



The Independent Monitor for Entry Clearance refusals without right of appeal

Report on my visit to Tehran: October 2008

BACKGROUND

- **Application processes:** Applicants complete an on-line form using the visa4UK system and then attend in person first of all a bank to pay the application fee, and then the British Embassy where they deliver a signed copy of the Form and provide biometric data. I thought that the fee taking arrangements exposed Embassy staff to unacceptable levels of risk and I recommended (1) that urgent action was taken. I am pleased to report that an Entry Clearance Manager made immediate changes, but this is a temporary solution which needs to be followed up because there should be no possibility of an irritated queue developing.

UKBAIG Response:

Accepted and implemented. New procedures have been put in place to avoid queues and remove the need for an Embassy employee to be present at the bank to check the correct fee is paid.

- **Demand:** In financial year 2007-08, Tehran received 38,676 UK applications, a decrease of 6.7 % over the previous year. From April to August 2008, demand fell by 12.6% compared with the same period last year. Excluding children, whose applications cannot be counted separately, 41.6% of applications are for non-family visits.
- **Refusal Rates:** In 2007-08, the overall refusal rate was 23.6% and that has fallen slightly since April 2008 to 22.7%. From July to September 2008 I found that non-family visit visa applications (excluding children) had a refusal rate of 23.6%, Business Visitors, 1.6%, Student Visitors, 26.5%, and Short Term Students, 58.6%. Tier 1 of the Points Based System had a refusal rate of 34.8% based on 23 decisions.
- **Staffing:** There are 4 Entry Clearance Officers and 2 Entry Clearance Managers plus a complement of administrative support staff. The Risk Assessment Officer post is vacant at the moment and the intention is that it will not be filled at Tehran given the plan to move decision making to a regional hub.
- **Surplus and Deficit:** In 2006-07, the most recent figures available, the visa operation in Tehran recorded a surplus of £5,546,383.

The programme

I issued instructions for the file samples and registers I wished to assess. I talked with staff in all roles. I visited visa offices in the Canadian, French and Australian Embassies, all of which were very helpful in understanding visa work in a challenging environment. I thought there was room for a stronger network between the various Embassies, though I noted good contacts in risk assessment.

Comment [L1]:

Comment [L2]:

Comment [L3]:

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Information

To provide a sensible information path, all you need to do is stand at each information point (internet, street, waiting room, interview room) and think about what an applicant needs to know at that stage. This thoughtful approach prevents information overload and reduces confusion. I thought it would be sensible to make information outside the Embassy on how to apply (not here, on-line) more prominent, and on the website the applications process should be presented in a clearer step by step order. I made some minor recommendations on notice board information on the street, though it was generally good. In the waiting area I thought there was a missed opportunity to have bold notices explaining that this was the Last Chance to check that the Application Form and documents were truthful and genuine - and the penalties if they were not – to replace a plethora of small print notices scattered around.

Risk Assessment

Risk Assessment staff, now without a UK based Officer, complete risk profile sheets which Entry Clearance Officers have to hand before reaching a decision. From what I could see, I thought the evidence base for the profiles was reasonably sound and based on facts rather than assumptions. I did not find the very brief record helpful however, and thought that the staff completing the profiles should explain their scoring in more detail. Entry Clearance Officers varied in how far they felt they could rely on the profile conclusions.

I was concerned to find that the completed sheets are filed separately from the case file. This meant that my own file sample did not include the sheets but, more importantly, a reviewing Entry Clearance Manager does not see them. This key part of the decision process does need to be fully integrated and **I recommend** (2) that the sheets are filed with the case papers. I gather that practice changed when one was handed to an applicant, but a mistake should not lead to overall poor practice in the way that it has.

UKBAIG Response:

Accepted and implemented. Completed sheets are now kept with case files at all stages of the assessment and review process. To avoid the risk of sheets being inadvertently returned to applicants, staff returning passports carry out a check of all documents being handed over.

Decision quality file sample

I reviewed 76 files where visas had been refused, in the last week of September and in mid October 2008, on 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, Tehran scored 66.0%, well down into the Poor band and significantly below the global average of 85.6%.

I found in 18 Student Visitor or Short Term Student applications, that 5 had been determined against the wrong set of **Immigration Rules**. I found that the fee taken matched the handwritten category note made by administrative staff, but Entry Clearance Officers tended to rely on the on-line Application Form and not see the applicant's change of mind at the point where the fee is taken. Correcting this, as well as the better global information recently put in place, will put this error right very quickly.

More seriously, 25% of the Refusal Notices included comments that directly contradicted **evidence** provided in the application form and supporting documents, such as misreading a

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document verification report which confirmed that bank funds were both genuine and adequate. I also noted unfairness when an applicant was refused on the grounds of providing only copy bank statements because a linked application, with the original bank statement evidence of a joint bank account, had been handled by a different Entry Clearance Officer and the visa issued. This showed that allocation and recording procedures are not adequate because both applications should have been handled by the same Entry Clearance Officer.

All but two of the Refusal Notices had the correct information on **appeal rights** and both of these cases were reconsidered whilst I was there having been wrongly assessed first time round. To demonstrate how poor performance could be, the Refusal Notice in one of these applications started off as a 14 day business visit but by page two became a 3 year student application. It is a pity that the applicant did not complain.

I was concerned by the use of two routine standard paragraphs. I find it unfair to refuse an application on the grounds that the UK based friend has not provided evidence of their immigration status when there is no requirement for them to do that and it is not included in the supporting documents checklist for a non family visitor. If there are sound reasons for refusal on other, valid grounds, then this reason is unnecessary padding, as is a failure to explain what a tourist wishes to see and do when the application form does not ask for that level of detail.

Applications from Tier 1 of the Points Based System are included in my overall file sample but it is worth noting that the quality of these was good. UK Border Agency International Group has recently improved information about the maintenance requirements but I noted that in Tehran the reason for refusal in 4 of the 9 sampled cases was a failure to provide bank statements, suggesting that information on this requirement needs to be clearer.

Managers willingly agreed to have the problem cases reconsidered and those that were reassessed by a different Entry Clearance Officer highlighted significant differences in the use of evidence. Consistency across a team of Officers is a vital component of fairness and I **recommended** (3) a short and intensive series of team meetings to secure improvement.

UKBAIG Response:

Accepted and implemented. Following the IM's visit the ECM held one to one sessions with each of the ECOs to discuss decision making and is now holding weekly meetings with all the ECOs to ensure a consistent approach. The ECM is now using the IM's matrix to review refusals. The Regional Operations Manager will carry out a follow-up review in January 2009, subject to the issue of a visa.

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. They included the correct up to date version of Immigration Rule 41 for visitors. A recent push to include positive points where appropriate had clearly been misunderstood because adding "I have taken account of your CV" randomly placed after the reason for refusal is not what I mean. Fortunately I was able to show the team a very good simple short paragraph in one Refusal Notice, which noted the level of financial sponsorship available (the positive point) adding that it was not enough for maintenance and accommodation (the reason for refusal).

I was surprised to find low take up of verification checks. Only 8% of the cases had had evidence verified and only half referred to that in the Refusal Notice. Letting applicants know that information may be verified is a very good way of influencing behaviours – one of the four key stages of UK Border Agency's work. I make no recommendation on this as the September 2008 Operational Report has already noted concern that not enough verification of supporting

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documents is carried out. I do add, however, that verification can be a simple phone call by the Entry Clearance Officer where language allows, and that they need to be imaginative and case specific.

Noting the team's concern about being harshly criticised for issuing a visa to someone who applies to remain in the UK, I emphasise that paying proper attention to evidence is not the same as lowering the refusal rate. If an applicant demonstrates that, on balance, they meet the requirements of the Immigration Rules, the visa should be issued along with an adequate record of the evidence taken into account and the reasons for the Entry Clearance Officer's decision. That is defensible practice and should be mirrored by equally defensible, evidence based practice if the application does not meet the Rules, regardless of whether the applicant has a full right of appeal.

Post decision correspondence

In the file sample, I found that 2.6% of cases had post decision correspondence on the file. I referred one response back as the complaint mentioned race discrimination but the Entry Clearance Officer's courteous reply did not include re-serving the Refusal Notice with full information on how to appeal under the Race Relations Act, as required by UK Border Agency International Group. I also examined the complaints register and commend the Manager for including a sensible amount of detail which allows proper overview and analysis. I have commented before that regional complaint handling guidance is amongst the best I have seen and in Tehran I noted an excellent and detailed response to a complaint about the use of Immigration Rule 320 (7B).

Comment [L4]:

Protection of personal data

Tehran does not have an empty desk policy, but it should. I was concerned to see files left out, and in quantity, though during my visit staff identified a lockable room where files could be stored without the need to run up and down flights of stairs. I was even more concerned to find paper with personal data being disposed of in bins which were collected by local cleaners and disposed of who knows where, rather than being shredded as required by the UK Border Agency. Given the number of reminders about personal data, my findings in Tehran are both worrying and disappointing.

OVERVIEW

Whilst my findings with regard to decision quality are very critical, all of the Tehran team were wholly positive in their attitude and reactions throughout my visit. I do think that morale and commitment is affected by an as yet undetermined date to spoke decision making into a regional hub. The regional Operations Manager has already conceded that the changing of plans was not well handled by the UK Border Agency, promising to do better in future. That promise needs to be turned into positive action and I think it would be helpful for a hub and spoke programme manager to visit Tehran to provide direct information about timetables. Change can be faced, but uncertainty is hard to bear and there is no consistent understanding of even a draft timetable for the move. I also note that a number of the Entry Clearance Officers have already extended their moving dates but if the hubbing date is moved further into 2009 there is the risk that the visa office will need to depend on temporary staff, which is not ideal.

Turning from context to conclusions, I rate Tehran **Good** for information provision generally and I found that Post decision correspondence handling was generally **Good**. Decision quality

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was, however, **very Poor** and the team need to focus hard on the need to improve. They are working their way through a sensible list of points from the Operational report and I have, therefore, limited my recommendations to the most important ones – evidence, verification and consistency.

Given the very low rating for decision quality, my overall assessment is that performance in Tehran is **Poor** because the good points are not strong enough to counterbalance. Where there are significant problems, I do consider whether Visa Services headquarters should obtain a further file sample in a few months time. I have thought carefully about this but given the open and constructive response to my findings and feedback I trust the team to undertake the necessary work without needing additional checks. Both Entry Clearance Managers asked for a copy of my file assessment method and I hope that using this, along with the case examples from my Parliamentary Reports, will help with their reviews. Those reviews need to be in depth and in detail for the next few weeks.

L M Costelloe Baker
Independent Monitor

Comment [L5]: