

UKBA's response to the report of the Independent Monitor (for Entry Clearance Refusals without the Right of Appeal) on decisions made between October 2007 and March 2008.

The Secretary of State for the Home Department has received the seventeenth 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 fifth report written by Mrs Linda Costelloe Baker and covers refusals during the period between October 2007 and March 2008. Her next report will cover the period from April to September 2008.

For this report, the Independent Monitor reviewed a sample of 860 files and visited four overseas Visa Posts (during the period April to September 2008). She examined a further 445 files during her visits to posts. She also conducted a review of Complaints Handling by UKBAIG headquarters, and Integrity at Abuja. Overview reports on her visits to Posts and Headquarters, as well as UKvisas' responses to the recommendations made are published at www.ukba.gov.uk and <http://www.ukvisas.gov.uk/en/independentmonitor/imparliamentaryreports>.

The Independent Monitor identifies areas in which further work is required including

- guidance for ECOs regarding appeal rights,
- correspondence and complaints handling procedures,
- compliance with previous IM recommendations
- consistency in decision making for the new Immigration Rules relating to deception
- the recording and retrieval of statistics
- cultural awareness of spoked Posts for decision making staff at Hub Posts

UKBA accepts these comments and will take forward the work necessary to address improvements in these areas.

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

Para	Recommendation	Response
74	<p>There is a critical difference between information and advice: information applies to everyone and advice is personally tailored. I note that the UK Border Agency International Group's business priorities refers to one of its aims as providing <i>advice</i>, rather than <i>information</i>, yet I understood that there was a long standing policy decision that staff should provide information but not offer advice. I recommend that the UK Border Agency clarifies its position.</p>	<p>UKBA IG accepts this recommendation and confirms that its policy is to provide only information, not advice, to its customers. Written policies and guidance will be reviewed and revised where appropriate.</p>
82	<p>I continue to find that information on appeal rights is patchy and inconsistent. For example, the Asylum and Immigration Tribunal website says <i>For appeals against an entry clearance officer's decision, you need to use the appeal Form AIT 2 which is issued to you by the embassy or British High Commission when your application is refused</i>. This is not, given UK Border Agency policy, correct as the Form is not issued at the same time as the decision to refuse when appeal rights are limited. I recommend that the Secretary of State asks the Asylum and Immigration Tribunal to amend its information accordingly.</p>	<p>UKBAIG accepts this recommendation and will write to the AIT asking it to consider this point.</p>
108	<p>Having accepted my recommendation that all Refusal Notices should set out the relevant Immigration Rules so that applicants can see and understand the basis for a decision, all the Notices I see now do that and I came very close to removing this indicator from my Quality Assessment. But, for the requirement to make sense, it has to be the full Rule(s), and the most up to date version. In this file sample, half of the visit visa Refusal Notices had an out of date version of Immigration Rule 41, because Posts had carried on using the version that applied up to 31 August 2007 and some used an even older version. Many Posts, Jerusalem, Kiev, Kingston, and Stockholm for example, corrected their templates when the Student Visitor category came in, but others had not. I could not identify a regional pattern to explain the difference. I recommend that the UK Border Agency requires staff to ensure that the most up to date and complete version of the relevant Immigration Rules is used in all Refusal Notices.</p>	<p>UKBAIG accepts this recommendation. A "living" version of the Immigration Rules is available to all staff on line. Formal instructions (OPIs) are issued, and the on line Entry Clearance Guidance updated, at each rule change. UKBA will issue an OPI in response to this recommendation reminding decision making staff of the above. This will also be reinforced on all training courses. The new structured decision making template, due for global implementation by end March 2009, will automatically populate the refusal notice with the correct paragraph(s) of the immigration rules.</p>
122	<p>What the Hub Posts cannot do is provide the rich understanding of country context that comes with Entry Clearance Officers living in the country and working on day to day basis with locally engaged support staff. Understanding and accepting that other races, nationalities and cultures are equal but different is one of the key competences for an Entry Clearance Officer. UKvisas merging into a UK focused</p>	<p>UKBA accepts this recommendation. It will work closely with Visa Services Regional Directors to ensure reinforcement of best practice from the Regions commended by the IM in her Report, using this as a framework on which to form a global approach, whilst harnessing the expertise of UKBA staff</p>

123	<p>organisation means that particular competence is all the more important. The Government response to the fifth Home Affairs Committee report (2006) said <i>As concerns race equality in entry clearance, UKvisas attaches great importance to its obligations and responsibilities under the Race Relations Act and managers overseas ensure that staff from the UK are informed and knowledgeable about local customs. Activities range from structured mentoring and sessions on local issues, orientation visits and field trips; to welcome packs with information on life in a particular country; language lessons; and meetings with local tourist organisations and education providers.</i></p>	retained at Spoke Posts. This approach will embrace the work being done concurrently on risk profiling and verification work. UKBA will report back to the Independent Monitor by 31 January 2009.
126		
127	<p>I asked for a regional report on what activities are currently undertaken at each Post. Whilst the format and detail varied from region to region, I noted excellent responses from Africa and the Americas. The region that encompasses Europe, Mediterranean, Russia and Confederation of Independent States is a huge and disparate area and it did not proved a regional overview. Some of its constituent countries did not respond and others provided a simplistic response indicating that they did not appreciate the full meaning of the question, for example - <i>Race relations is not a problem; applicants all receive an equal service, irrespective of nationality or ethnicity...</i></p> <p>...The report from the Americas region covered the type of activity which is necessary if the UK Border Agency is to run a major Hub programme successfully, for example:</p> <ul style="list-style-type: none"> • When New York took on work from spoke countries an Entry Clearance Officer from New York visited each spoke. They went out into the local community and spoke at length with nationals of the country to get an understanding of the quality of life, industry, traditions and general workings of the country. On return to New York they gave a presentation to the other staff on their experience. • In Chicago, the visa team have a subscription to [a respected journal] to keep up to date with world affairs which affect patterns of migration. <p>A one-off event around the time of the spoking, as happened in New York and when</p>	

	<p>Beijing took over applications from Ulaanbaatar, needs to be repeated at intervals to ensure that decision making staff remain familiar with the countries whose applications they will handle. That requires a rather different, though complementary, programme to the old style where the emphasis was on Entry Clearance Officers going to live and work in a foreign country. I recommend that the UK Border Agency asks my question again, making it clear that responses are not optional and that the issue is a vital part of making fair decisions given a new business model.</p>	
129	<p>I wanted to assess changes in refusal rates for the Hub and Spoke programme and asked for a table showing issue and refusal rates for spoked Posts for the period to the end of March 2008 at the hub, and the equivalent period in the 2006-07 year for cases within my remit. To my surprise, the UK Border Agency's response was that <i>comparison is not possible because after a post has been "spoked", all visa data relating to the post is recorded under the new hub post</i>. If that is correct, then it is a huge and unacceptable failure to record information which is fundamental to assessing if the Hub and Spoke programme is effective, given the aim to improve decision quality and consistency as well as reduce costs. I recommend, therefore, that spare fields in the casework record are used immediately to record where an application was lodged so that adequate comparisons can be made.</p>	<p>UKBA accepts this recommendation. Work had in fact already begun on both long- term and interim solutions to address this issue. A new caseworking IT system, the Immigration Casework System (ICW) will allow UKBA to improve the breadth of information it can record. The target date for completion is end 2010.</p> <p>In the meantime, UKBA IG is in the final stages of developing an interim solution which will enable the organisation to identify statistics from both the decision-making post (Hub) and the Visa Application Centre at which the application was enrolled (Spoke).</p>
140	<p>Whilst most regions provided summaries, the absence of a standard reporting system, and the failure of some Posts to respond, means that there is still no global understanding of common causes of upheld complaints or adequate regional comparisons. The Africa responses had all the elements of sound complaint handling such as numbers, proportions, topics, substantiated, actions, lessons learnt. South West Asia Pacific included thoughtful analysis and cultural comparisons. I recommend that the UK Border Agency requires regions to record and collate this information on a quarterly basis so that headquarters as well as regional managers understand and act on common causes of complaint as well as to each of the complaints made.</p>	<p>UKBA IG accepts this recommendation. UKBA IG will issue updated guidance on complaints recording. This will reinforce the need for timely and accurate returns and include a copy of the Africa complaints response as a best practice example of complaints recording and analysis. A comprehensive complaints training package has been developed and will be delivered at a series of regional training events to be held between now and end March 2009.</p>

