



The Independent Monitor for Entry Clearance refusals without right of appeal

Report on my visit to Dhaka: November 2008

BACKGROUND

- **Application processes:** Most applicants complete a paper Visa Application Form and then attend the Visa Application Centre run by VFS, UK Border Agency's commercial partner, to pay the application fee, provide biometric data and submit their application. Only 2% of applicants complete an on-line form using the visa4UK system, after which they attend the Visa Application Centre by appointment. This is very low proportion and there should be more encouragement to apply on-line.
- **Demand:** In financial year 2007-08, Dhaka received 44,751 UK applications, a decrease of 0.2 % over the previous year. From April to October 2008, demand fell by 5.4% compared with the same period last year. Excluding children, whose applications cannot be counted separately, 22.5% of applications are for non-family visits.
- **Refusal Rates:** In 2007-08, the overall refusal rate was 43.9% and that has risen slightly since April 2008 to 43.8%. From August to October 2008 I found that non-family visit visa applications (excluding children) had a refusal rate of 21.6%, Business Visitors, 25.5%, and Student Visitors, 27.1%. Data for short term students was not adequately robust. Tier 1 of the Points Based System had a refusal rate of 13.5% based on 37 decisions.
- **Staffing:** My briefing note from the UK Border Agency listed 18 staff at Entry Clearance Officer grade and 6 at Entry Clearance Manager grade. The reality was very different, with 7 Entry Clearance Officers and a risk assessment officer and 2 Entry Clearance Managers, plus an Airline Liaison Officer and Deputy. This significant difference in headquarters' count of resourcing and actual staff in Post is of great concern, especially as some of the staff included in the briefing left Dhaka almost a year ago. **I recommend** (1) that the UK Border Agency finds out why the briefing was so inaccurate and confirms if its own records of resources have been based on the wrong data. The visa office has a complement of administrative support staff but I did not check to see if the numbers provided in the briefing were accurate.

Comment [L1]:

Comment [L2]:

Comment [L3]:

UKBA Response

Recommendation accepted.

The staffing figures provided in the briefing related to HR "slots" used for planning purposes and which included some vacant posts and a post that has been deleted. This is not the same as actual numbers of staff in Post at any given time. UKBA accepts that in future briefing for the IM should make clear how many staff, and of what description, are working at the Post in question.

- **Surplus and Deficit:** In 2006-07, the most recent figures available, the visa operation in Dhaka recorded a deficit of £3,024,528.

The Independent Monitor for Entry Clearance

The Independent Monitor team

Many formal inspectorates work with staff seconded from the mainstream business for short periods. This has the advantage of a steady flow of fresh eyes and the team member takes learning points from his or her participation back into the business. At my request, the UK Border Agency International Group asked its regions and headquarters projects to nominate staff on the basis of excellent performance. I have selected 8 people of varying grades and for this monitoring visit an overseas Entry Clearance Manager and a member of headquarters' staff worked with me on the file sample and on projects about Tiers 2 and 5 of the Points Based System and guidance for visa staff. The Chief Inspector of the UK Border Agency, who will take over the Independent Monitor's role next year, accepted my invitation to join me and welcomed the opportunity to see at first hand how an overseas visa office worked and how I undertake monitoring visits. Whilst I am grateful for their assistance, this report and my conclusions and recommendations are mine and mine alone.

The programme

I issued instructions for the file samples and registers I wished to assess. We talked with staff in all roles. We visited the Visa Application Centre and spoke with staff and applicants. We had a useful working lunch with visa officials from the Canadian and Australian High Commissions and the French Embassy who commented that the inter-office network had been less active recently; I thought it was worth reviving. We visited the lively and well informed British Council and I was pleased to note its excellent working relationship with the visa office. The Acting High Commissioner hosted an enjoyable reception where I met key people from Bangladesh, especially in the student sector.

First impressions

I thought that the VFS Visa Application Centre was clean, tidy, smart and welcoming and well located in a busy business district. The waiting room at the High Commission was of a very high quality and my only concern was that interview booths had half height doors so conversation might be overheard.

Decision quality file sample

Whilst generating the file sample, I noted a problem with the accuracy of data entry on the case management system, amounting to an error rate of at least 25%. The team undertook to correct the data on the files I saw. Failing to amend default settings when a visa is refused appears to be a major problem globally and explains some of the problems the UK Border Agency Visa Services Directorate has had generating my global file samples. Good planning, and especially good resource planning, depends on good data and the UK Border Agency should be acting on the problems I repeatedly find.

We reviewed 103 files where visas had been refused on randomly selected dates in August, September and October 2008, for applications with limited appeal rights in categories within my remit. Using my 5 point scale to assess whether the decision and Refusal Notice is lawful and reasonable, Dhaka scored 78.6%, placing it in the Poor band and significantly below the most recent global average of 85.6%.

The Independent Monitor for Entry Clearance

I am pleased to record that all the sample cases had been assessed against the correct **Immigration Rules**. I noted that 3% of the applications would, from 27 November, be assessed against the revised Business Visitor Rules relating to religious workers which will, I think, be helpful. I found that all the sample cases had been given correct **information** on appeal rights and there were no examples of **maladministration**.

There was a single cause of the low score: 21% of the Refusal Notices included reasons and comments that directly contradicted material **evidence** provided in the application form and supporting documents. For example, alleging that a UK sponsor's letter was in poor English, when the sponsor's letter was fine but the Bangladeshi applicant's letter had poor grammar and spelling; the reason for refusal was the UK sponsor was not genuine and that cast doubt on the genuineness of the applicant. Inaccurate claims such as this make the decision as a whole unsound. The team of Entry Clearance Officers willingly re-assessed these faulty cases and in five of them found that the visa should have been issued. In a third of the remainder, the Refusal Notice was sufficiently faulty for it to be corrected and re-issued with an apology.

I note in particular problems with reading and analysing bank statements and recommended that the team consider asking senior local back staff to run a training event for Refusal Notice drafters and Entry Clearance Officers. Given the common assertion that a fluctuating bank account is not a genuine business bank account, it would be useful for banks to show what a genuine business bank account might look like. Financial information also needs to be split into the evidence that relates to circumstances in Bangladesh, such as a regular income which relates to being a genuine visitor, Immigration Rule 41(i), and intending to leave the UK, 41(ii), against having sufficient funds to pay for maintenance and accommodation in the UK, 41(vi) and travel 41(vii).

In one of the cases I referred back to be reconsidered, I noted that a document had been verified and, according to a signed report, had been found not to be genuine. The Entry Clearance Officer had not, however, referred to that in the Refusal Notice and the grounds for refusal did not include Immigration Rule 320 (7A). Consistency across a team of Officers is a vital component of fairness and Dhaka accepted my recommendation to re-issue the Refusal Notice with the additional ground. Rule 320 (7A) was used in 11% of the sample overall and in all those cases the evidence was set out clearly and supported by a good Document Verification Report. I reminded Entry Clearance Officers that they must sign the Report and confirm what weight they place upon it, and to take care with the difference between false statements and non-disclosure.

The application process starts with Risk Assessment staff completing risk profile sheets which determine the decision making process. I thought that the risk assessment work appeared to be evidence based and fully integrated into the visa office. I repeat my concern about risk based assessment reports being separated from application files because that makes adequate reviewing and auditing impossible. I also emphasise that the risk report is an indicator and not a decision.

In the feedback session, we had a useful discussion on how to handle an unsigned visa application form. I noted that the Visa Application Centre staff mark that a form is unsigned but they cannot refuse to accept an application should the applicant wish to submit it unsigned or only partially completed. After my Ottawa visit in 2007, UKvisas issued guidance confirming that the form should be signed, but should an unsigned form be returned to the applicant or should the Refusal Notice say that as the applicant has not consented to the

The Independent Monitor for Entry Clearance

handling of their personal data nor confirmed the information provided is accurate, it has not been possible to assess if they meet the requirements of the Immigration Rules? It is appropriate to have global consistency on this so **I recommend** (2) that UK Border Agency issues instructions.

UKBA Response

Recommendation accepted. Instructions on how to handle unsigned Visa Application Forms (VAFs) have been issued direct to the Commercial Partner global network. Staff in Visa Application Centres will advise applicants that if they do not sign the VAF the Entry Clearance Officer may not be able to give full consideration to the application and that it may be refused on those grounds.

Turning to my 5 pointers to assess the **quality** of the Refusal Notices, I found that they were generally neat and tidy with very few spelling or typo errors. From mid September, when an Entry Clearance Officer drew an error to the team's attention, they included the correct up to date version of Immigration Rule 41 for visitors and also the period and purpose of the proposed visit. Notices do need to list the key documents that have formed the basis of the decision.

The Points Based System

Applications from Tier 1 of the Points Based System are included in my overall file sample. I noted that 40% (of a small sample of 5 cases) had led to an application for Administrative Review, which seems high. I found that some of the reasons for refusing to award points were overly brief and the proportion of claims for Review could be reduced if there were clearer explanations in the Refusal Notice. For example, if a document is found to be not genuine then the Refusal Notice does need to confirm 0 points and explain why, rather than leave the section blank. There is also confusion between a UK college being registered by the Department for Innovation Universities and Skills and the Points Based requirements for qualifications. A little more detail in Refusal Notices will influence understanding and that is important in the early days of this new system.

We undertook a detailed look at preparations for Tiers 2 and 5 which came in on the final day of the visit. Our research on web based information was quickly out of date because it was clear that changes were being made on an almost daily basis. I have, however, provided a detailed note outlining some of the problems we found so that necessary corrections can be made. This last minute rush is not the best way to launch a new visa assessment process and I hope that the launch of Tier 4 in the Spring is better paced.

The Points Based System depends on verifiable information. The Dhaka visa team explained that most bank statements cannot be verified because of lack of confidence in the integrity of checks made. I do not doubt that is a problem but I thought the response and attitude to be unduly defeatist and negative. **I recommended** (3) that the team, with the help of the High Commission as a whole, looks at developing imaginative ways of improving verification, perhaps sharing experience with other countries' missions and engaging with senior bank officials. Unless that is done, there is the risk that a very high proportion of visa applications under Tiers 2 and 5 (and later on Tier 4) will be routinely refused and that would cause understandable concern. The visa team need to show that they have tried to resolve the verification problem, and tried with an open and creative mind.

UKBA Response

The Independent Monitor for Entry Clearance

Recommendation accepted. Liaison has begun, through the Risk Assessment Unit, to build up reliable contacts with both private and government banks to engender a more structured and effective system of verifying bank statements and other documents originating from banks. Post is running an exercise to identify reliable points of contacts in banks to establish compliance with verification procedures. It has started to arrange visits to the head offices of both the state owned banks (of which there are 6) and the Private banks (of which we have identified at least 35). It is the less well known banks and the government owned banks that tend to be more prolific in attracting the production of fraudulent documents and giving unreliable statements as to the authenticity of documents. We are seeking to make contacts at the head offices of all banks and these will hopefully be where we do checks on Tiers 1, 2 and 5 cases.

Post will also visit the Bankers Association in Bangladesh in January 2009 to raise the issue with them and look to get them on board with publicising their self regulation policy and the mutual benefits in establishing reliable points of contact with their member institutions. Post is considering offering an expedited service for visa applications supported by their organisation as an incentive to engage. Once sufficient contacts are made we intend to hold a seminar, certainly before the introduction of Tier 4 of PBS and tie in the importance of the verification process. Post will offer feedback to banks in the form of advising of corrupt officials (although only with a high level of evidence to support it). Any findings will be shared with friendly missions. It is worth noting that all other missions recognise that UKBA are the most efficient in dealing with bank documents and will be asked for advice more often than receiving information. From January the meetings with the core group of missions (US, France Canada and Australia) will be resumed.

Post decision correspondence and complaints

I noted that complaints that had been made recently were being recorded in detail and had had good responses. I also found a healthy level of applicant feedback at the Visa Application Centre with excellent, courteous, detailed responses from the Manager there.

Given the high level of factual errors in the Refusal Notices in the file sample, I was concerned to see that none of the applicant had written in after the decision. In an open and fair system, and in a country where there is good use of English, one would expect aggrieved applicants to write in with complaints and corrections. The errors with evidence were very obvious and the low level of complaints may indicate that applicants do not feel they can challenge "the British High Commission". **I recommend** (4) that the visa team give careful thought to any barriers to complaints and act to reduce and remove them. I emphasise that there must be an accessible and robust complaints process for applicants with limited appeal rights given the long term consequences of an allegation that a document or statement are not genuine.

UKBA Response:

Recommendation accepted. Following the visit Post has already introduced a more structured approach to responding to correspondence and complaints which includes the input of the Entry Clearance Officer (ECO) who made the decision. Dhaka is undertaking a thorough review of its complaints system and will report back on progress by 31 January 09.

Previously all correspondence was dealt with by correspondence unit, (which was housed within Casework section) who often sent out stock replies. Now all correspondence will be referred to the relevant ECO or Entry Clearance Manager (ECM) or (if appropriate) the Operations Manager who will either reply direct or draft responses to address the specific points made in correspondence for the casework section to respond on their behalf. Letters of complaint are administered by a dedicated member of staff who logs the complaints, distributes

The Independent Monitor for Entry Clearance

them to the specific officer, monitors progress of the response and logs the response and any lessons learnt in the complaints register.

Post acknowledge that it receives minimal complaints but feel it is worth noting that the majority of refusals are in categories that attract a full right of appeal and as a result is one of the largest recipients of appeals against Entry Clearance Refusals in the world.

Post has ensured that our complaints procedure, with information on how and where to submit complaints is clearly available in the visa section waiting area, at the Visa Application Centres (VACs) and are prominent on websites. The latest figures for customer service on the Balanced Scorecard (for November) indicate a 98% satisfaction rating. On regular visits to the VACs Regional Managers check the complaints register to ensure that complaints responded to by the Commercial Partner are specific to their service and are not more applicable to the visa section at the British High Commission.

OVERVIEW

I am, in my visits to Posts, increasingly concerned that material evidence is being misread or overlooked – Entry Clearance Officers generally tell me that there is productivity pressure and that they do not have enough time to go through applications carefully. In Dhaka, the Entry Clearance Officers who were asked to reconsider cases said that the faulty Refusal Notice had been drafted by a locally engaged member of the administrative support staff but, without prompting, they accepted full responsibility for not checking the assistant's work carefully enough.

I have, therefore, considered whether the decision process in Dhaka is fair and reasonable as it differs from the traditional model. I thought that Entry Clearance Officers were swayed by scorings provided by the risk assessment unit and did not always check that the scorings were well founded. The standardised paragraphs that assistants pop into templated draft Refusal Notices are written and approved by Entry Clearance Officers and I find it reasonable for locally engaged staff to do that as they have a deeper understanding of local documents and circumstances. The drafts have to be accurate though, and there were too many mistakes. Entry Clearance Officers were not checking the draft Refusal Notices thoroughly enough. Entry Clearance Managers, who chose to continue with reviewing 100% of Refusal Notices, have not made adequate in depth checks but have been skimming the surface. The problem is not, therefore, that the process model is wrong, but that there has been poor attention to quality assurance and too much has been taken for granted. Dhaka needed to be reminded that Entry Clearance Officers make the decision and that they and they alone are responsible for deciding and evidencing whether a visa application meets, or fails to meet, all the requirements of the relevant Immigration Rules and for approving a Refusal Notice that is lawful and reasonable as well as of adequate quality. [UKBA comment: UKBA accepts the need for closer scrutiny.](#) [Post has introduced new procedures to ensure Entry Clearance Officers \(ECOs\) check the application form and supporting documents to ensure that the conclusion that the Entry Clearance Assistant \(ECA\) has reached is based on all of the evidence and not simply the rating given to the application by the Visa Section Risk Assessment Unit. In addition, ECOs will give regular feedback to the ECAs and refresher training offered where necessary.](#)

I rate Dhaka **Good** for information provision generally and I found that post decision correspondence handling was generally **Good**. Decision quality was, however, **Poor** and the administrative drafters, Entry Clearance Officers and Managers need to focus on the need to be

The Independent Monitor for Entry Clearance

scrupulously accurate with evidence. Given the low rating for decision quality, my overall assessment is that performance in Dhaka is **Poor** because its good points are not strong enough to offset a significant problem. The visa team knows what needs to be done and I am confident that, with good leadership, all team members can work together to make the necessary changes.

Comment [L4]:

L M Costelloe Baker
Independent Monitor

Comment [L5]: