

UKvisas' response to the report of the Independent Monitor (for Entry Clearance Refusals without the Right of Appeal) on decisions made between October 2006 and March 2007

The Secretary of State for Foreign and Commonwealth Affairs has received the fifteenth Report by the Independent Monitor for Entry Clearance Refusals without the Right of Appeal (in practice with limited right of appeal on human rights or race relations grounds).

The Independent Monitor makes a twice-yearly review of a randomly chosen sample of entry clearance refusals with limited rights of appeal. The Monitor looks at the overall quality of such refusal decisions, paying particular attention to fairness, consistency and the procedures used to reach those decisions.

This is the third report written by Mrs Linda Costelloe Baker and covers refusals during the period between October 2006 and March 2007. Her next report will cover the period from April to September 2007.

For this report, the Independent Monitor reviewed a sample of 713 files and visited 7 overseas Visa Posts (during the period April to September 2007). She examined a further 382 files during her visits to posts. Overview reports on her visits to Posts as well as UKvisas' responses to the recommendations made are published at www.ukvisas.gov.uk.

UKvisas welcomes the Independent Monitor's report and in particular her recognition of the positive progress UKvisas is making in a period of rapid change. The Independent Monitor also noted that the overall quality of refusal notices has improved and that UKvisas is successfully maintaining the delicate balance between good service and adequate control.

The Independent Monitor identifies areas in which further work is required including continuing improvements in the provision of information to customers and refused applicants as well as information, guidance and training to entry clearance staff. Mrs Costelloe Baker calls too for better handling and recording of complaints. UKvisas accepts these comments and will take forward the work necessary to address improvements in these areas. Work has started to correct the problem associated with the provision of the file sample.

The following table shows how UKvisas will respond to the specific recommendations in the Independent Monitor's report.

Recommendation	Paragraph	UKvisas' comments
<p>Websites/PSA Targets “Whilst PSA targets might be a useful measure of internal performance, they no longer provide an accurate measure of public service delivery. I recommend, therefore, that UKvisas adopts a simple start-to-finish measure to show how long visa applications take, looking at it from the applicant’s point of view... All the applicant is interested in is <i>How long will this take from when I post my application to when I receive the decision?</i> This information should be routinely published on the relevant website and at the point where applicants are seen in person; it should be updated as and when required.”</p>	58	<p>UKvisas agrees that the PSA targets are no longer the most effective indicator of service delivery for customers and accepts this recommendation. UKvisas intends to implement new targets from April 2008 when the current PSAs expire, along the lines recommended.</p>
<p>Appeal Rights. “In my Report for 2005, I recommended that UKvisas and Entry Clearance Managers should ensure that Refusal Notices quoted accurate and up to date legislation. UKvisas said that the recommendation did not acknowledge that the Refusal Notice was replaced in August 2005 by one labelled GV51(LRA) which gives details of all appeal rights for those with limited rights of appeal.” (Given the findings in this file sample for October 2006 to March 2007).... I therefore recommend (again) that UKvisas and Entry Clearance Managers should ensure that Refusal Notices quote accurate and up to date legislation.”</p>	60,61	<p>UKvisas accepts this recommendation. We are aware that a small number of posts continued to issue refusal notices on out of date forms after the revised forms were introduced. This resulted in some applicants being given inaccurate information.</p> <p>Refusal notices were updated again earlier this year (2007) and were installed on Proviso (UKvisas application software) in July 2007. We will remind posts again and by the end of November 2007 of the correct templates to use.</p>

<p>Appeal Rights. “If UKvisas is unable to accept my recommendation that the Refusal Notice for cases with limited appeal rights should say that an appeal on Human Rights or Race relations grounds must be made in writing, within 28 days, then it will have to ensure that <u>all</u> staff are vigilant in recognising when an applicant makes, by whatever method, comments that might be construed as an appeal on such grounds. I recommend that it reminds all staff of that requirement and provides appropriate expert training.”</p>	<p>72</p>	<p>UKvisas accepts this recommendation. Entry clearance staff were instructed in June 2007 (AECIP 77) on what action to take in respect of potential appeals on human rights and race relations grounds. UKvisas will issue further guidance to staff by the end of November 2007 reminding them of the initial guidance and that they need to be vigilant in identifying comments that might be construed as an appeal on these grounds.</p> <p>UKvisas will explore the provision of expert human rights and race relations training with a view to commissioning by the end of December 2007 a bespoke training session for entry clearance staff.</p>
<p>Guidance for Entry Clearance Officers. “I note that for the period under review, the Diplomatic Service Procedures, UKvisas’ manual of guidance, remained seriously out of date and inaccurate... Another part of UKvisas’ website contains part of the correct information... On a more positive note, UKvisas has tried to make its AECIP guidance and instruction notices slightly more accessible by publishing an e-copy of the more recent ones on an intranet. I remain of the view that ALL guidance should be in ONE place, properly indexed and searchable and I repeat that recommendation.”</p>	<p>79,80</p>	<p>UKvisas accepts this recommendation. We have now updated and published all the Diplomatic Service Procedures' (DSP) chapters except chapters 5 and 16 which BIA are currently reviewing. We have given staff interim guidance pending the update of these chapters. In future we will update DSP as new policy comes into force. We are in the process of rewriting DSP in plain English and restructuring it into a more user-friendly format. We intend to complete this work by April 2008 when DSP will be renamed Staff Guidance.</p> <p>Most instructions and guidance are already centrally available on the FCO's intranet, FCONet (Entry Clearance Best Practice Homepage). We intend to bring all Guidance together in FCONet as UKvisas Operating Standards and Instructions by April 2008. All guidance will be available in a user-friendly format with a comprehensive index. DSP will still be available to the public on the UKvisas' website</p>

<p>Document Verification. “I recommend that UKvisas issues instructions on how document verification checks should be recorded, and note this is an issue that I have commented on in my visit reports.”</p>	<p>117</p>	<p>UKvisas accepts this recommendation and is developing standardised procedures for document verification to include guidance on document verification reports by the end of December 2007.</p>
<p>Document Verification. “The AECIP (172/2004) provided guidance on how to handle information about false documents that UKvisas does not wish presented in the public domain during an appeal. There is, however, no matching guidance on how such information should be presented in a Refusal Notice where there is no full right of appeal. I recommend that UKvisas provides such guidance.”</p>	<p>121</p>	<p>UKvisas accepts this recommendation. UKvisas will issue guidance by the end of November 2007 on how to handle information that it does not wish to be presented in the public domain in refusals where there is no full right of appeal. This will clarify the instructions issued in 2004 (guidance AECIP 172/4004).</p>
<p>On-line VAF. “The paper version of VAF simply asks about family in the UK, and then asks how is the person related. That is more helpful than the visa4UK on-line system which expects applicants to say whether a family member is <i>immediate</i> or <i>distant</i>. The terms “distant relative” and “immediate relative” are insufficiently precise to confirm whether a family member is included in the relevant Regulations. I recommend that the wording is changed to help applicants provide accurate answers that help Entry Clearance Officers determine the correct information on appeal rights.”</p>	<p>123</p>	<p>UKvisas accepts this recommendation. The Visa4UK online application form is being updated to bring it in line with a new paper based visa application form. The forms will be identical and are being released on 29 October 2007. Comments from our overseas network, staff in the UK and the Independent Monitor have been taken into account in the redesign. The new forms will ask for details of family members so that an exact relationship is established. The guidance notes will explain exactly what we mean by this e.g. my aunt is my mother's brother's wife.</p>

<p>Interviews. “There is some blurring between questions asked by an Entry Clearance Assistant at the counter and the more formal interview by an Entry Clearance Officer. I have noted on visits that not all Entry Clearance Officers start the interview by explaining who they are and what their role is. I recommend that UKvisas should require that. I further recommend that where Refusal Notices are founded on interview information, the Notice should be clear on which grade of staff conducted the interview.”</p>	<p>128</p>	<p>UKvisas accepts the first part of this recommendation. Since July 2006 during training all entry clearance officers have been instructed to introduce themselves and explain their role to interviewees. UKvisas will remind staff of this requirement by the end of November 2007.</p> <p>UKvisas does not accept the further recommendation. ECOs reach decisions based on all of the evidence available to them, which might include the results of enquiries carried out by Entry Clearance Assistants, either over the counter or by phone or in writing. It would not be practical to refer to staff by grade in these instances in refusal notices. Furthermore, it is not clear to UKvisas what would be the benefit. The ECO is ultimately responsible for the decision reached.</p>
<p>Visa Application Forms. “I think it reasonable to ask an applicant to complete the most up to date version, at no extra cost. I recommend that UKvisas should decline to accept an application on an out of date form, and before doing that make sure that all of its Posts and Application Centres destroy older versions so they cannot be handed out by mistake.</p>	<p>134</p>	<p>UKvisas accepts this recommendation. New visa application forms are being introduced on 29 October 2007 and applications on old forms are only being accepted for a transitional two weeks. Posts are being advised that from 9 November applications on the old application forms are no longer to be accepted. UKvisas are following this up with instructions to all Posts and Commercial Partners to destroy all stocks of the old visa application forms after 9 November.</p>