

**Independent Monitor for Entry Clearance
refusals with limited rights of appeal**

Report to the Secretary of State

**File sample: April to September 2007
Visits: October 2007 to March 2008
UKvisas' complaint handling**

**Immigration and Asylum Act 1999 Section 23,
amended by paragraph 27 of schedule 7 of
The Nationality, Immigration & Asylum Act 2002**

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(Refusals without right of appeal)
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To The Secretary of State for Foreign Affairs

This Report marks two milestones: my two year term of appointment is almost at an end and in April you hand over responsibility for visas to the Secretary of State for Home Affairs, to whom I become accountable. It's unsurprising, therefore, that I have been thinking about what I and UKvisas have achieved by working together constructively yet independently.

One member of staff said that I had held a mirror up to UKvisas to show it how it appeared from the outside, to an applicant. It had not liked all that it saw, but looking in the mirror provided the impetus for change - to have a less inward focus and pay more attention to a fair and consistent process for visa applicants. That will be even more important when UKvisas becomes part of the International Directorate of the UK Border Agency. The overseas part of the business needs to hold on to principles of fairness and good service in the face of a strong "controls" agenda and must continue to welcome people who bring us talent, business and creativity.

As part of working co-operatively, I have found great value having pairs of UKvisas' staff on some of my recent monitoring visits. All have appreciated learning how to conduct a quality audit and seeing how well visa staff respond to immediate and direct feedback. In this Report, I note that many Entry Clearance Managers are now undertaking their own detailed reviews using the same standards as I do, putting problems right without being asked to and taking responsibility for the quality of their team's work. This positive acceptance of the benefits of external scrutiny reflects the relationship that I have had with UKvisas as a whole, and augers well for the future.

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25 March 2008

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INTRODUCTION

This section of the Report is for first time readers. It is a simple explanation of what a visa is and who decides whether a visa should be granted.

Who needs a visa?

1. A person who is neither a British citizen nor a Commonwealth citizen with the right of abode, nor a person who is entitled to enter or remain in the United Kingdom by virtue of the provisions of the 2006 European Economic Area Regulations, requires leave to enter the United Kingdom. Entry clearance takes the form of a visa (for visa nationals) or an entry certificate (for non visa nationals). These documents are taken as evidence of the holder's eligibility for entry into the United Kingdom and, accordingly, accepted as "entry clearances" within the meaning of the Immigration Act 1971. The UK Government decides which countries citizens are, or are not, visa nationals.

Where do you get a visa?

2. The Immigration Rules say that an applicant for an entry clearance as a visitor must be outside the United Kingdom and Islands at the time of the application and must apply to a Post designated by the Secretary of State to accept applications for entry clearance for that purpose and from that category of applicant. A Post is a British Diplomatic Mission (Embassy or High Commission), British Consular Post, or the office of any person outside the United Kingdom and Islands who has been authorised by the Secretary of State to accept applications for entry clearance. Any other application must be made to the Post in the country or territory where the applicant is living which has been designated by the Secretary of State to accept applications for entry clearance for that purpose and from that category of applicant. Where there is no such Post the applicant must apply to the appropriate designated Post outside the country or territory where he is living. The Foreign and Commonwealth Office publishes a list of designated Posts.
3. An application for an entry clearance is not made until any fee required to be paid under the Consular Fees Act 1980 (including any Regulations or Orders made under that Act) has been paid. The level of fees set is aimed at ensuring that entry clearance work is funded from applicants rather than by UK taxpayers and the fee is for the application process, and not for the visa itself.
4. In the 2006-07 financial year, income from visa fees amounted to £189,797,667, a 16% increase compared with the previous year. Applications over the same period rose by 8%¹.

¹ UKvisas Annual Report

Who issues visas?

5. UKvisas was formed in June 2000 as a joint Foreign & Commonwealth Office and Home Office initiative designed to meet ministerial objectives of a 'fairer, faster and firmer' entry clearance process. The Secretary of State for Foreign and Commonwealth Affairs was, for the period covered by this Report, accountable to Parliament on matters concerning the entry clearance operation overseas.
6. UKvisas aims to *make travel and migration work for Britain*. It manages 146 visa sections around the world in British Embassies, High Commissions and Consulates. Over 876 staff are directly involved in the overseas visa operation, of whom around 299 work in London. Visa sections around the world employ 577 (380 full-time equivalent) UK-based staff and 2,253 (1,800 full time equivalent) locally engaged staff.
7. UKvisas' Entry Clearance Officers assess applications against The Immigration Rules made under section 3(2) of the Immigration Act 1971 and frequently amended. These Rules constitute a statement of practice, as laid before Parliament by the Home Secretary, to be followed in regulating entry into, and stay of persons in, the United Kingdom. Entry Clearance Officers spend most of their time issuing visas to genuine visitors who meet the requirements of the Immigration Rules.
8. From April to September 2007
 - UKvisas received 770,252 adult visit visa applications where there are limited rights of appeal and issued 657,664 visas. The refusal rate was 14%, very similar to the same period in 2006.
 - The overall refusal rate for all applications was 24%.
9. UKvisas' management information system is unable to provide information on child visit applications within the Independent Monitor's remit as it does not record family visit and non-family visit applications separately. It is also unable to provide accurate data on student visa applications within the Independent Monitor's remit.

THE INDEPENDENT MONITOR FOR ENTRY CLEARANCE REFUSALS

10. The role of the Independent Monitor for Entry Clearance Refusals without the Right of Appeal was set out in section 23 of the Immigration and Asylum Act 1999 and amended by paragraph 27 of schedule 7 of the Nationality, Immigration & Asylum Act 2002:
 - (1) The Secretary of State must appoint a person to monitor, in such a manner as the Secretary of State may determine, refusals of entry clearance in cases where there is, as a result of section 90 or 91 of the Nationality, Immigration & Asylum Act 2002, no right of appeal.
 - (2) But the Secretary of State may not appoint a member of his staff.
 - (3) The monitor must make an annual report on the discharge of his functions to the Secretary of State.
 - (4) The Secretary of State must lay a copy of any report made to him under subsection (3) before each House of Parliament.
11. Although the legislation and the Independent Monitor's formal title refer to "no right of appeal", applicants do have limited rights of appeal on human rights and race relations grounds. Parliament decides which categories of visa applicant should not have full rights of appeal; UKvisas' role is to implement the laws set by Parliament and as interpreted by Government policies.
12. Applications within the Independent Monitor's remit are;

Visitors

- A visitor, other than a visit for the purpose of visiting a member of the applicant's family as set out in the Immigration Appeals (Family Visitor) Regulations 2003. Non-family visitors constitute just over half of visa applicants. The term visitor may apply to someone coming to the United Kingdom for a private visit perhaps as a tourist or to see friends; someone who wishes to transact business; someone who arrives at one UK port or airport and needs to be in the UK for longer than 48 hours or to transfer to another port or airport to continue a longer journey, or someone coming to the UK for privately funded medical treatment.

Student Visitors

- Someone who wishes to study in the UK for less than six months, and who does not wish to work or apply for an extension to their stay. This new category came in on 1 September 2007

Students and student dependents

- Someone who intends to follow a course of study for which s/he has been accepted and which will not last more than six months;
- Those intending to study but who have not been accepted for a course;

- A dependant of a person in the two categories above

Points Based System applications

- All applications handled under the Points Based System as it is rolled out in 2008 and 2009, starting with Highly Skilled Migrants in early 2008.

Monitoring

13. My two year term of office started in April 2006; I am the fourth person to be appointed as Independent Monitor and the first to be appointed on a full time basis. The Independent Monitor's role is:

- to examine the quality of decision making, within the spirit of fairness and consistency, in certain cases where, as a result of legislation, there is a limited right of appeal: this includes cases determined under the Points Based System;
- to ensure that correct procedures are used to reach decisions;

I am required:

- to examine the quality of information available to applicants with a limited right of appeal;
- to examine the quality of UKvisas' complaint procedures for applicants with a limited right of appeal
- to spend 3 months each year visiting entry clearance posts overseas;
- to submit a twice-yearly report on the discharge of these functions to the Secretary of State, who will lay a copy of the Report before each House of Parliament.

I may make recommendations based on my findings. I cannot investigate individual complaints or overturn a decision not to issue a visa.

14. UKvisas' performance tracking system, the Balanced Scorecard, includes the Independent Monitor's assessments in its complex matrix of measurements covering Controls, Competitiveness, Costs, Capabilities and Confidence.
15. UKvisas provides two members of staff - the Independent Monitor Liaison Team - to provide administrative support. In recent months, the team has been stretched and has failed to meet deadlines, though we are looking at how this problem might be better managed. I am however, particularly appreciative of its help in managing complicated travel arrangements and the administrative handling the global file sample. I also record here my thanks for the help provided by UKvisas staff who respond to my questions on policy, practice and statistics.

Independence demonstrated

16. I provide my office, though my official address is at the Foreign & Commonwealth Office. UKvisas forwards my mail, unopened. I have full editorial control of my written reports.
17. Many of the practical matters that ensure a smooth working relationship between Independent Monitor and UKvisas are included in a formal Memorandum of Understanding.
18. My contract of appointment includes a condition, (standard in contracts for civil servants but I am not a civil servant) that the Independent Monitor requires permission from the Foreign Secretary, via UKvisas, to disclose information obtained in the course of my duties. I do have concerns about UKvisas determining, for example, whether I can participate in conferences, give lectures or speeches, or speak to the press, though I note that this right has only been exercised to stop me speaking to the media after the publication of these Parliamentary Reports. Some time ago, I asked UKvisas to set out the criteria it would use when advising the Secretary of State, and it has failed to meet a number of undertakings to do that. Without guidance, the condition can be used to suppress comment that UKvisas does not like and that is an impairment of proper independence.

EVENTS: April 2007 to March 2008

Commercial Partners

19. In February 2007, UKvisas entered into contracts with two Commercial Partners who are now providing front-line application handling services to 61 of UKvisas' overseas Posts. The period under review has seen much energy and attention being spent on this ambitious programme.

Application forms

20. In October 2007, UKvisas launched new versions of the visa application form. Although on paper it looks daunting, the on-line version automatically skips sections that do not apply. The new form asks questions that are more useful to the Entry Clearance Officers who make the decision and should help with the quality of decision making.

Hub and Spoke

21. From June 2007 to February 2008, as part of a major programme, one visa office closed (Honorio) and 33 have had decision making work transferred to larger centres.

Biometrics

22. In January 2008, UKvisas completed the biometrics programme early and under budget. All visa applicants are now required to provide biometrics data – their fingerprints - in support of their application, save a limited number of exemptions and exceptions. This significant achievement should, given the firmer evidence of identity that it provides, benefit genuine visa applicants.

The merger

23. On 1 April 2008, UKvisas will become part of the UK Border Agency. Legislation provides for an Inspectorate for the Agency as a whole and establishing that is underway. It is intended that the Independent Monitor will run in parallel with the Chief Inspector until April 2009 when, subject to legislative requirements, the Independent Monitor's role will be subsumed.
24. The Chief Inspector's statutory duties include inspecting and reporting on the provision of information, practice and procedure in making decisions, and the handling of complaints so there is a comfortable fit with the Independent Monitor's remit. The Chief Inspector's remit extends to decisions to issue visas which, at present, are not subject to external scrutiny, and decisions with full appeal rights.

VISITS

25. The Independent Monitor is expected to spend at least three months each year on operational visits to Posts examining the way they handle applications with limited appeal rights. My visits focus on the information that is available to applicants, the quality of decision making, and how Posts handle complaints and post decision correspondence.

The Independent Monitor team

26. I normally undertake monitoring visits on my own but looking at an inspection function more broadly, I think that any small central group of "inspectors" should be complemented by operational staff drawn in to contribute to a specific inspection or series of inspections. They bring expertise and fresh thinking and return to their normal jobs with new ideas. In 2007, I asked UKvisas if I could borrow staff from time to time, and the response was enthusiastic. UKvisas thought that working with the Independent Monitor should be recognition of excellent performance and asked regional and HQ managers to nominate staff on that basis: 61 people had their names put forward, a far higher level of interest than we were expecting. UKvisas narrowed them down to 21 and I selected 10 who met my simple criteria: in the nomination, was there evidence that the person;

- realised that they would be there to help me;
- recognised what they wanted in terms of their own professional development;
- had some ideas of what they wished to take back to their normal role.

27. The 10 temporary team members are Entry Clearance Officers and Managers, Deputy Directors of Visa Services and a HQ project leader. I selected pairs to work with me on 5 visits: for my Bangkok and Islamabad visits, one team member worked with me on the file sample and the other looked at complaint handling, and for the HQ complaint handling visit both team members shared the assessment of complaints.

28. From October 2007 to March 2008, I visited 7 Posts and examined 601 files in cases with limited appeal rights of which 548 were within my remit. If I spot problems with cases not within my remit, I do not report formally on them but draw the matter to UKvisas' attention. Issues covered have included failures to follow correct procedures and failures to provide correct information on appeal rights.

New York and Ottawa: September and October

29. There is strong use of on-line applications in both Posts. It is mandatory in New York and Ottawa has 95% of its applications made on-line. I was concerned that staff in Ottawa believed that applicants did not have to sign the on-line Application Form. Signing the printed version is vital for two

reasons: it confirms that the applicant says that the information is accurate and it authorises the use and disclosure of personal data. UKvisas agreed.

30. Applicants in person in New York can collect the decision later that same day if the decision is reasonably straightforward. That is not allowed in Ottawa, where all applicants have to wait for the decision to be posted to them, having paid a mandatory additional fee for postage. I recommended that UKvisas' confirmed if a mandatory additional handling fee is allowed under the Consular Fees Order and it agreed that it is not.
31. Refusal Notices in both places were neatly presented with sufficient personal detail to re-assure applicants that the Entry Clearance Officer had read and noted the evidence provided in the application form and supporting documents. Notices included a list of paper evidence considered. Most applicants were third country nationals and there was good evidence of Entry Clearance Officers understanding the US and Canadian immigrations system. In Ottawa, the issue of returnability – being able to travel back to Canada at the end of a visit to the UK - was especially well handled.
32. **New York** is a high performing Post with the sort of energetic approach that one associates with the city. The overall refusal rate was 6.7%, with visit visa refusals at around 6%. Website information for applicants was Very Good, though on-site information was Poor. Performance in the file sample, at 95%, also reached the Very Good level. I had concerns about the handling of limited right appeals, the way applicants are received in person, and risk assessment information being fully integrated. My overall assessment was that New York's performance is **Good**.
33. In **Ottawa**, in 2006-07, the overall refusal rate was 5.4% and visit visa applications (excluding children) for July to September had a refusal rate of 3%. I noted supportive administrative staff and a visa team thirsty for advice and training in order to improve quality and confidence. I was concerned about the lack of formal training for long serving locally engaged staff, and that locally engaged Entry Clearance Officers had not undertaken the standard training course before being upgraded to decision makers. In the file sample, Ottawa scored 87.7%, placing them in the Good category. Entry Clearance Officers had understood that a visit for marriage application carried limited appeal rights even if the applicant would be seeing a qualifying family member in the UK and the failure to give correct appeal information in such cases led to Ottawa's overall score being lower than it would normally have been. Website information for applicants was Good, though on site information was Fair. My overall assessment was that Ottawa's performance is **Good**. Ottawa has since confirmed it has improved pre-application information.

Bangkok: November

34. Bangkok handles applications from people resident in Thailand, Cambodia and Laos. There is no facility in Laos for biometrics to be completed and all applicants - typically 50 a year - are required to travel to Thailand. Cambodians - typically 325 a year - can provide biometric data in Cambodia and complete an on-line application form which is sent to Bangkok. Thai and Laotian applications are lodged at a Visa Application Centre run by VFS, UKvisas' commercial partner. VFS takes biometric data and forwards the paper application form and supporting documents to the British Embassy.
35. The overall refusal rate was 11.1% at the time of my visit and visit visa applications (excluding children) for August to October had a refusal rate of 11.3%. Business Visits are included in the general visit statistics but I noted a very low refusal rate of just 0.28% and that, following biometric roll-out, long term visas were once again being issued to business travellers.
36. In my quality assessment of Refusal Notices, Bangkok scored 80% placing them in the Fair band. 10% (global 5%) of Refusal Notices were not in accord with the Immigration Rules in that child visit applications were, with a few exceptions, being refused under Rule 41 without considering Rule 46A. There were joint Refusal Notices, despite UK visas directing that this is inappropriate. 11.3% of Refusal Notices included comments that contradicted evidence provided in the application, compared with 3% globally. The overall appearance of Refusal Notices was not good, with careless mistakes which undermine applicants' confidence. For example, in 4% of the Notices there was a routine paragraph on *your circumstances in Thailand* for applicants who lived in Cambodia or Laos; poor English, such as *do not commensurate*; unplain English, such as *liquidity, prerogative, embryonic, substantive*; the date instead of a birthdate and incomplete standard paragraphs that made no sense.
37. As evidence that Bangkok are capable of better, I commended its routine paragraph where a biometric match has uncovered an undisclosed immigration history. It covers, with applicant specific detail, all of the relevant points:
 - 1) You said in the Application Form that you have not been to the UK.
 - 2) You signed that the information in the Application Form is correct.
 - 3) We have found that you were in the UK on such and such a date.

The Refusal Notice continues to say that failing to declare the immigration history undermines the credibility of the whole application and the Entry Clearance Officer cannot be satisfied that the applicant is a genuine visitor. It seems to me that that is all that is needed in such circumstances and there is no need to comment on funds, sponsors, employment and so on. If

someone has failed to be honest in a key part of the form, that does indeed undermine credibility full stop.

38. Information at the Visa Application Centre was Good. Though there were fewer signs at the Embassy that the needs of applicants and sponsors were being thoughtfully addressed, staff acted quickly on my observations. Complaint handling was Fair to Good. Adding these components together, my overall assessment was that Bangkok's performance is **Fair**. It could, and should, be much better and I noted that the team lacked a general awareness of guidance issued by UKvisas. I recommended that UKvisas in London should assess a further sample of files to see whether my recommended steps for improvement had affected the quality of Refusal Notices and work on that is now underway.

Islamabad: December

39. Islamabad handles applications from residents of Afghanistan and Pakistan. Applications are lodged at Visa Application Centres run by UKvisas' commercial partner. It records a high refusal rate: in 2006-07, the overall refusal rate was 47.1%, rising to 60.2% in 2007. I found that visit visa applications (excluding children) for September to November 2007 had a refusal rate of 59%.
40. My quality assessment of Refusal Notices placed Islamabad in the Fair band, scoring an overall 75%, but the sample fell into two distinct groups; cases determined before and after November. The earlier ones had standard paragraphs which were, I thought, dreadful: wordy, hard to follow, insulting in places and light years away from my recommendation to write for the applicant, whose Refusal Notice it is. The more recent cases benefited from a major revision of standard wordings which significantly improved quality.
41. The over-reliance on quick to use standard paragraphs underpinned Islamabad's very poor score for including applicant specific evidence in all Refusal Notices - 22% failed to do that compared with 7% globally. I recommended that each paragraph should include applicant specific detail and explained the need to set out why evidence provided was not deemed to be *satisfactory*. Without that, applicants tend to think that *you have not provided satisfactory evidence* means that the evidence has been lost or simply ignored.
42. 4.7% of cases in my global file sample have incorrect appeal information and Islamabad did well in this regard with only 2.3%. There were no failures relating to family visits demonstrating that the visa team are thoroughly familiar with such applicants.
43. Complaint handling was Good in principle but slow in practice with poor use of standard letters. Adding the components together, my overall assessment was that Islamabad's performance was at the higher end of

Fair. My major recommendation was that Entry Clearance Officers should be responsible and held accountable for the quality of their work. There was a clear call from them for direct feedback from their managers, and for targeted training.

Amman and Dubai: January

44. **Amman** is the designated post for Iraqi and Syrian applicants as well as for Jordanians. Applications are lodged at a Visa Application Centre run by Worldbridge. In 2006-07, the overall refusal rate was 21%, rising to 30% in 2007. I found that visit visa applications (excluding children) for October to December 2007 had a refusal rate of 16%.
45. In my quality assessment of Refusal Notices, Amman scored an overall 76%, placing in the Fair band. 18% (global 5%) of Refusal Notices were not in accord with the Immigration Rules. Child visit applications were, with a few exceptions, being refused under Rule 41 without considering Rule 46A. I have already noted that Rule 46A (iii) provides a simple reason for refusal which emphasises child protection "Your parents' [insert names] visa applications have been refused and I am not satisfied that you can demonstrate that suitable arrangements have been made for your travel to and care in the United Kingdom". It takes less time to do that than copying and pasting text or inserting a series of reference numbers into a joint Notice. I noted a tendency to make statements without linking them to an Immigration Rule or reason for refusal. There was, however, evidence of good practice and consistently sound handling by all staff of an applicant's previous travel and immigration history.
46. I had concerns about the wording of some Refusal Notices relating to Iraqi nationals. I find it inappropriate to quote a journalist's report when outlining the difficult circumstances in Iraq and the proportion of Iraqis who wish to settle elsewhere, even if the journalist is commenting on an official and well regarded report. Quoting from an independent report is, however, a different matter. One Entry Clearance Officer handled this issue with care and sensitivity and, with a little updating of the source material quoted, I commended the wording as good practice.
47. Information provision overall was Poor. I was concerned about the way information was presented by the Visa Application Centre in Amman in that UK law and policy was presented on Worldbridge headed notices. It is important to make it abundantly clear that commercial partners do not make the rules and such notices should have UKvisas' heading and logo. UKvisas agreed. The Application Centre also failed to respond adequately to my emailed test request for an appointment, sending a routine acknowledgment in Turkish and then telling me 5 days later that no appointment was needed.
48. Adding the various components together, my overall assessment was that Amman's performance is **Fair**. Staff seemed to have a standard, and

almost automatic, response – “*We're too busy to*” do whatever it was. That might be true and I recommended that UKvisas undertakes a thorough review of workloads, taking into account recent changes in the complexity of casework. UKvisas confirmed that the Deputy Director Visa Services, Middle East is about to take forward a more comprehensive staffing review. I also recommended that staff in the visa section re-instate regular team meetings, one of which should review business processes to see where there might be efficiency improvements.

49. In **Dubai**, applications are lodged at a Visa Application Centre run by VFS, which responded very well to my emailed test request for an appointment. Information provision was also very good.
50. I found that visit visa applications (excluding children) for October to December had a refusal rate of 18%. In my quality assessment of Refusal Notices Dubai scored an overall 74%, placing in the Fair band. I was pleased to report that all Refusal Notices were in accord with the Immigration Rules and, in a welcome contrast to global practice, all child visit applications were refused under Rule 41 and Rule 46A.
51. Dubai did, however, have a significant problem both recording and taking into account relevant evidence that had been provided by the applicant. 16% of Refusal Notices contained statements that contradicted evidence in the Application Form and supporting documents. I thought that evidence was being skimmed over or, in some cases, not read at all; for example “*You have not provided any evidence of your financial position*” when the applicant had provided 6 months bank statements for a personal account. I did not, however, find that hasty skimming was limited to cases which were refused so these were not being singled out for different treatment. There were a number of cases where I thought that simple checks initiated or undertaken by Entry Clearance Officers would have aided better quality decision making. Assistants do undertake some basic preliminary document checks and I was pleased to note that training had been provided.
52. I noted my concern that Emirate applications in Dubai are handled differently from those by third country nationals. It is reasonable to require differing amounts of documentary evidence from different nationalities depending on proven risk ratings. I find it unfairly discriminatory to allow some visa nationals to submit a partially complete Visa Application Form when other applicants would be refused on that ground alone. I recommended that, with immediate effect, all applicants are required to complete the form. UKvisas agreed.
53. My overall assessment was that Dubai's performance is Fair. The sample period I selected coincided with one of the three Entry Clearance Officers being on extended leave and sick leave so there were additional pressures on the remaining two. That, however, is real life and I commended the visa team for not excusing the poor standard of some Refusal Notices, but rather explaining how concerned they were. Whilst most of the Posts I visit are worried by resourcing levels, I did think that Dubai was particularly under

pressure and being driven by demands for speed and quantity rather than adequate quality. I recommended that UKvisas undertakes a thorough review of workloads, noting my concern at what seemed to be very little administrative support to undertake risk related checks. I was impressed by the strong sense of teamwork and personal responsibility, but rushing is not the answer and working long hours should not be taken for granted. I am pleased to record that UKvisas confirmed that it is refining the way it compares productivity across the business, as the basis for allocating resources in future.

Madrid: March

54. Applications in Spain are made on line and applicants make an appointment to deliver a signed copy, pay the fee and provide biometric data at the British Consulate General in central Madrid. Applications from Portugal have, since January 2008, been couriered from and to Lisbon as part of UKvisas' Hub and Spoke programme. The Embassy in Lisbon does front line and some back office services and Madrid staff make the decision. Applicants in both places are third country visa nationals, from a wide range of countries, who are living in either Spain or Portugal. Excluding children, whose applications cannot be counted separately, 60.6% of applications are for non-family visits. I found that visit visa applications (excluding children) for December to February had a refusal rate of 32%.
55. I reviewed 41 files where visas had been refused, in February 2008, with information on limited appeal rights. Madrid is a high performing Post producing good quality work in a strong teamwork atmosphere. It scored a well deserved Very Good for the quality of Refusal Notices. There were, however, striking differences between Spanish cases and those transferred from Portugal;
 - Refusal Notices for Spanish applications included knowledgeable comment on residence permits and immigration regulations, Portuguese applications did not because the Entry Clearance Officers do not feel adequately familiar with Portugal's system and documents.
 - Refusal Notices for Portuguese applications included comment on verified information because visa staff at the British Embassy in Lisbon provide a report confirming what evidence they have verified. The Madrid visa team undertake little or no verification work so there is no mention of that in the Refusal Notice.
56. UKvisas has embarked on an ambitious programme of business process reform, clustering visa decision work into larger centres having satellites or spokes feeding applications in from Visa Application Centres run either by a commercial partner or staff in a British Mission. My visit to Madrid revealed wider issues relating to fairness of process that need to be resolved.

57. It seemed to me that most of the planning attention had been devoted to the spoke – Lisbon – with an expectation that Madrid would simply carry on as normal with some extra cases. There should be no difference in the evidence base used nor should applicants be relatively disadvantaged, for example applications made in Lisbon take 5 days to get back to the applicant, whereas applicants in Madrid normally have a same day service. In addition to the process differences, whilst all of the Entry Clearance staff are fluent in Spanish, they have been expected to reach decisions on applicants from Portugal with the help of a dictionary. Madrid has not required applicants to provide translated documents in line with UKvisas' policy because of the team's language ability, but that was not taken into account and amended when they became the Hub to Lisbon's spoke. I recommended, therefore, that the practical impact of Hub and Spoke arrangements in Madrid and Lisbon are re-assessed in order to set general principles that may apply more widely.

Monitoring visit Reports

58. I prepare detailed Reports immediately after a visit. A Report for each Post covers detailed findings and recommendations and if I visit a series of Posts there is an overview which highlights issues for UKvisas to address. I send the Reports to the Foreign & Commonwealth Office, the Director of UKvisas and to the relevant High Commissioner or Ambassador. UKvisas publishes the overview Report and its response on its website and my key findings are also included in this Report. We have recently agreed that UKvisas' responses are woven into each report immediately after each recommendation and this welcome innovation makes easier reading compared with two separate reports.
59. The Independent Monitor Liaison Team supervises a follow-up programme and is supposed to prepare a 6 monthly report for UKvisas' Business Improvement Board. The most recent report was April 2007 and I have reminded UKvisas of that undertaking.

Key findings

60. **Balance:** I do think that there is a problem with the new and more detailed Refusal Notices, in that Entry Clearance Officers are only recording the bad news. Whilst it is correct to focus on the specific Immigration Rules that the Entry Clearance Officer is not satisfied the applicant has met, limiting the Notice to adverse points means that applicants can conclude that good points have been ignored. Applicants may be more likely to appeal, if they have the right to do that, or to make a complaint in order to highlight evidence that they think has been overlooked.
61. It is easy to add in simple things to give a more balanced feel, such as "Whilst I am satisfied that your friends in the UK can provide

accommodation and that they have the funds to pay for your stay I am not satisfied that” or “I note that you have travelled to the UK before and returned to this country, but your circumstances have changed since then and”. or “I am satisfied that you are employed as claimed and that the company you wish to visit in the UK is a genuine one”. Applicants reading a balanced Refusal Notice will be more likely to think that their application had been handled fairly and thoroughly. UKvisas did not accept my rather tongue in cheek recommendation that 90% of Refusal Notices should have at least half a sentence to record a positive point. Perhaps that was too prescriptive, but I confirm my belief in the need for balance.

62. **Taming the template:** In February 2007, UKvisas issued new instructions for Refusal Notices and a new set of templates. They have not been wholly successful and part of the problem has been a varying ability to tame a rather wayward basic template. In Posts that have not managed to beat it into submission, Refusal Notices have page breaks in odd places and expanses of plain paper. Whilst the guidance to use a single font throughout is in accord with my recommendation on consistency, 12 pitch Ariel is too big and some Posts have spotted that 11 pitch works better. The series of text boxes makes the Notice look disjointed. I have also noted that templates for limited appeal right cases have less data automatically inserted, and that leads to Entry Clearance Officers forgetting to do that by hand.
63. **Risk assessment:** UKvisas is expanding risk assessment work and I am supportive of that because decisions founded on evidence are likely to be fairer than the often woolly assumptions that used to be made. I have, however, found that risk assessment is not fully integrated with the decision making part of the business. I have found inconsistent recording of risk information and referral on the case management system; information not being accessible to Entry Clearance Officers and confusion about whether verification work is part of risk assessment.
64. **Training:** Entry Clearance Officers have to undertake, and pass, a 3 week training course in the UK. I was, therefore, concerned to learn that staff who are locally engaged have not had to do that. Locally engaged means that the person has the right to work in that country and they are employed on that basis rather than being UK based and posted overseas for a fixed period. UKvisas accepted my recommendation that all new Entry Clearance Officers should attend the full training course in the UK, or an equivalent course delivered overseas.
65. I also noted a gap in refresher training for staff who work on a temporary basis, often for many years. Without regular training stand-in staff can get out of touch with a fast moving policy framework and if they are not fully up to date, the Post they are supposed to be helping has to spend time and effort doing that. UKvisas has confirmed that it is reviewing policy on training requirements for existing Entry Clearance Officers. The review will consider the potential for candidates who pass the training course being

awarded "accreditation" for a pre-determined period, after which time refresher training will be mandatory.

66. **Resourcing:** Once again almost all Posts raise concerns about the level of resourcing and there do seem to be some unexplained anomalies in the number of cases that Entry Clearance Officers are expected to complete each day. The drive for numbers can mean that Entry Clearance Officers perceive only that indicator is important. Quantity and quality can go hand in hand, but management needs to give both equal attention.
67. **Hub and Spoke:** The practical impact of Hub and Spoke arrangements needs to be assessed very carefully so that there is a fair and consistent decision process for all applicants.

INFORMATION FOR APPLICANTS

68. Information is important for all applicants, but especially so for those who do not have a full right of appeal. Good pre-application information gives them the best possible chance of completing the application form accurately and enclosing relevant supporting documents. Competent local advice is not always available and without accessible, understandable, consistent and accurate information, applicants with limited rights of appeal can run into problems and may need to pay a further fee to make a second application.

Websites

69. A new UKvisas website will be launched in March 2008, when both commercial partners are also due to complete extensive improvements to the content and structure of their websites. Commercial partners and visa Posts will not be permitted to publish policy guidance on local websites. I am aware of concerns about the commercial partners taking over the provision of website information but remain convinced that a single source of information, provided by UKvisas and hosted by the partner, is the best way to ensure consistency. Once the new sites are up and running, careful attention to feedback will show any weaknesses and whether there need to be amendments to the locally produced supplementary information. In the meantime, the New York website was the best that I have seen; attractive, inviting, easy to navigate and full of useful information. The New York website should be the minimum standard and global developments should be as good as that, and maybe better.

Phone enquiry services

70. Commercial partners now provide a phone enquiry service in many countries and there is significant disquiet from visa staff and applicants that, in most countries, calls are costed at a premium rate. **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.
71. 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, as does the quality and accuracy of information provided.

Passport validity

72. Just before the new Visa Application Form was launched in October 2007, I noted that the accompanying information said that applicants' passports had to be valid for more than 6 months. There is no legal or policy requirement for a passport to be valid for more than 6 months and UKvisas took immediate steps to correct the information to the approved requirement, *for long enough to cover the length of intended stay in the United Kingdom*. On some visits I found that website and noticeboard information on passport validity had not been corrected following UKvisas' direction.
73. 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, student visitor and short term student applications to include *a passport with at least 6 months validity on the date of proposed travel*. This would mean that the passport would remain valid for the whole of the maximum length of stay currently allowed.

Appeal rights

74. In my Report for 2006-07 I found that a number of Refusal Notices contained incorrect information in cases with limited appeal rights in that they said there was *no right of appeal*. UKvisas accepted my recommendation to ensure that Refusal Notices quote up to date and accurate appeal information. In this file sample, which pre-dates UKvisas reminder², 0.6% of the Refusal Notices said that there was no appeal and I have asked UKvisas to issue corrected Refusal Notices in these cases. I noted that in Skopje there is a paragraph in the text of the Refusal Notice that says there are no appeal rights, but the correct information is provided at the end; most confusing.

Family visits

75. The problem with inaccurate information applies to Refusal Notices which give information on limited rights, when it should have been on full appeal rights because the applicant wished to visit a qualifying family member³. These cases should not be part of my sample as they are outwith my remit but are included in the files provided because the Refusal Notice provided inaccurate information and/or the case was not recorded properly.

² AECIP (All entry clearance issuing posts) 77/2007

³ The Immigration Appeals (Family Visitor) Regulations 2003

76. UKvisas issued guidance on qualifying family visits in May 2006 and the sample error rate fell to 4.2%. It has now risen over two reporting periods and in this sample, 4.7% of the cases provided to me are not within my remit because the applicant intended to see a qualifying family member. The AECIP⁴ guidance said that Entry Clearance Officers should provide information on full rights of appeal in cases of doubt, unless they had evidence that the relationship was not as stated. If the Entry Clearance Officer is not satisfied that the applicant and claimed family member are *related as claimed*, that is a matter for the Asylum and Immigration Tribunal to determine unless the Entry Clearance Officer has firm evidence to support the assertion and includes the evidence in the Refusal Notice. I note in particular that it is unfair to provide limited appeal right information because the applicant *did not provide evidence to prove the relationship claimed* because there is no requirement for an applicant to do that.
77. 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 *you are not sufficiently closely related for entry clearance purposes*, which is very confusing. The closeness of relationship determines appeal rights, not entry clearance.
78. 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 starred determinations by the Asylum and Immigration Tribunal.
79. Although the circumstances are unusual, I highlight a case where the applicant wished to visit her son. The application was refused on the grounds that the applicant was covered by a travel ban and given information on limited appeal rights. I asked UKvisas to clarify if a travel ban overrode appeal rights because the applicant was a qualifying family visitor. UKvisas confirmed that the fact that a person is subject to an international travel ban does not in itself limit the person's right of appeal against an immigration decision. In addition, UKvisas referred the case to the Border and Immigration Agency whose view was that decision taken was flawed because the applicant was not covered by the Immigration (Designation of Travel Bans) Order 2000 so section 8B(1)(a) of the Immigration Act 1971 did not apply. Although this case is a qualifying family visit and thus outwith my remit, I have asked UKvisas to refer the case back for reconsideration, and to send an apology for the inconvenience caused.
80. I returned 39 cases to UKvisas where I found that the applicant had not been advised of full appeal rights. In one case, UKvisas asked the Post to clarify what looked like conflicting evidence on the nature of the

⁴ AECIP 41/2006

relationship. UKvisas agreed that in 38 cases the applicant should have been told they had full rights of appeal and asked Posts to contact 37 applicants, inviting them to re-apply without having to pay a fee if they still wished to travel. If the decision remained the same, a fresh Refusal Notice would include information on full appeal rights. In the remaining case the applicant had already re-applied and had had a visa issued. It is by chance that I see a faulty Refusal Notice and I repeat my concern that this is an arbitrary outcome and only benefits applicants who have not already re-applied but who still wish to travel.

Information for Entry Clearance Officers

81. One of my very early recommendations was that newly trained Entry Clearance Officers going to a small Post should go first of all to a larger Post in the region for a short period to establish peer colleagues for support, to practice the use of judgement and to gain confidence in a work environment. Europe decided that Madrid should be the mother Post and even though it has only had one attachment I was delighted to hear how well the arrangement has worked.
82. I am pleased to report that UKvisas' current AECIPs with practice guidance and directions are now on the intranet, though still not adequately indexed. The often out of date Diplomatic Service Procedures and Best Practice manuals are being replaced by Entry Clearance Guidance and Operating Standards and Instructions with the aim of providing the accessible information that busy visa staff need. I hope that there can be further developments to enable a simple search function because the enquirer still needs to pick a topic and for some complex enquiries that is not easy to do. There are some technical glitches to address too; try to look up Interviews and you get Commercial Partnerships! UK visas does need to work hard on this basically good idea so that Entry Clearance Officers are not put off by less than perfect early versions. In the meantime, I appreciate that UKvisas has kept me informed of these welcome changes which confirm that it has acted on my concerns about inadequate guidance for staff.
83. 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 *look it up* 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 understand why some staff do not keep up.

FILE SAMPLE FOR OCTOBER 2006 to MARCH 2007

84. The Independent Monitor is expected to prepare two Reports each year for the Secretary of State to lay before Parliament. In addition to commenting on information and complaint handling for applications within my remit, I normally assess a global sample of cases that have been refused under the legislation that governs the Independent Monitor.

Sample basis

85. In my last Report, I recorded that there had been problems with the file sample. With that in mind, I issued directions to UKvisas on 17 September 2007, two weeks earlier than normal, to allow time for an adequate sample to be generated. My directions were that the sample should be applications refused with limited rights of appeal under Sections 90 and 91 of the Nationality Immigration and Asylum Act 2002 and decisions made from 1 April to 30 September 2007.

- There should then be a computer generated randomised selection of 0.75% of the cases determined within the sample period. In addition, there should be a further randomised selection to provide at least 2 files per Post for each of 2 quarterly slices - April-May-June and July-August-September.
- The deadline for receipt should be 2 months from UKvisas requesting the files and Posts should provide an explanation if files miss the deadline.
- Files should be numbered with UKvisas' reference number in addition to a Post specific numbering system and, if there are two numbering systems, the Entry Clearance Manager must confirm that the files provided are those requested.
- Posts should enclose files that are closely linked with the selected file, for example other family members intending to travel at the same time, previous or subsequent applications whether refused or issued.
- Entry Clearance Managers should provide an explanatory note for any file substituted. In order to maintain the integrity of the sample, if a file is substituted for any reason, I require the previous within remit file. Posts should be advised that the Independent Monitor Liaison Team may ask to see files that have been replaced by substitution.
- I find brief translation notes helpful for documents that are not in English and thanked Posts in advance for spending time doing that.

86. The sample should have been generated on 14 October: the 2 week gap from the end of the sample period allows for the global database to be reasonably up to date. At this point, however, there was a 5 week delay whilst UKvisas tried to generate an accurate sample; it was finally achieved on 13 November and UKvisas sent the direction to Posts on 21 November. Posts had a little over the normal 2 months to send the required files, having an extra week to allow for the Christmas and New Year holidays.

87. UKvisas emphasised that it did not expect any posts to miss the deadline and there was, indeed, a marked improvement. 120 of the 134 Posts - 90% - sent the files by the deadline compared with only 45% in 2006 and 74% in early 2007.

Problems with providing the files

88. In December, after the loss of significant amounts of personal data in well publicised instances, the UK Government asked its Departments to review the handling of such data. I should have been able to start work on the sample on 2 January 2008 but UKvisas has not yet been able to provide me with the files. On appointment, I gave a commitment to completing my Reports quickly and to speeding up turnaround times. Any further delay would mean that this Report overlapped with the next one because work on that starts on 1 April. I have decided that as there are exceptional circumstances and no firm date for a resolution, it is sensible to submit the Report based on a different style of file review
89. The findings in this Report cannot be compared with my previous Reports, though there are similarities. I have been able to take a very quick look at the key indicators in 824 files, spread reasonably evenly throughout the world and from visa Posts large and small. I am confident that my findings are adequately robust, though they do not include comment on the more detailed quality pointers. The sample I have reviewed is 61% of the full sample that was generated.
90. Of the 824 files reviewed:
- 1% (up from 0.6%) of the sample files could not be found and others had missing papers - that is **administrative error** but no specific Post caused concern;
 - 4.5% (up from 1.7%) of the sample were cases that had had full appeal rights notified correctly - that is **data entry error** and **managerial error** as the files are supposed to be checked by an Entry Clearance Manager before dispatch.

Substituted files

91. A particular feature of this sample has been the very high proportion of requested cases - 18% of the sample involving 44% of visa Posts - that were substituted before dispatch. Entry Clearance Managers are required to provide an explanatory note for any file substituted and mostly they did.
92. The Independent Monitor Liaison team helped me to analyse the substituted files:
- 0.6% were substituted because the initial decision to refuse the application had been subsequently overturned; that is reasonable.

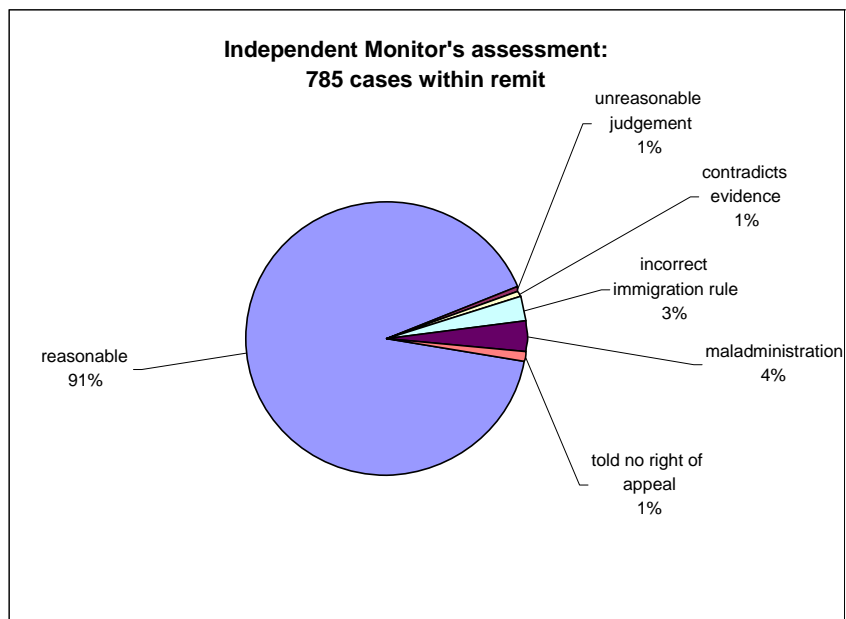
- 14.7% were substituted because the Entry Clearance Manager had found that the case was for a qualifying family visit and had been given correct information on appeal rights; that is data entry error. The Manager in Kingston realised that the problem lay with her office, sending a firm reminder on the need for accurate data entry and I commend that responsible and constructive response. Not all Managers reviewed the cases before dispatch and the error rating overall is 19.4%, which must undermine overall confidence in UKvisas' information system
- 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.

UKvisas' overall performance

93. Assessing UKvisas' performance overall, in 83.7% of the 824 cases, the Refusal Notices were reasonable and provided correct information about rights of appeal, the same percentage as in the last file sample. This figure includes cases that are not within my remit but were included in the sample having been given inaccurate information on appeal rights.

Cases within the Independent Monitor's remit

94. Though I undertook a briefer assessment than normal, I have been able to classify each of the 785 cases that should not have attracted full rights of appeal as either **reasonable**, or that it was significantly faulty in terms of **judgement**, the use of **evidence**, the **Immigration Rules** or **significant maladministration**.



Reasonable

95. A reasonable Refusal Notice is one which is in accord with the Immigration Rules *and* the decision is not perverse *and* it is based, even loosely, on the evidence *and* there is correct information on appeal rights. In this sample, 91% of Refusal Notices were reasonable, up from 87% in my last global sample.

Poor judgement

96. The Independent Monitor's assessment is not the same as a review by an independent tribunal so I do not substitute my own judgement in the cases I look at. For me to record concern about use of **judgement**, the decision has to border on the perverse - a decision that no reasonably competent and fair Entry Clearance Officer would make.

case study

The ground for refusal was that in a previous application, the applicant had said she had an aunt in the UK, but in this application she had "failed to declare a close relative in the UK". That was thought to be an unexplained discrepancy which cast doubt on the entire application.
The aunt might have moved from the UK so the applicant may have been telling the truth on both occasions.

Evidence

97. For me to register concern about the use of **evidence**, the Entry Clearance Officer has to set out reasons that fly in the face of the evidence provided, or made a decision that took no notice of material evidence obtained at interview or in supporting documents.

case study

In Kingston, the Refusal Notice said that the applicant's wages were modest by local standards. The applicant provided evidence of wages of = £150 and the Refusal Notice said that the local average was = £130.
15% more than average is not "modest by local standards".

Immigration Rules

98. In the file sample 3% of Refusal Notices referred to the wrong Rule, mainly when child visit applications were refused under Rule 41 without

considering Rule 46A. UKvisas has required Posts to re-issue Refusal Notices that comply with the Immigration Rules.

99. Despite UKvisas issuing a reminder on 1 August 2007⁵, both in this sample and in my visits to Posts I continue to find child visit applications refused for reasons that apply to the parent - "your bank statements", "your employment", rather than using the child specific Rules introduced two years ago.
100. I also noted a visit visa applicant who had been refused under the Rules for a Domestic Worker; this was especially unfair as the applicant presumably knew that she would not qualify under those Rules but had she applied as a Domestic Worker she would at least have had full appeal rights.

Maladministration

101. In my Report for 2005, I said that each application must be dealt with on its own merits, with its own reasons related to the Immigration Rules. In January 2007, UKvisas formally agreed with this recommendation. I class joint Refusal Notices as maladministration; they might break the law on disclosing personal data, they often fail to consider each case under the correct Immigration Rule, there can be different appeal rights for different, though linked, applicants and, finally, each applicant has had to pay a handling fee.
102. UKvisas reminded staff in August 2007⁶ that each applicant should have their own Refusal Notice but some Entry Clearance Officers are still resistant. I was especially concerned to see that in Mumbai, the Refusal Notice template used for joint Refusal Notices for parents and children only includes sections (i) to (vii) of Immigration Rule 41, conveniently omitting section (viii) which requires the applicant to be over the age of 18. UKvisas has instructed staff and then reminded them. Joint Notices and the failure to handle child visit applications correctly show how hard it can be for UKvisas to ensure adequate standards in all its Posts and by all staff.

⁵ AECIP 75/2007

⁶ AECIP 75/2007

Quality pointers

Appearance

103. UKvisas is a global organisation and the “look” of its product - a Refusal Notice - should be globally consistent. There have been huge improvements since the cases I first looked at and I am pleased to record a great improvement in typing, grammar and spelling, with far fewer careless mistakes. There is still more to be done. For example, why do some Posts print the heading as white text on black background when most have it the other way round? Why are there still different fonts in use? Why have some Posts removed the irritating text boxes which make page breaks in odd places, yet others put up with them and do not seem to care what the finished product looks like?

Interviews

104. UK visas' guidance on interviews says that *if an interview is necessary, focussed interviewing techniques can be employed with an interview of around 15 questions normally being sufficient. There is no need to dwell on irrelevant details, although any compassionate aspects should always be carefully considered.* I was not surprised to see a complaint from an applicant in Vilnius that there had been a factual misunderstanding as the notes recorded 64 questions. This was not the only complaint about being misunderstood in interviews but even if the mistake is accepted, there seems to be no attempt to issue a fresh Refusal Notice.
105. The guidance confirms that *It is important that interviews are conducted courteously and are relevant to the requirements of Immigration Rules.* Asking the applicant, as happened in Havana, “Does it not bother you having a boyfriend 30 years older than you?” is not, in my view courteous or related to an Immigration Rule.

Verification

106. Although I have not been able to make a detailed record, it is clear from the file sample that more applications are being refused because checks have shown that a document provided in support has been found not to be genuine. In 2004, UKvisas issued detailed guidance⁷ on how to handle such matters, but the guidance was restricted to cases with full appeal rights. I am pleased to record that UKvisas accepted my recommendation to clarify good practice for cases within my remit, confirming that the guidance should apply to all applications. This is an important issue and the new guidance removes yet another policy that meant that limited appeal right cases were handled differently. UKvisas reminded staff to keep verification evidence on file in limited appeal right cases so that anyone reviewing a refusal has access to all of the key information that informed

⁷ AECIP 172/2004

the original refusal decision, once again removing unfair differences in policy.

107. 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.

For the future:

Structured decision making

108. 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 also 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.
109. 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.

110. In the file sample, a case from Sarajevo shone out as a clear and simple example of what I have in mind. I have tidied it up only slightly;

Example

You have applied for a visa to visit the UK for 2 weeks and I have, therefore, considered your application under Rule 41 of the Immigration Rules. I have taken into account the evidence that you provided on the application form and the documents that you provided including your passport and a letter of invitation.

I am not satisfied that you meet all of the requirements of Section 41 in that you:

(i) are genuinely seeking entry as a visitor for a limited period as stated by you, not exceeding 6 months, as on your application form you stated you wished to visit friends for a period of 15 days but at your interview you stated that you wished to visit for 10 days;

(ii) intend to leave the United Kingdom at the end of the period of the visit as stated by you as your airline ticket return date is almost one month later than your intended departure date;

(iii) do not intend to take employment in the United Kingdom and

(vi) do not intend to produce goods or provide services within the United Kingdom, including the selling of goods or services direct to members of the public, because you stated that you intended a private visit to friends but the invitation was written on headed paper for the same company for whom you work in Bosnia. I also noted that the Sarajevo office of this company was offering to pay all your expenses for this trip;

(v) do not intend to study at a maintained school; you appear to meet this requirement;

(iv) will maintain and accommodate yourself and any dependants adequately out of resources available to you without recourse to public funds or taking employment or will, with any dependants, be maintained and accommodated adequately by relatives or friends and

(vii) can meet the cost of the return or onward journey because you have provided no evidence whatsoever of any monies of your own or other funds available to you for your proposed visit;

(viii) are not a child under the age of 18; you appear to meet this requirement.

111. This crisp, structured style is much more easily understood than a bewildering selection of recommended standard paragraphs where essential facts and evidence become buried under *however*s, *furthermore*s and *foregoings*, padded out by *I am led to believe* or *I am minded to refuse*. All too often, pressured Entry Clearance Officers are hitting automatic paragraph buttons for every possible option (Islamabad had over 400) leading to wordy, dense, incomprehensible Refusal Notices that repeat themselves and end up being gobbledegook.
112. Visas that are granted are not within my remit but I am concerned at the lack of balance in the system overall. A decision to refuse a visa has to be supported by detailed and evidence based reasons because it might be subject to scrutiny by the Asylum and Immigration Tribunal or Independent

Monitor. It seems to me that a Structured Decision making form attached to the casework record would make the system as a whole more balanced because the decision to issue a visa would have clearer supporting evidence. I cannot make a formal recommendation on this point, but I ask UKvisas to consider it.

CHECKS, COMPLAINTS and EXTERNAL SCRUTINY

Compliance checks

113. UKvisas recently undertook an extensive compliance exercise to see if applicants issued with a visit visa complied with the routine condition to leave the UK. The final results indicated that 86.4% of a total sample size of 14,000 cases checked had complied. After follow-up action, 11.2% cases were inconclusive and only 2.4% were considered not to have complied. The inconclusive cases included those where the applicant may have left the UK but not returned to their home country, or were reluctant to provide information when asked.
114. I note, and agree with UKvisas' caution in that compliance exercises cannot provide the firm evidence that will be available once exit checks are in place to count visitors in and out of the UK. They are, however, an excellent way of obtaining decision quality feedback that will help to improve judgement. I have no doubt that UKvisas would have preferred a 100% confirmed compliance score, but in my view that would have indicated an ultra cautious approach where visas were being unfairly refused to people who, on the balance of probability, would comply with the conditions.

Internal review

115. Very few Entry Clearance Managers wrote covering or explanatory letters for my first file sample almost two years ago. In most places, the instruction was passed to an administration assistant and the files were simply stuffed into a bag and posted off. This time, one of the most striking features has been the proportion of detailed accompanying letters, the best of which confirm that an Entry Clearance Manager has done something about problems spotted when reviewing the files before dispatch.
- In Abuja, Refusal Notices referred to the submission of forged documents and the completion of a verification report, but the reports were not on file. The Entry Clearance Manager had sent instructions to staff to improve practice.
 - In Accra, the Entry Clearance Manager noticed a problem and sent a copy of a letter to the applicant to confirm the corrective action. I appreciated in particular the frank apology for the mistake that had been made.
 - In Addis Ababa, the Entry Clearance Manager had instructed Entry Clearance Officers to link reasons to the Immigration Rules.

- In Almaty, the Entry Clearance Manager explained why quality checks had not been done within 24 hours of the decision, and what was being done to put that right.
 - In Beirut, the Entry Clearance Manager had reminded staff of the need to issue separate Refusal Notices.
 - In Belgrade, the Entry Clearance Manager welcomed reviewing the sample and was discussing with his team the lessons learnt.
 - In Chennai, the Entry Clearance Manager sent detailed notes on each case making the sorts of observations that I do. She had arranged for corrected Refusal Notices to be sent in cases where she identified problems.
 - In Dhaka, Riga and Tallinn, Entry Clearance Managers identified cases that had not been reviewed at the time of the decision, contrary to UKvisas' directions.
 - In Gabarone, the Entry Clearance Manager spotted that funds had not been converted to £sterling, and had reminded staff of the need to do that.
 - In Hong Kong, the Entry Clearance Manager had reminded staff not to use an inappropriate standard paragraph.
 - In Kingston, the Entry Clearance Manager had reminded staff of the importance of correct data entry.
116. None of these are "perfect" Posts because problems should have been noticed and corrected at the time the decision was first made. They are, however, the ones that make me feel most optimistic. They demonstrate that external scrutiny works; looking at these cases through the Independent Monitor's eyes, being familiar with the issues I comment on, meant that the Managers took responsibility for quality and initiated longer term corrective action. Getting it right and being seen to get it right is important to them.

Complaints and post decision correspondence

117. One of the more interesting customer service findings is that customers, in the broadest sense, can think more highly of an organisation that responds well to a complaint than an organisation that made no mistakes in the first place. For applicants without full rights of appeal, being able to make a complaint about inadequate service or an unreasonable decision is their main route of grievance.

Visa Customer Services in London

118. Visa Customer Services in London receives complaints from UK elected members, from what it describes as stakeholders in the UK, and from

applicants and sponsors who live in the UK and for whom it is sensible to correspond with a UK address. It received 15,110 letters in the 2007 calendar year, 8,780 from MPs; 5,827 from members of the public and 503 via Ministers. It received 52,154 emails in 2007; these are recorded separately.

119. In 2007, Visa Customer Services classified 276 letters as complaints, 1.8% of letters received. It does not differentiate between full and limited appeal right cases and overall, 26% of complaints were upheld in full or in part. UKvisas has not been recording the reason why a complaint is upheld, so has been unable to detect trends or problems that need wider attention
120. In March 2008, with the help of two overseas Deputy Directors of Visa Services, I reviewed and reported on the way UKvisas' headquarters handled complaints. Using the same random sampling method that I do on monitoring visits overseas, and recording the sample against fixed criteria, I found significant under-recording of complaints. In the sample, Visa Customer Service had noted 6% of the sample of 106 cases started in January 2008 as a complaint but our analysis found that 39% constituted a complaint using UKvisas' own definition, **any expression of dissatisfaction about the services provided by UKvisas and/or professional conduct of UKvisas' staff**, including complaints of delay, of being issued with the wrong visa endorsement, of abusive and racist treatment. Many of the unrecorded cases had been handled as complaints and in fact 10% of all correspondence had resulted in a complaint being upheld, confirming that the main problem lies with accurate data entry.
121. Of the cases which we considered were complaints, we classified them as complaints about
 - UKvisas' Commercial Partners = 7%
 - The provision of information = 44%
 - Delay = 56%
 - The use of evidence = 10%
 - Conduct by a member of staff = 17%
 - Maladministration = 22%

We found that no complaints were solely about the merits of the decision, that is the judgement exercised by an Entry Clearance Officer.

122. I thought that the handling process was unnecessarily complicated. We could not count the number of times that a piece of correspondence was handled partly because we could not establish who was the author of various emails. I recommended that all internal emails should have an autosignature which confirms the author's role and location. I was also concerned that staff in London often had to make repeated requests for Posts to respond with comments and information. I contrasted excellent detailed responses from visa staff in Paris, Islamabad and Jakarta with the single line from a Middle East Entry Clearance Manager who said *the*

information is on the central reference system, you do it, a perfect example of lack of ownership.

123. I saw little merit in London based administrative staff cutting, pasting and editing the Post's response into a letter which has then has to be quality checked by a manager. I recommended a simpler process in which Visa Customer Service records a complaint, summarises the issues raised and passes it to the Post to respond. That would also be in accord with my recommendation that a complaint relating to a visa decision should be handled by a qualified decision maker, which UKvisas accepted.
124. I have commented in the past that UKvisas provides very little training in responding to complaints. There are some simple rules that improve the quality of responses and reduce repeat correspondence and I recommended that UKvisas ensures that all staff who respond to complaints are familiar with best practice. I note in particular that complaints can only be adequately investigated if the organisation knows what is *good enough* service, so that the complaint can be assessed against that for any gaps or failures.

Outcomes

125. The practical complaint handling process is heavily focused on MP's correspondence and, in the interests of fairness and equal treatment, I commend the move to direct correspondence on fully appealable cases to the Asylum and Immigration Tribunal process so that limited appeal right cases are not doubly disadvantaged.
126. In terms of appearance, 93% of letters were good, being free from typos and spelling mistakes. Only 75% of responses to complaints were of adequate quality, however, in that they responded to all of the issues raised. I was also concerned that in 9% of cases Visa Customer Service staff had made an error that was significant, for example referring to a wife being under investigation when it was the husband. This led to angry exchanges over some months until a colleague spotted and apologised for the mistake.
127. I noted that there is little or no guidance on **redress**, for example in one well handled complaint where the Post accepted that a mistake had been made and provided corrective action, there was no payment for the costs that would be incurred to send the passport for the visa to be amended. I recommended that compensation and redress policy should be clearer, covering redress in its widest sense because many complainants want an apology and an acceptance of responsibility and grievances are not just about money. I recommended that the final response should provide, where appropriate, information on making a complaint to the Parliamentary and Health Service Ombudsman.

Summary

128. As with most parts of the visa business, Visa Customer Service has based its performance measures on *How fast?* Its achievements are impressive and in three years it has improved turnaround times from 50% within target to 91%, a well deserved Good performance. I did, however, find that there is significant under-recording and it may not be accurately recording complaints made by email or telephone.
129. UKvisas issued new complaint handling guidance in January this year. In my view, it focused too heavily on process rather than principle and policy. I recommended that UKvisas should immediately adopt the recently revised complaint handling principles and policies established by the Border and Immigration Agency and which will become those of the UK Border Agency. Many of the process guidelines will also transfer easily. This was a huge piece of work which has at its heart two vital tenets; that complaints are important and that if someone complains then the responsibility to explain and put it right if necessary lies with the person who provided the service. I commend the regional focus established by the Border and Immigration Agency review and note that there is an urgent need to convince, and if necessary direct, visa Posts and regions to take this part of the business seriously, especially as appeal rights will become increasingly restricted when the Points Based System rolls out over the next 12 months.
130. Finally, we found the Visa Customer Services operational team delightful to work with. They were open to comments, receptive to change, motivated and enthusiastic. That is a very sound foundation on which to build.

Complaints and consumer feedback at Posts

131. Complaints, whether from applicants or their sponsors, may be made to the relevant overseas visa Post. Posts are expected to record and respond direct, other than to complaints and correspondence from MPs, and presumably MSPs and AMs, which are forwarded to London.
132. In this file sample, there was evidence of post-decision correspondence in 2.5% of the cases. UKvisas is following up those cases where I could see no evidence of a response.
133. UK visas is keeping better global records, but has not been able to provide a summary analysis of the complaints received by post for the period April to September 2007. I do, however, look at complaint handling for cases within my remit on my visits to Posts.
134. **New York** recently gained the Charter Mark so I expected that its response to feedback would be good, and it was. Feedback is collated and replies were prompt and accurate. I noted that the commonest query/complaint was how to get an appointment when there was a queue earlier in the year.

There was an often seen problem with complaint recording, in that smaller numbers are thought to be good. New York showed a typical approach to this in that it kept two registers, one for *Complaints* and the other for *feedback*. Having gone through both, I recommended that adverse feedback should be incorporated into the complaints register to make a single record of *any expression of dissatisfaction*. UKvisas agreed but New York was bothered by that recommendation because it would look as though they had more complaints than anyone else. My view is that it would demonstrate that New York recorded complaints accurately, and that's something to be proud of.

135. In **Ottawa**, I liked the file title - "Problems - Complaints - Bouquets" because that meant equal treatment for all forms of feedback. I thought, however, that this was one area of work where the Entry Clearance Manager was especially squeezed for time, though I was pleased to see that he does respond to complaints and has not delegated them to administrative staff.
136. In **Bangkok**, we made a specific study of complaint handling, examining 300 applications refused with limited rights of appeal and finding that 26 (8.7%) had post decision correspondence. The higher than average figure is reflected in letters to me because Bangkok is the most complained about Post. There are good reasons why which have no connection with the quality of service or decision making. A significant proportion of visit visa applicants are Thai women who have met a UK man and who apply for a visit visa to continue a holiday relationship. It is not surprising that the UK sponsor is concerned, confused, outraged or appalled when an application is refused because many UK citizens are not familiar with the strength of entry control. This is the reality that Bangkok works with.
137. Of the 26 letters or emails, I found that:
 - 6 (23.0%) were complaints.
 - 2 (7.7%) requested further advice.
 - 1 (3.8%) requested further information.
 - 2 (7.7%) questioned the Entry Clearance Officer's judgement.
 - 10 (38.5%) submitted further information/evidence.
 - 2 (7.7%) related to agents.
 - 3 (11.6%) commented on the refusal notice.
138. There was a lack of consistency in complaint recording, in that almost 1 in 6 examples of post decision correspondence were in a correspondence file and had not been copied onto the relevant application file. That would mean that the Entry Clearance Officer handling a subsequent application would not be aware of the correspondence but the applicant would, reasonably, expect a more joined up process.
139. UKvisas accepted my recommendations;

- that the assessment of a complaint relating to a decision should be done by someone who is a qualified decision maker so that issues which may undermine the fairness of the decision are not overlooked;
- that routine letter wordings should be refreshed to make sure they comply with UKvisas' guidance, especially in disclosing the outcome of an application to a sponsor;
- neither the Data Protection Act nor the legislation on appeal rights should be described as "unfortunate";
- that contact of whatever type should always be recorded on the case related paper and electronic files;
- that Bangkok should review and refresh the practical management of correspondence, phone calls and in person visits so that an overview is possible.

UKvisas did not agree that there should be a global complaints/feedback leaflet.

140. I thought that **Islamabad**'s complaint handling systems were the most developed that I had seen and I commended them for the attention given to this often neglected area of work. I found well-established processes in place for feedback handling at both the visa section and the Visa Application Centre.
141. We reviewed 437 limited right of appeal files and found that 18, (4.1%), contained post-decision correspondence. I found that 80% of the correspondence contained at least one element that was a service complaint, such as failing to take evidence into account. Only one (5%) of the responses met UKvisas' 20 working day target for a reply; in 57% of cases it took more than two months and in 16% there was no record of a response. Failing to meet published targets tends to result in further complaints and I recommended that UKvisas took appropriate action.
142. 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.
143. The routine letters state that *an Entry Clearance Manager has reviewed the decision*. In Islamabad, Entry Clearance Managers review 25% of refused limited right of appeal cases. In response to a post decision request for review, an Assistant checks to see if a Manager review has already taken place, and if so, the file is not reviewed again by a Manager unless the correspondence claims that important evidence has not been taken into

account. This practice is common in many Posts. I recommended that to avoid being misleading, responses should state whether the Entry Clearance Manager review took place at the time of decision, or as a result of the post-decision correspondence.

144. I was pleased to record that at no point in the process of replying to MPs' letters, complaints or post-decision correspondence does the visa section distinguish between cases that have full and limited appeal rights and I commend Islamabad for this fair and even handed approach. I also noted with appreciation how helpful staff were in helping us to navigate processes and a significant numbers of files.

Catching all complaints

145. I generally find that when complaints arrive in other forms of correspondence, they are not recorded as a complaint. One example of this is MPs correspondence which may include a service related complaint but which is recorded in a different register. In Ottawa, I noted a limited appeal form which was a clear complaint of maladministration supported by evidence. A more careful assessment of the appeal grounds should have led to the application being reconsidered and either a different Refusal Notice being prepared, or a visa being issued.
146. I am also concerned at the way some Entry Clearance Officers respond to comments made at the end of an interview. The Refusal Notice is often read out to the applicant, who is supposed to be given the right to comment. In the file sample, there were examples of applicants saying that a particular point had been misunderstood in interview and was factually wrong, but other than record the comment, Entry Clearance Officers do not amend the Refusal Notice or record the comment as a complaint. This will now apply to very few cases because of the reduction in the proportion of applicants who are interviewed, but there seems to be little point in offering the opportunity to comment and then doing nothing about comments made.

Appeals

147. UKvisas took appropriate action in response to my concerns that visa staff were not recognising comments or correspondence that might constitute an appeal on race relations or human rights grounds. In December 2007, it issued a reminder that staff should to be vigilant, confirming that applicants are not required to use standard phrases such as 'I wish to appeal on Human Rights grounds' or '...race relations grounds'. It instructed staff to follow the guidance set out earlier in the year⁸ which said that the Refusal Notice should be reissued with full information on how to appeal. On receipt of an appeal form, if the Entry Clearance Officer's view is that there were no valid race relations or human rights grounds made out, the appeal form should be sent to the Asylum and Immigration Tribunal with the response

⁸ AECIP 77/2007

saying that the grounds set out by the applicant do not constitute a valid appeal. Although I think that the 2 step process is not ideal, the revised guidance does make it clear that appeal forms must be sent to the Tribunal rather than being suppressed at the Post.

148. In the file sample, 0.6% cases included evidence to show that an applicant had lodged an appeal. Where there was an outcome, the Asylum and Immigration Tribunal had ruled that the appeal was not valid. In some cases the determination explained that no human rights or race relations grounds had been made out and that is more helpful than simply saying *not valid*, without explaining why. I also note that the very low rate of appeals show that clearer appeal information has not confirmed UKvisas' fears that there would be an avalanche of appeals without merit.

The Ombudsman

149. The Parliamentary and Health Service Ombudsman investigates complaints of maladministration. The Ombudsman does receive cases from complainants based overseas and who do not, therefore, have ready access to a MP. In practice, such complainants are normally referred to the Chair of the Public Administration Select Committee which has generally been willing to refer them on for the Ombudsman's consideration. UKvisas is not aware of any complaint about an application with limited rights of appeal being made to the Ombudsman in the period covered in this Report.

Judicial Review

150. The exercise of powers by public authorities, including Ministers and officials, is always open to challenge in the Courts by way of Judicial Review; the Courts do not assess the merits of the decision but rule upon its lawfulness. Where an applicant does not have full rights of appeal, s/he can seek to challenge the Entry Clearance Officer's decision through Judicial Review. When considering whether a body such as UKvisas has been acting outwith the law, the Court will look at the relevant statutory provisions and the purpose of the statute. Public authorities must also act with reason and the Courts have defined unreasonableness as "conduct which no sensible authority acting with due appreciation of its responsibilities would have decided to adopt" so the Court would assess if a decision was "so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it." The Court would also look for consistency in the decision-making process.
151. Between April and September 2007, 15 visit visa application Judicial Review cases were concluded, 7 (47%) in the applicant's favour. UK visas has been unable to provide me with more detailed information to enable me to examine the issues involved.

CONCLUSIONS

152. In 2007, the number of visits to the UK by overseas residents increased by 1% from 32.7 million to 32.9 million⁹, and they spend more than £15 billion. The tourism industry directly supports 1.4 million jobs, representing around 5% of total UK employment¹⁰. That is a very different headline from concerns about immigration, illegal working and asylum claimants, yet all are part of the same business. In the period under review, UKvisas has managed a huge programme of business change, holding on to principles of fairness and good service in the face of a strong “controls” agenda. It sets itself high standards and deserves the praise and awards it receives for its successes.
153. For the cases within my remit, the overall quality of Refusal Notices continues to improve with fewer typing and spelling mistakes. Greater use of standardised paragraphs has increased consistency and reduced the opportunity for obtuse or ridiculous reasons. A minority of Posts and visa staff either resist or ignore guidance, however, and UKvisas must tackle this to improve performance overall.
154. I have identified a number of issues for UKvisas to address. I summarise them under key headings:
- integrate the work of risk assessment units;
 - refresh guidance on appeal rights;
 - require compliance with guidance and directions;
 - provide adequate resources to enable Entry Clearance Officers to undertake what is required of them;
 - ensure that the Administrative Review for Points Based System cases works efficiently, fairly and consistently;
 - make sure UKvisas, with its positive, and outward focus, is merged into the UK Border Agency and not submerged;
155. I am accountable to the Secretary of State and do not directly represent the interests of visa applicants with limited appeal rights, but rather Parliament's interests in having a fair and balanced system. Not all organisations welcome external scrutiny but UKvisas respects my role and remains keen for the constructive, independent, feedback that I provide. It is a “grown up” relationship and one which augers well for the future.

L M Costelloe Baker
Independent Monitor

⁹ Office of National Statistics

¹⁰ www.visitbritain.com

APPENDIX 1 : The relevant Immigration Rules

Visitors: Requirements for leave to enter as a visitor

40. For the purpose of paragraphs 41-46 a visitor includes a person living and working outside the United Kingdom who comes to the United Kingdom to transact business (such as attending meetings and briefings, fact finding, negotiating or making contracts with United Kingdom businesses to buy or sell goods or services)

41. The requirements to be met by a person seeking leave to enter the United Kingdom as a visitor are that he:

- (i) is genuinely seeking entry as a visitor for a limited period as stated by him, not exceeding 6 months; and
- (ii) intends to leave the United Kingdom at the end of the period of the visit as stated by him; and
- (iii) does not intend to take employment in the United Kingdom; and
- (iv) does not intend to produce goods or provide services within the United Kingdom, including the selling of goods or services direct to members of the public; and
- (v) does not intend to study at a maintained school; and
- (vi) will maintain and accommodate himself and any dependants adequately out of resources available to him without recourse to public funds or taking employment; or will, with any dependants, be maintained and accommodated adequately by relatives or friends; and
- (vii) can meet the cost of the return or onward journey.; and
- (viii) is not a child under the age of 18.

Requirements for leave to enter as a child visitor

46A The requirements to be met by a person seeking leave to enter the United Kingdom as a child visitor are that he:

- (i) meets the requirements of paragraph 41 (i)-(vii); and
- (ii) is under the age of 18; and
- (iii) can demonstrate that suitable arrangements have been made for his travel to, and reception and care in the United Kingdom; and
- (iv) has a parent or guardian in his home country or country of habitual residence who is responsible for his care; and
- (v) if a visa national:
 - (a) holds a valid United Kingdom entry clearance for entry as an accompanied child visitor and is travelling in the company of the adult identified on his entry clearance, who is on the same occasion being admitted to the United Kingdom; or
 - (b) holds a valid United Kingdom entry clearance for entry as an unaccompanied child visitor.

Visitors in transit: Requirements for admission as a visitor in transit to another country

47. The requirements to be met by a person (not being a member of the crew of a ship, aircraft, hovercraft, hydrofoil or train) seeking leave to enter the United Kingdom as a visitor in transit to another country are that he:

- (i) is in transit to a country outside the common travel area; and
- (ii) has both the means and the intention of proceeding at once to another country; and
- (iii) is assured of entry there; and
- (iv) intends and is able to leave the United Kingdom within 48 hours.

Visitors seeking to enter or remain for private medical treatment: Requirements for leave to enter as a visitor for private medical treatment

- (i) meets the requirements set out in paragraph 41 (iii)-(vii) for entry as a visitor; and
- (ii) in the case of a person suffering from a communicable disease, has satisfied the Medical Inspector that there is no danger to public health; and
- (iii) can show, if required to do so, that any proposed course of treatment is of finite duration; and
- (iv) intends to leave the United Kingdom at the end of his treatment; and
- (v) can produce satisfactory evidence, if required to do so, of:
 - (a) the medical condition requiring consultation or treatment; and

- (b) satisfactory arrangements for the necessary consultation or treatment at his own expense; and
- (c) the estimated costs of such consultation or treatment; and
- (d) the likely duration of his visit; and
- (e) sufficient funds available to him in the United Kingdom to meet the estimated costs and his undertaking to do so.

Visitors seeking to enter for the purposes of marriage: Requirements for leave to enter as a visitor for marriage

56D. The requirements to be met by a person seeking leave to enter the United Kingdom as a visitor for marriage or civil partnership are that he:

- (i) meets the requirements set out in paragraph 41 for entry as a visitor; and
- (ii) can show that he intends to give notice of marriage or civil partnership, or marry or form a civil partnership, in the United Kingdom within the period for which entry is sought; and
- (iii) can produce satisfactory evidence, if required to do so, of the arrangements for giving notice of marriage or civil partnership, or for his wedding or civil partnership ceremony to take place, in the United Kingdom during the period for which entry is sought; and
- (iv) holds a valid United Kingdom entry clearance for entry in this capacity.

Student Visitors: requirements for leave to enter as a student visitor

56K. The requirements to be met by a person seeking leave to enter the United Kingdom as a student visitor are that they:

- (i) are genuinely seeking entry as a student visitor for a limited period as stated by them, not exceeding six months; and
- (ii) have been accepted on a course of study which is to be provided by an organisation which is included on the Register of Education and Training Providers; and
- (iii) intend to leave the United Kingdom at the end of their visit as stated by them; and
- (iv) do not intend to take employment in the United Kingdom; and
- (v) do not intend to engage in business, produce goods or provide services within the United Kingdom, including the selling of goods or services direct to members of the public; and
- (vi) do not intend to study at a maintained school; and
- (vii) will maintain and accommodate themselves and any dependants adequately out of resources available to them, without recourse to public funds or taking employment; or will, with any dependants, be maintained and accommodated adequately by relatives or friends; and
- (viii) can meet the cost of the return or onward journey; and
- (ix) are not a child under the age of 18.

Students: Requirements for leave to enter as a student

57. The requirements to be met by a person seeking leave to enter the United Kingdom as a student are that he:

- (i) has been accepted for a course of study which is to be provided by an organisation which is included on the Department for Education and Skills' Register of Education and Training Providers, and is at either;
 - a) a publicly funded institution of further or higher education; or
 - b) a bona fide private education institution which maintains satisfactory records of enrolment and attendance; or
 - c) an independent fee paying school outside the maintained sector; and
- (ii) is able and intends to follow either:
 - a) a weekday full time course involving attendance at a single institution for a recognised full time degree course at a publicly funded institution of further or higher education; or

- b) minimum of 15 hours organised daytime study per week of a single subject, or directly related subjects; or
- c) a full time course of study at an independent fee paying school; and
- (iii) if under the age of 16 years is enrolled at an independent fee paying school on a full time course of studies which meets the requirements of the Education Act 1944; and
- (iv) intends to leave the United Kingdom at the end of his studies; and
- (v) does not intend to engage in business or to take employment, except part time or vacation work undertaken with the consent of the Secretary of State for Employment; and
- (vi) is able to meet the costs of his course and accommodation and the maintenance of himself and any dependants without taking employment or engaging in business or having recourse to public funds.

The relevant requirement for leave to enter or remain as the spouse or civil partner of a student or prospective student

76. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the spouse or civil partner of a student or a prospective student are that::

- (i) the applicant is married to or the civil partner of a person admitted to or allowed to remain in the United Kingdom under paragraphs 57-75 or 82-87;

The relevant requirement for leave to enter or remain as the child of a student or prospective student

79. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the child of a student or prospective student are that he:

- (i) is the child of a parent admitted to or allowed to remain in the United Kingdom as a student or prospective student under paragraphs 57-75 or 82-87;