

[Material for insertion on FCONet and UKBA's websites]

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

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

For this report, the Independent Monitor reviewed a sample of 824 files and visited seven overseas Visa Posts (during the period October 2007 to March 2008). She examined a further 601 files during her visits to posts. She also conducted a review of UKvisas' Headquarters Complaints Handling Procedures. 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.

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 and Commercial Partners. Mrs Costelloe Baker has repeated her call for better handling and recording of complaints. 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.

Recommendation	Paragraph	UKBA's comments
<p>Phone Enquiry Services Commercial partners now provide a phone enquiry service. There is significant disquiet from visa staff and applicants that, in most countries, calls are costed at a premium rate, typically £1.50 per minute, and there is particular irritation at being charged for waiting time. I recommend that Ukvisas makes sure that applicants know, from websites, published information and in replies to phone calls, that information is available free on websites. The phone enquiry service is not the same as going to an individual professional adviser and applicants need to know the limits to what the phone service provides. If, and only if, commercial partners are officially authorised to provide advice, then given that they act on behalf of Ukvisas, my view is that advisers should be qualified and regulated by the Immigration Services Commissioner in the same way as UK based advisers. The critical difference between information and advice means that the services provided by commercial partners need to be carefully monitored by UKvisas.</p>	<p>70</p>	<p>Accepted. UKBA will ensure that all applicants are made aware that free information is available on websites. The target date for implementation is the end of June 2008.</p>

<p>Passport Validity</p> <p>Whilst it is important to provide legally accurate information, requiring 6 months validity is, however, sensible. Many other countries require it, as do many of the major airlines. It does seem irrational for the UK to issue a visit visa, and then the traveller is not allowed to board the flagship airline because British Airways requires a passport with a validity of 6 months or more for international travel. I therefore recommend that the Secretary of State takes steps to amend the official visa requirements for visit visa and short term student applications to include <i>a passport with at least 6 months validity on the date of proposed travel</i>. This would mean that the passport would remain valid for the whole of the maximum length of stay currently allowed.</p>	<p>72, 73</p>	<p>Accepted in principle. This will require a legislative change. UKBA will seek legal advice and consult with other internal stakeholders. UKBA will provide an updated response to the Independent Monitor by the end of July 2008.</p>
<p>Family Visits</p> <p>When an applicant says that they have a close relative whom they intend to visit, and if the Entry Clearance Officer has enough evidence to confirm that the person is not a qualifying family member, then the Refusal Notice should explain that clearly and simply. In Lagos, one Refusal Notice said <i>you are not sufficiently closely related for entry clearance purposes</i>, which is very confusing. The closeness of relationship determines appeal rights, not entry clearance.</p> <p>As some Posts struggle to get this right, I recommend that UKvisas either asks Entry Clearance Managers to discuss the 2006 guidance with their teams, or issues a refreshed version. Any refreshed guidance should, of course take note of relevant</p>	<p>77, 78</p>	<p>Accepted. UKBA will issue guidance reminding staff how to handle refusals where the applicant is visiting a relative who is not a family member as defined in the Rules for appeals purposes. The target date for implementation is the end of May 2008.</p>

starred determinations by the Asylum and Immigration Tribunal.

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<p>Information for Entry Clearance Officers</p> <p>On many of my visits I have been concerned to find that Entry Clearance Officers do not know how to access website information and are still relying on their basic training course manual, which may be out of date, or on asking around, which may not be accurate. I recommend that UKvisas does more to promote a <i>look it up</i> culture, with Entry Clearance Officers being personally responsible for reading and noting the constant flow (deluge?) of guidance and instructions. 167 instructions in a year however, some contradicting each other, does not give the impression of a coherent, planned organisation and I do have some sympathy with staff who do not keep up.</p>	83	<p>Accepted. Through work on the Operating Standards and Instructions and Entry Clearance Guidance UKBA has done much to consolidate and simplify guidance. A web-based version of the Operating Standards and Instructions was launched in February 2008. UKBA will continue to develop this concept and create a web-based 'ECO Toolkit' – a consolidated version of the Operating Standards and Instructions and Entry Clearance Guidance. The aim is to create an easily accessible and user friendly one stop shop for all guidance and instructions relating to visa work. The target date for implementation is the end of 2008.</p>
<p>Substituted Files</p> <p>The Independent Monitor Liaison team has helped me to analyse the substituted files:</p> <ul style="list-style-type: none"> • 0.6% were substituted because the initial decision to refuse the application had been subsequently overturned; that is reasonable. • 14.7% were substituted because the Entry Clearance Manager had found that the case was for a qualifying family visit and had been given correct information on appeal rights; that is data entry error. I note that the Entry Clearance Manager in Kingston realised that the problem lay with her office, sending a firm reminder on the need for accurate data entry and I commend that responsible and constructive response. Not all Entry Clearance Managers reviewed the cases before dispatch and the error rating overall is 19.4%, which must undermine confidence in the information system overall. 	92	<p>Accepted. UKBA will obtain the files and make these available for review by mid May 2008. To avoid similar problems in future Posts will be required to provide the Independent Monitor with the files that have been substituted along with the substitutions.</p>

<ul style="list-style-type: none"> • 2.1% were cases within my remit and should have been provided. In order to maintain the integrity of a random sample it is vital that Posts cannot decide not to send me a file which they might prefer me not to see. I recommend that UKvisas obtains these files so that I can review them in the normal way. 		
<p>Verification</p> <p>The growth in verification checks has not, however, been matched by an appropriate authorisation from the applicant. I recommend that the Visa Application Form should include an authorisation, which the applicant will sign, to confirm that s/he gives consent to UKvisas' staff making reasonable checks to confirm the accuracy and authenticity of evidence provided on the form and in accompanying documents. A formal consent on these lines would also cover compliance checks after a visa has been issued because the check is to confirm whether the applicant stayed for the period and purpose stated in the application.</p>	107	Accepted. The declaration signed on completion of the Visa Application Form will be revised to require the applicant's consent to verification checks. The target date for implementation is the end of July 2008.

<p>Structured Decision Making</p> <p>Entry Clearance Officers have to perform a balancing act, assessing both good and bad points to see where the scales fall. I thought that Ottawa was finding that hard sometimes and noted that New York was trialling a Structured Decision Making process, developing a 10 point form of pluses and minuses. It was being tweaked and tested in a variety of places in order to provide a standard yet reasonably accurate assessment of a straightforward low risk application or one that will need further attention. This routinised version of the thought processes and checks that Entry Clearance Officers have to undertake on each and every case will, I think, help to improve consistency and ensure that each step in the process is completed.</p> <p>Having seen a draft of the finished product, I recommend that it should be used to complete automatically the Refusal Notice that is served on the applicant. I see little point in an Entry Clearance Officer having to go through each of the Immigration Rules on an internal form only to type the reasons out again on a Refusal Notice. In addition, the Immigration Rules part of the Structured Decision Making form that I have seen would be very close to my recommended style and structure for a Refusal Notice.</p>	<p>108, 109</p>	<p>Accepted. UKBA's Structured Decision Making team are working with its Information Services programme to produce a form that is better integrated into our IT systems. The design process will include consideration of the feasibility of automatic population of the Refusal Notice. The target date for implementation is the end of 2008.</p>
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<p>Complaints and consumer feedback at Posts</p> <p>Responding promptly is, of course, only one element of adequate performance. UKvisas does not measure whether a response actually addressed the cause of concern. I found that that only one (8.3%) of the 12 responses to requests for review addressed specific points raised by the applicant and that had been written by an Entry Clearance Officer rather than an Assistant. Most responses contained no detail specific to the application apart from the refusal date, but bland standard responses to specific complaints amplify dissatisfaction. I recommend that UKvisas develops a performance measure to show whether a response to correspondence is adequate.</p>	142	Accepted. UKBA would like to work with the Independent Monitor to develop performance measurement criteria.
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