

## Report on my visit to New Delhi: June 2008

### BACKGROUND

- **Application processes:** Applications handled in New Delhi are made through Visa Application Centres (VACs) run by UK Border Agency's commercial partner, VFS Global. All applicants attend a northern India VAC in person to deliver a signed copy of the Visa Application Form, pay the application fee and provide biometric data. From March 2008, applications from Nepal are routed from a VAC in Kathmandu for the decision to be made in New Delhi. From April 2008, applications from Kolkata are similarly routed through to New Delhi.
- **Demand:** In financial year 2007-08,
  - New Delhi received 140,000 UK applications, a decrease of 5.4 % over the previous year. Excluding children, whose applications cannot be counted separately, 44.8% of applications are for non-family visits.
  - Kolkata received 16,738 UK applications, a decrease of 16.7% over the previous year. Excluding children, whose applications cannot be counted separately, 48.5% of applications were for non-family visits
  - Kathmandu received 12,597 UK applications, a decrease of 28.2% over the previous year. Excluding children, whose applications cannot be counted separately, 15.8% of applications were for non-family visits.
- **Refusal Rates:** In 2007-08
  - New Delhi: the overall refusal rate was 27.6% and that has fallen since April to 20.7%.
  - Kolkata: the overall refusal rate was 3.9 % . No figure was provided for more recent cases.
  - Kathmandu: the overall refusal rate was 32.4%. Since moving decision making to New Delhi the refusal rate has risen to 53%.

I found that visit visa applications combined (excluding children) for March to May 2008 had a refusal rate of 11.3% and non-settlement applications had an overall refusal rate of 17.3 %.

- **Staffing:** There are 20 Entry Clearance Officers, 5.5 Entry Clearance Managers, a Deputy Director Visa Services plus a complement of 87 administrative support staff. In busy periods, New Delhi draws on 9 temporary Entry Clearance Officers and 2 temporary Managers.

## The Independent Monitor for Entry Clearance

- **Surplus and Deficit:** In 2005-06, the most recent figures available, the visa operation recorded a deficit of £4,020,264, though this figure has little current relevance and I have asked the UK Border Agency to provide me with more up to date data.

### 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, UKvisas asked its regions and HQ projects to nominate people on the basis of excellent performance. From the applications submitted to me I selected 10 people of varying grades and for this monitoring visit, two overseas Entry Clearance Managers worked with me on the file sample and on projects about the hub and spoke programme and the Points Based system.

### The programme

I issued instructions for the file samples I wished to assess. We talked with staff from the VAC, and with Entry Clearance Officers, Manager and Assistants. We met visa staff from other countries' Embassies and High Commissions, and staff from the British Council and VisitBritain. The High Commissioner hosted an enjoyable reception where I met a number of Indians with an interest in migration, global travel and business.

## INFORMATION

- **Websites:** In advance of my visit, I drew attention to information on the VFS website which referred to "our" work permit and Points Based systems. I have repeatedly commented that commercial partners should not provide information in a way that might suggest that they make the rules. My recommended changes were made immediately and, overall, I found the VFS website was simple to navigate with clear and accurate information and I noted regular monitoring specifically aimed at Points Based System information.
- **The VAC:** The VAC was of a good standard, smart, well laid out and giving an upmarket initial impression. There were useful things such as counters and clip boards to write on, and plenty of staff to offer help. I liked the biometric DVD, which was unstuffy and I am sure that presenting advance information in this way smoothes and speeds the process. We spoke to waiting applicants who thought the staff were good and welcoming. They liked the token system for the various queues and noted that the overall wait without an appointment was 60-90 minutes. I noted that the VAC has a separate initial waiting area for applicants without appointments and thought this was a very sensible idea; once in the main centre, everyone is moving through the same process. Although I made some minor recommendations - the noticeboard on interview waiting times, consistency of information with the helpline - I thought that the overall performance was excellent.
- **The visa office:** In the British High Commission, texts of the official information leaflets were pinned to a board, a little high up for most readers, and it was not easy to go to the topic that was of interest. I saw little point, for example, in the full text of the Au Pair information, and that was rapidly replaced with a simpler note to say that citizens of eligible countries (India is not one) could ask for further information. Only the English language noticeboard was easily acceptable and the translated versions in Hindi and Punjabi were

## The Independent Monitor for Entry Clearance

behind a roped off area. All my recommendations were accepted and acted on straightaway. I was concerned at some very long waiting periods and note a number of written complaints in that regard. The irritation factor should be slightly reduced by visa staff acting on my own irritation at a 3 minute DVD loop, playing the same music over and over and over . . .

### British Council and student applications

There is a very strong demand for UK based education and a 10% annual growth in India overall, 72% of which is for post-graduate education. Given that market I was surprised to learn that there is little or no lead in to the Points Based System, because other markets have told me that a year lead would be useful for post graduates, and the proposed start is April 2009. I noted that the Council has a good working relationship with visa staff who will take this forward. I also think it would be helpful if the smart British Council information leaflets on study in the UK had simple visa information, such as *you will need a visa before you can study in the UK* and a direct web address such as VFS, for up to date information.

Both the Council and visa staff commented favourably on the trusted partner agents scheme. In order to be preferred partners, the agents must:

- Sign a Memorandum of Understanding;
- Make all of their student applications online;
- Complete a student checklist detailing the student's institution, English ability, funding and previous educational qualifications;
- Undertake verification checks on all financial documentation submitted by the students;
- Report to the UK Border Agency the results of any compliance checks undertaken.

Once the agents have been accepted, UK Border Agency deals with their applications as a priority; they are allowed to advertise their preferred agency status in the local media, using a strapline provided by the UK Border Agency. The benefits of developing a trusted partner system show in that whilst 85% of visas are issued to Long Term Students, there is a 95% issue rate if the application is handled by a partner agent.

### Decision quality file sample

I reviewed 137 files where visas had been refused, in April 2008, on applications within my remit. Compared with the most recent global file sample, using a 10 point quality scale, Refusal Notices scored an overall 86.1%, placing New Delhi in the Good band (global average = 83.7%, regional average = 77.9%). Including Points Based System cases, where there is no global comparator, the score falls to 85.4%.

I was pleased to find that all child visit applications correctly mentioned Immigration Rule 46A. The only **Rules** fault was a well meaning refusal for *not having a work permit*, when the application was for a visit and the refusal should have referred to Immigration Rule 41 reasons, such as not being satisfied that the applicant *does not intend to take employment in the United Kingdom*. New Delhi scored a comparatively good 93% for Refusal Notices being in accord with the **evidence** provided. In two cases, the error was sufficiently serious to consider that

## The Independent Monitor for Entry Clearance

**judgement** was compromised and I recommended that the cases were reconsidered afresh. This recommendation was accepted and acted on immediately. One small matter for attention is applicants correctly stating on the VAF that the cost of their *visit to the UK* will be £400 (or whatever) and the Entry Clearance Officer assuming that the applicant is stating the whole cost of a multi-country European tour which includes 2 days in London. I noted that 96% of the Refusal Notice had the correct **information** on appeal rights and the visa team re-issued Refusal Notices in the cases that did not.

Against this generally positive picture, I had serious concerns about the common practice of copying the text of the husband's Refusal Notice into that of the accompanying wife simply adding *I am not otherwise satisfied that you meet the requirements of the Immigration Rules*. The wife's application should be considered in full, on its own merits and Entry Clearance Officers must justify why the other requirements are not apparently met. There is the risk in some cases of inappropriate disclosure of personal data relating to the husband. There can be real confusion about appeal rights if, for example, the husband has a full right of appeal and the wife's right is limited. **I recommend (1)** that this practice ceases and each application has its own unique Notice. I emphasise that there is no provision for "joint" applications, merely applications that are linked, and whilst New Delhi's practice is one step better than joint Refusal Notices, it is neither adequate nor fair.

UKBA Response:

Recommendation accepted and implemented. Each application will have its own unique refusal notice. Guidance has been circulated to ensure that this is standard practice in all visa issuing Posts in India.

In my Quality of Refusal Notice pointers, **I recommend (2)** that the Notice sets out both the period and the purpose of the proposed visit - New Delhi included only the period. Starting the Notice off with both means that the Entry Clearance Officer has a clear idea of what s/he is looking for because the financial needs for a tourist or family or business visitor are very different even though all are considered under the same Immigration Rule. I was pleased to see that Refusal Notices were more **balanced** than the global average, with positive points in 71% compared with 17% globally. Notices were generally neat and tidy with very few spelling or typo errors, though I share Entry Clearance Officers' concern that grey shading on optional text cannot be removed and I suggested that this is further investigated. There was evidence of verification in 18% of cases and an exact match in that verified evidence was referred to in 18% of the Refusal Notices.

UKBA Response:

Recommendation accepted and implemented. Guidance has been circulated to ensure that this is standard practice in all visa issuing Posts in India.

I spent much of my feedback session with Entry Clearance Officers in a lively discussion on the use of judgement with regard to Immigration Rule 320 (7b) which was introduced in April. I used a real case where the applicant had failed to declare previous visa refusal. At the start, there was an even split between Entry Clearance Officers who thought that IR320 (7b) applied, with a 10 year ban, and those who did not. By the end, there was a minority vote of just one. This type of case based discussion is vital to ensure consistency of judgement, especially when

## The Independent Monitor for Entry Clearance

there are major changes to the Rules. Although I was told that there are briefing meetings, the title suggests that they are managers passing on information and what is needed is Entry Clearance Officers taking responsibility for leading case related debates. **I recommend (3)** that the visa team as a whole decides a suitable size, format and frequency, and that all staff contribute topics and cases.

### UKBA Response:

Recommendation accepted. A more focussed discussion forum has been introduced.

Dedicated training sessions on the changes to Immigration Rule 320 and the introduction of the ten year ban will be delivered worldwide during July and August. Major changes in operational guidance become the subject of specific sessions delivered to all Entry Clearance Officers and Managers as part of the training they receive prior to going overseas. These sessions are also made available, on a supplementary basis, to overseas regions on request.

### Points Based System Tier 1 Highly Skilled Migrants

I reviewed a separate file sample of cases handled under the new Points Based System which was introduced in India on 1 April 2008. Demand has been lower than expected, with 38 applications to the end of May, and I looked at all 15 cases to date where the application had been refused. Given the importance of this pilot launch of a high profile change to the Immigration Rules - "India leads the way" - I was most concerned to note some very poor practice. Entry Clearance Officers consider that they have had adequate training, so the problem is a more basic one of carelessness. Whilst the sample size may be small, there are matters that need immediate attention, and **I recommend (4)** that the specially trained small team address them. I noted that 20% of Refusal Notices were factually inaccurate. I noted that in one case, the Officer had failed to take note, or even see perhaps, adequate funds in a savings account. I noted that these cases had passed a review by an Entry Clearance Manager.

### UKBA Response:

Recommendation accepted. All staff involved in the PBS decision making process have been given an oral reminder of the importance of accuracy and attention to detail. Lessons learned from the advance roll out in India have been incorporated in training and guidance for the worldwide roll out of Tier 1.

Against this, I also saw painstakingly careful Refusal Notices which set out some complicated calculations on funds. I note for workload measurement purposes that it takes a long time to draw up a spreadsheet to show a day by day balance over 3 months if the application is supported by 3 or 4 bank accounts whose balances fluctuate. I know how long, because I needed to do this for 3 of the 15 cases. It would be helpful for the Entry Clearance Officer to keep and print a copy so that it is available for the Reviewer should the applicant apply for Administrative Review. In the meantime, **I recommend (5)** that information on funds should be very clear, and say that the requirement is for £2,800 (+dependents) on each day of a 3 month period immediately preceding the application: £2,800 at the end of each month and not very much in the middle of the month is not adequate. I note also that 25% of the refusals were on the grounds that only copies of bank statements had been provided and **I recommend (6)** that the information on that is strengthened further.

## The Independent Monitor for Entry Clearance

### UKBA Response:

Recommendations 5 and 6 accepted. The guidance relating to maintenance funds has been improved and steps taken to highlight the need for applicants to have the required £2,800 for the full three months prior to the application date as well as the need to provide other supporting documentation – a pop-up was also added to the VFS web site to further highlight this fact for all applicants.

I do note that I like the system of India wide visa section conference calls and commend that as good practice as the Points Based System rolls out.

### Post decision correspondence

In the file sample, we found that 5% of cases had post decision correspondence (global 4.4%), none of which were complaints relating to service. I thought that the quality of the replies was excellent - prompt, courteous, specific, helpful, and with plenty of personal detail which showed the applicant that this was not a standard routine reply. I noted a well kept record of complaints, but did not assess that in detail.

### Overview

I rated New Delhi **Good** for its website information and for information provision generally. Refusal Notices other than for Highly Skilled Migrants also scored **Good** and better attention to evidence will move the score even higher. Performance for Points Based System cases was **Fair** with some glaringly obvious mistakes that had escaped managerial overview. This is a vital area to get right, and very quickly, if all the impressive pre-launch publicity is not to be wasted. Post decision correspondence, on a limited sample, was **Excellent**. My overall assessment is that performance in New Delhi is **Good**.

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