well below the global average for 2006.

Rangoon

14. I examined 38 files from Rangoon; all were neatly presented and easy to follow. The Entry Clearance Manager clearly takes her responsibilities seriously and it was good to see file notes made at the time, recording her views, advice and action when she had concerns.
15. There did seem to be a relatively high proportion of applicants who intended to spend the full 6 months in the UK, sometimes taking 6 months unpaid leave from their employment. I thought that Entry Clearance Officers were appropriately concerned when the planned visit was to an elderly or sick distant relative or friend, and an element of care was mentioned in the interview.
16. I was not always convinced that when the visa office was very busy, all of the evidence was taken into account. One group of applicants planned to visit the UK for only a day in each direction on what looked like a genuine conference visit to a third country. Flying in to Heathrow and out of Gatwick meant that the group all required visit visas. They provided their flight itinerary, which was in each of the files, but the Entry Clearance Officer refused visas on the grounds that the applicants could not explain the flight times. He also added that there were connecting flights that did not require travellers to leave an airport. Whilst that might be true, the itinerary was not wholly unreasonable and applicants should have some choice. The flights chosen may have been cheaper than the more convenient one simply because of the need to change airports.
17. The response to follow up correspondence was inconsistent.

Case Study

An applicant was refused a business visit visa on the grounds that one of his supporting documents was not thought to be genuine as it had been altered. He wrote to explain that he was sure that the document had been genuine, and that the alteration had been made by a Government Department to correct its own writing error. He was concerned about the allegation of tampering and being under suspicion so he had gone to the Government Department to ask for a new document. He applied again providing a document without any corrections and he wrote to explain what had happened. There was no sign of a response to this letter on the file and the Refusal Notice for the second application made no mention of the allegation and correction, nor was the matter raised in interview. I thought that was discourteous and left a shadow over the applicant's integrity. I also noted that the application had been assessed as a visit to a friend, when Section 10 of the VAF made it clear that the applicant intended a business visit.

18. On the other hand, I noted a helpful response to a complaint and query from a UK sponsor who had formerly employed the applicant. The first reply was on the day of receipt and the second took 9 days and started off with an apology for the delay. I was a little uneasy that the Entry Clearance Manager disclosed information about the applicant that was personal data, without the applicant's explicit consent, but other than that the responses were prompt, to the point, and helpful.
19. One of the reasons why I recommended in July 2006 that Refusal Notices should set out the relevant Immigration Rules, is that applicants don't know what the Rules are. A short and to the point Refusal Notice in Rangoon noted that as the applicant had said in interview that he wanted to work and study in the UK for a maximum of 3 years he did not qualify as a visitor. How much clearer the Notice would have been if the Entry Clearance Officer had explained that the Immigration Rules for visitors say that a visit cannot be for longer than 6 months, and that a visitor cannot apply to switch from a visit visa to one that allows work or study.
20. I thought that two similar cases showed signs of failing to take account of information provided.

Case Study

Two separate prospective student applicants wanted visit visas but were refused on the grounds that they intended to study in the UK. I found that both decisions were perverse because one applicant had said that he would return to Myanmar if his college interview was not successful and the other confirmed that she wanted to find out about a masters degree, confirming specifically that she was not going to study on this visit, and only going for a visit. Student applicants are often refused visas on the grounds that they have not researched their chosen college, yet here were two prospective students trying to do just that.

21. I noted exemplary practice with one applicant whose close relative was subject to the restrictive measures detailed in the Common Position 2006/318/CFSP of 27

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April 2006 published in the Official Journal of the European Union. The measures aim to restrict travel to the EU by certain groups of people who are considered to impede Myanmar's transition to democracy and the visa ban extends to their families and associates. The Entry Clearance Officer referred the case to the Entry Clearance Manager who sought advice from the Home Office. At interview, the position was clearly and courteously put to the applicant who understood the situation. The Refusal Notice set out the correct Immigration Rule, 320(19), and explained the nature of the restrictive measures.

22. Overall Rangoon's performance was patchy with some high quality Refusal Notices and well focused interviews being let down by less than reasonable decisions, failure to take all of the evidence into account and some problems with use of judgement. With a reasonableness rating of 84%, I class the performance as **Fair**.

Valletta

23. I examined 31 files from Valletta refused with limited rights of appeal; all but one were for visit visas. Maltese are not visa nationals so applications handled in Valletta are from other nationalities who live or work there, including Nigerian, Ukrainian, Libyan, Moroccan, Turkish Chinese and Mongolian.
24. Applicants circumstances can be complex and I was pleased to see some careful interviewing. I was, however, concerned that the Entry Clearance Officer had interviewed the husband of an applicant when that is not normal practice as the wife intended to travel on her own. I was even more concerned by the husband being asked whether he agreed to his wife travelling!
25. I did note relevant, tough, but not unreasonable questioning about travel and immigration histories. There was plenty of evidence of good contacts and good working relationships with other Embassies along with sound and appropriate use of previous records.
26. I noted that 75% of the Refusal Notices did not have a clear Entry Clearance Officer signature; as the remainder did, it does not look as though Valletta has a formal agreement for the Entry Clearance Officers to be unnamed.
27. I thought that the overall quality of work was **good**, marred only by a poor response to a serious complaint.

Case Study

The applicant wrote a letter of appeal to the Home Office which, 36 days later, replied to say that it had forwarded the letter to UKvisas head office. Some 14 days later, UKvisas head office sent the correspondence to Valletta. The Entry Clearance Manager at Valletta then wrote to the applicant 25 days after receiving the correspondence. She explained that she had found the decision to refuse the application to be fair and lawful. In addition, however, she said that she had carefully considered the comments in the complaint. That could not have been accurate as the complaint included an allegation, and explanation of events intended to support the allegation, that the applicant had been discriminated against because of his ethnic background. Regrettably The Home Office, UKvisas head office and the Entry Clearance Manager in Valletta all completely ignored this allegation. The Entry Clearance Manager even said that the application did not attract the right of appeal, when an appeal is possible under the Race Relations Act 1976. I have asked UKvisas to take appropriate action, including responding to other issues relating to the quality of service made in the letter of complaint. The applicant had to wait for 11 weeks for a letter that did not answer any of the queries or allegations he made.

Wellington

28. I examined 22 files from Wellington refused with limited rights of appeal. Applications handled in Wellington are mostly from other nationalities who live or work there, for example Iranian and Chinese. There is well recorded evidence on the files that the Entry Clearance Officers contact the British Embassy in the applicant's home country to check if there is relevant information, though I would prefer that the request was couched in neutral terms rather than asking if there were "any objections". I do, however, wonder why the query is done by email, rather than by using CRS.
29. Although New Zealanders do not need visit visas, 4 applications were from New Zealanders who had overstayed previous visas, or had been stopped from entering the UK on the grounds that their intentions were not a short term visit. With an adverse immigration record, non visa nationals are advised to apply for a visa in advance which will minimise the risk of travelling but being stopped on arrival.

Case Studies

The application was from a New Zealander who, on a previous trip, had been stopped on arrival before being given leave to enter and she did not want that to happen again. The Entry Clearance Officer, in refusing the visit visa, took into account that the applicant had been a Working Holiday Maker and had returned as a visitor 2 months later intending to stay for 7 days to clear up belongings; she had stayed for 2 months. Just 4 months after returning to New Zealand the applicant was wanting to go back to the UK for 3 months. I thought the decision, that the applicant was not seeking entry for the limited period and purpose requested, was reasonable

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Although the decision to refuse was fair, I was concerned to see that an Entry Clearance Officer disclosed information to an applicant's University student counsellor. There were some loose ends left after the interview and the applicant was invited to return with documentary information. He did, including written information from the counsellor. The Entry Clearance Officer then phoned the counsellor and in the course of the discussion, recorded in a detailed file note, told the counsellor that the application would be refused, and why. The discussion was well meaning, and designed to be helpful to the applicant, but the counsellor was not his agent and the Entry Clearance Officer should not have disclosed personal data, and certainly not disclosed what the decision was going to be. The applicant has the right to be the first to know

30. Wellington tells applicants that a case will be looked at within 5 days unless further enquiries are needed. I did note a number of chasing up emails on the files from applicants who were worried about not getting a passport back in time to travel, or not being able to confirm flights by set deadlines. Wellington might take steps to provide accurate case handing information to keep further enquiries to a minimum.
31. I thought use of judgement was a little over cautious, especially for foreign national students at degree or higher level who wanted a UK holiday. I did think that the Entry Clearance Assistant and Entry Clearance Officers collected relevant and helpful information, though emailing applicants and asking them to provide additional papers is not in accord with UKvisas Best Practice guidance. Entry Clearance Officers made good use of telephone interviews. These were just as detailed, focused and well recorded as face to face interviews and certainly saved applicants a great deal of travel time.
32. There can be a view in the bigger and busier Posts that small Posts such as Wellington have an easier time. I think the balance is the other way round. Posts that have to handle a wide variety of applicants representing lots of different nationalities in differing circumstances are really stretched. Wellington files were amongst the thickest in my file sample and showed plenty of evidence of careful attention to detail.
33. Wellington's generally sound performance was let down by failing to provide correct information on appeal rights in 9% of the cases I examined. I class the performance overall as **Fair**, because Wellington's reasonable rating of 81% is below the global average for 2006.

Yerevan

34. I examined 55 files from Yerevan refused with limited rights of appeal. Visa staff in Yerevan went to a great deal of trouble to prepare this number of files for me to examine. Each one had a duplicate VAF translated into English and that, in a small office, must have taken up a lot of time. I record here my appreciation for their help in enabling me to do as thorough job as possible.

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35. Applications handled in Yerevan were, with one exception, from Armenians. I noted from the back of a VAF that visa staff realised at an early stage that there was an emerging pattern of applications and that was reflected in the sample. Many of the cases were from applicants who wished to visit a “close friend” in the UK. Sensible interview questions sought to explore the origins of the friendship and how applicant and friend communicated if neither spoke the other’s language. More than one had apparently met each other “briefly in an airport” some years earlier. A number of sponsors’ letters started Dear High Commissioner, suggesting a Commonwealth origin. They were in the same font with similar content and I thought that the level of suspicion was reasonable. Later in the year, an Entry Clearance Officer contacted a sponsor who confirmed that he had been introduced to the applicant through an internet au pair agency and the intention was for the applicant to work as an au pair/domestic worker. That information allowed more focused interviews and Refusal Notices as similar applications continued to appear.
36. Some of these applications may, of course, have been genuine but once a repeating pattern of non-genuine applications emerges, it is hard not to be suspicious. Given the size of Yerevan, a full time Risk Assessment Officer may not be viable, but it would be helpful for specific risk assessment advice and resource to be provided for a short period when a pattern like this emerges. Although some of the sponsors had tried to get round the restrictions on visitors working in the UK, there was also the possibility that copies of UK passports and bank statements have been dishonestly obtained. If that is the case, it would be good for the “sponsor” to know, as well as the relevant law enforcement agencies.
37. Perhaps the saddest application in Yerevan was from a young man who thought that he had won £500,000 in an email lottery. The Entry Clearance Officer, after some useful web research, had to break the news that the lottery was a scam designed to trick people out of money. The Refusal Notice was brief, and as kind as it could be.
38. I thought that Yerevan’s work was of good quality. With a reasonableness rating of 96%, its performance is **Excellent**.

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