

**Meeting of the Entry Clearance User Panel  
10.00 hours Thursday 14 April 2005**

**Present:**

**User Panel**

Inderjit Bhogal	Churches Together in Britain and Ireland
Richard Dunstan	Citizens Advice
Don Flynn	JCWI
Agnes Gautier	National Union of Students
Kate Handforth	UKCOSA
Clyde James	Office of the Immigration Services Commissioner
Samina Kausar	IAS
Sedi Keshavari	UNHCR
David Main	Association of Regulated Immigration Advisers
Paul Morris	Law Centres Federation
Katie O' Farrell	English UK
Julia Onslow-Cole	International Bar Association
Susan Rowlands	ILPA

**UKvisas/IND**

Robin Barnett (Chair)	UKvisas – Director
Clive Peckover	IND Appeals Directorate
Alison Little	UKvisas – Policy Section
Demelza Govind	UKvisas – Policy Section
Deloris Sterling	UKvisas – Communications Section
Jackie Colton	UKvisas – Head of Communications (Secretary)

**Apologies**

Council of British Pakistanis (Scotland)  
National Organisation of Asian Businesses  
CBI

**1. Introduction**

- Robin Barnett welcomed members, especially new members attending their first meeting.
- He outlined the current situation in respect of rising global demand for visas, with applications up 14% in 2004-5. Applications had increased by 29% over the past two years. There was no indication of any let-up in the rate of increase. We were improving our ability to forecast demand but there would always be factors we could neither predict nor explain. Threats to the immigration control were also continuing to increase, along with levels of fraud and forgery. Our aim is to operate the best possible system in terms of benefit to the UK.
- This meant a continuing need to re-assess and reform the way we work. There was also a need to think ahead and to build in resilience. UKvisas was now working to produce a new updated strategy, including some innovative thinking on processing applications and call-handling. We were committed to the EU directive on incorporating biometrics into the visa application process by 2008, and were working to ensure this would not impact adversely on service standards. In the

longer term, UKvisas is fully engaged with partner agencies on the IND e-Borders Programme to develop an integrated electronic border control system.

## 2. Action Points from previous meeting

Item	Action	Progress
3.1	Provide copies of the Service Level Agreements for outsource partners in Dhaka and Islamabad	Tabled at the meeting
3.2	Write to members once details of changes to the WHM scheme are announced	S Davidson wrote on 8 February 05 D Govind wrote on 4 April 05
3.3	Provide figures on application and refusal rates for WHM applications	With S Davidson's letter of 8 Feb 05
3.4	Consider new guidelines for the admission of spouses to marriage/settlement interviews	For response at meeting
3.5	Circulate summary of action points from last meeting	Attached to November minutes
4.1	Write to members on ECM reviews and acknowledging appeals in Islamabad	A Pond dealt at meeting with members 23 Feb 05
4.2	Chase up the guidance on endorsements promised at the November 03 meeting	With IND for approval
4.3	Arrange for Alex Pond to visit Scotland on her next visit to the UK.	Alex unable to visit Feb 05. L Fussey visited Dec 04
4.4	Let Jackie Colton know if members would like to meet Alex Pond during her visit from 15-20 November.	Meeting with members held 23 Feb 05
8.1	Write to Robin Barnet with any views on the fee levels and structures	No views received
8.2	Write to members on progress of the fee review	Fee review still underway
9.1	Forward ideas on the future of the User Panel to Jackie Colton by 15 December 2004	Views received and incorporated into Next Steps proposals
9.2	Report to members by 31 December	Next Steps report sent to members 26 January 2005
12.1	Advise date and location of next meeting	Done

### **Action Point 3.4**

On behalf of Lorraine Fussey, Demelza Govind reported that the guidance on the admission of sponsors to interviews had been reviewed. Our view is that no changes were necessary: ECOs are able to interview sponsors in marriage/settlement cases where they are available and where this was considered necessary to resolve the case. But in the majority of cases this was not necessary. To impose a requirement for sponsors to attend interviews would place a large financial burden on many couples and would disadvantage those for whom this was not possible because of work or domestic commitments.

- There were no comments arising from the action points

### **3. Operational Overview**

Robin Barnett reported on:

- Pakistan: Real progress had been achieved. Staffing levels were now adequate for current demand and there had been further productivity increases. FedEx service standards were improving which was reflected in a significant reduction in the number of complaints. Current processing times are:

First-time family visits:	12 working days with interview 7 working days on papers
First-time non-family visits:	Less than 1000 cases still outstanding and these will be cleared by end of April
Previous travellers etc:	7 working days
Students:	16 working days.
Settlement applications:	16 weeks with interview 14 weeks on papers.

Committed to returning to full service as soon as possible. There are no plans to restore service for working holidaymakers at the present time; our priority is to ensure that the existing service levels are stable and sustainable.

- Nigeria: Service had been temporarily restricted for first-time visitors aged 18-30 with effect from 11 April 2005. Everything possible had been done to avoid this including increasing staff numbers and raising productivity by 100%, but in the end there had been no alternative, faced with raising demand. There appeared to be a number of different factors driving demand, and the rise in applications was also being experienced by Schengen Missions. Restricting the service in this category was the option which would minimise effects across other categories. These applicants were very resource-intensive with a high refusal rate. The service in Nigeria would be kept under review. Arrangements were in place to deal with any urgent or compassionate cases exceptionally. In the longer term we were looking at the possibility of regional processing centres to build in resilience to deal with surges in demand or situations of political or economic instability. The

e-Borders programme also offered the possibility of remote, electronic processing for low-risk travellers.

- Outsourcing: Since the November meeting outsourced operations had been introduced in both China and Ghana. UKvisas was committed to going forward with outsourcing where this was possible. A review was underway to learn lessons from the past and to ensure we are getting it right. Outsourcing would be a substantive item on the agenda for the next meeting. We would also look at arranging a meeting with Visa Facilitation Services for members if there was demand.
- Working Holidaymakers: We had suspended the service to working holidaymakers at 4 Posts (Colombo, Gabarone, Kuala Lumpur and Windhoek ) with effect from 2 April 2005. This was as a result of overwhelming increase in demand which was damaging service across other categories. Changes to the WHM rules introduced on 8 February 2005 introduced a move towards bilateral agreements with the power for UKvisas to suspend operations where particular criteria were met. These were objective criteria and suspension was subject to Ministerial approval. The suspension applied to only 4 of around 150 participating countries. We would monitor the situation closely and aimed to resume service as quickly as possible.

#### Action points

- 3.1 UKvisas to provide members with figures for SBS applications and refusals by Post.
- 3.2 UKvisas to arrange a briefing on outsourcing with Visa Facilitation Services.
- 3.3 Members to receive invitations to “International Students: Delivery through Partnership” an event for education sector stakeholders to be held on 24 May 2005.
- 3.4 Members to continue to forward to UKvisas copies of any student refusal notices which cause them concern.

#### **4. IND 5 year Strategy for Asylum and Immigration**

Robin Barnett highlighted the implications of the recently-published strategy for UKvisas:

- We will be collecting biometric information from all visa applicants by 2008. Tony Mercer will be returning from China to take up the post as Biometrics Programme Director from early July 2005. The technology is tried and tested and being used successfully in Sri Lanka and East Africa. The aim was to ensure no adverse effect on service standards. Planning would include consideration of arrangements for those unable to provide biometric information, for example as the result of a disability. We would arrange a separate programme briefing for members prior to the next meeting.
- The points-based system would mean taking on some of the work currently done by Work Permits UK, and changes to the way we assess student applications. We would take this work forward as part of a holistic Change Programme in partnership with IND. It would offer a more objective means of assessing applications, a principle advocated by the current Independent Monitor. A single

assessment rather than the current two-stage system would be simpler for businesses, applicants and their representatives.

- We await the details of plans on changes to appeal rights.

Members expressed concerns about a number of proposals, including the implications of increased ECO workloads and the English language ability requirements for some categories of entry. Robin Barnett undertook to keep members informed as our planning developed and to provide the opportunity to feed in views where appropriate.

#### Action points

4.1 UKvisas to arrange briefing for members on the Biometrics Programme

4.2 Members to be updated as necessary on implications of the IND 5 year Strategy.

### **5. AIT Implementation**

Alison Little and Clive Peckover provided an overview of the new AIT arrangements and how these would operate at Posts. A copy of Alison's speaking notes are at Annex B. In response to members questions Alison confirmed:

- We were encouraging ECOs to provide full reasons in refusal notices
- Interview notes were routinely supplied in family visit cases. For other cases these would continue to be supplied on request.
- Determinations would continue to go first to POUs for a decision on whether to seek re-consideration. They are committed to getting determinations to ECOs as quickly as possible. Electronic transmission of determinations to five major Posts had been successfully trialled at Angel Square and this would now be extended to Feltham and other locations where possible. We will update members on this at the next meeting.
- Transitional arrangements would apply to pre 4 April cases, and the AIT had taken the view that EC cases would be lower priority.
- There were still appeal cases awaiting processing in Accra, Islamabad, Lagos and New Delhi.

#### Action points

5.1 Update to next meeting on electronic transmission of determinations.

### **6. Independent Monitor**

The Independent Monitor's report on 2003 cases had been submitted to Ministers but it had not been possible to arrange publication before Parliament was dissolved. The report would be published as soon as possible following the General Election, and members would receive a copy on publication.

#### Action points

6.1 Members to receive the Independent Monitor's Report on publication

## **7. Members Forum**

Responses to questions raised by members were circulated in advance of the meeting. A copy of questions and responses is attached at Annex B. Members sought clarification on a number of points:

- Advice to non-visa national students on UKvisas website: We will consider what changes can be made along with any suggestions from members.
- Marriage applications in India: If members are able to provide examples Robin Barnett will raise these with VFS management on his forthcoming visit to India.
- Independent Monitors Report: We are happy to arrange a separate meeting on this if there is sufficient interest.
- Sana'a: Has again had to be closed temporarily but is now open again. Construction of a new embassy building should improve the situation.
- We are happy to undertake an induction programme for new members if there is interest. We will seek members' views.

### Action points

7.1 UKCOSA to consider website advice and provide suggested improved text

7.2 UKvisas to seek views on an induction programme for new members

## **8. Any other business**

The User Panel now has a dedicated page on the UKvisas website (from the home page go to "More about UKvisas") Terms of reference, minutes and other papers will be published there.

## **9. Date of next meeting**

The next full meeting will take place in London in October 2005.

## ANNEX A

### SUMMARY OF ACTION POINTS

Item	Action	Owner
3.1	Provide figures for SBS applications and refusals by Post.	Demelza Govind
3.2	Possible briefing on outsourcing from VFS	See attached questionnaire
3.3	Members to receive invitations to “International Students: Delivery through Partnership”.	Jackie Colton
3.4	Members to continue to forward to UKvisas copies of any student refusal notices which cause them concern.	Members
4.1	Arrange briefing for members on the Biometrics Programme	See attached questionnaire
4.2	Updates as necessary on implications of the IND 5 year Strategy	Robin Barnett
5.1	Update to next meeting on electronic transmission of determinations.	Head of Policy
6.1	Members to receive the Independent Monitor’s Report on publication	Jackie Colton
7.1	UKCOSA to consider website advice and provide any suggested improvements	Kate Handforth
7.2	UKvisas to seek views on an induction programme for new members	See attached questionnaire
9.1	Arrange next meeting	Jackie Colton

## ANNEX B

### MEMBERS FORUM

#### IAS

**1. How would UKvisas envisage a regulatory scheme for overseas advisers working?**

These policy proposals are at a very early stage and it is too soon to speculate how they may work in practice. IND's International Delivery Directorate are leading and we will be working closely with them. We understand that IAS will be meeting with IDD to discuss the proposals on 15 April.

#### IAS

**2. When do UKvisas intend to offer the working holiday makers category in Pakistan?**

The situation in Pakistan is kept under review, and we are committed to expanding the categories of applications as soon as operational circumstances allow.

#### ILPA

**3. Where are applicants' fingerprints are taken? What technology is used (is it the same as in Croydon?). How they are transmitted?**

Fingerprints are scanned electronically at the point of application. They are enrolled either at the front counter of the visa section or by a UK Mission employee deployed in an outsource company's office depending on the application process at Post. Two scanned fingerprints and a scanned photograph are captured and stored on 'Proviso', the local visa-issuing IT system. In outsourced locations biometrics are first captured on a laptop before being transferred via CD to Proviso in the visa section. The data is uploaded to the Central Reference System in the UK via secure telecommunications network. This data is then uploaded to IND's Immigration and Fingerprint System (IAFS) via secure internet connection. IAFS performs an automated check and sends any match results to the Immigration Fingerprint Bureau (IFB) for verification by a trained fingerprint officer. If a match is confirmed, details are returned to Post via UKvisas in the form of scanned copies of relevant documents held in IAFS, forwarded by e-mail.

#### ILPA

**4. We would like to see the relevant figures and justification for withdrawal of working holiday maker visas from Malaysia, Sri Lanka, Botswana and Namibia.**

To be dealt with under agenda item 3

#### ILPA

**5. ILPA has had sight of a letter to MPs informing them that in Nigeria applications for visitor visas have been suspended for 18-30 year olds. On what basis can that be justified?**

To be dealt with under agenda item 3

#### ILPA

**6. We are informed that representatives are unable to get through to Addis Ababa via fax or email. A member informs us that he has been trying to send**

**an urgent fax to Addis Ababa every day since last Friday on a variety of numbers (including the temporary one provided by AG and the one on the website). He has also emailed the reps to the embassy on Friday, but they have not responded to indicate whether they have received the email. He requested a read receipt, which he has not received. He has emailed them again to ask for a response.**

Addis are currently without a fax connection due to ongoing problems with Ethiopia Telecom. They do try and acknowledge receipt of e mails. They are unable to trace any repeat e mails over this period and suspect that they have not got through. If you could forward the relevant e mail to Jackie Colton she will ensure it gets to Addis as a matter of urgency.

#### ARIA

- 7. In regard to Entry Clearance Officers instructions on fiancée applications for marriage in the UK, we have evidence that Visa Facilitation Services associated with Embassies and High Commissions (India for one) are requiring documentary evidence of bookings for marriages of fiancé applicants to take place in the UK during the initial 6 months and are refusing applications unless the evidence is provided in documentary form. The Registrar General's Office has advised a marriage Registrar cannot make a marriage booking until the person is in the in the UK. We are writing to the Registrar General's Office however it seems we need some clarity on just what is required and whether there are any changes since the introduction of the new marriage rules for foreigners in the UK, and what new instructions are being given to ECOs about requirements (if any)?** VFS do not refuse applications, neither do they refuse to accept them. They do warn applicants that incomplete applications run the risk of being refused. We have given no instruction to VFS staff requiring evidence of marriage bookings, and the manager of the Delhi office confirms nothing of this nature has come from them.

We have issued the following advice to ECOs:

Registrars are unable to accept an application by non-EEA nationals to give notice of a proposed marriage unless the non-EEA national(s) hold either a certificate of approval (for those who are already resident in the United Kingdom) or a "visit-marriage" entry clearance. With effect from 15 March, the Immigration Rules state that a marriage visitor must intend to marry **OR** give notice of the proposed marriage during their visit . Most will of course be doing both. ECOs have discretion to issue a multiple entry visa valid for up to one year in cases where there will be a delay between giving notice and the marriage taking place.

ECOs need to be satisfied that the couple intends to give notice of their marriage and/or to marry during their visit. Where simply notice of marriage is being given, the applicant may only have details of an appointment with the registrar. At this stage, no wedding arrangements are likely to have been made. In other cases where the wedding follows quickly after the notice of marriage, the applicant should be able to provide satisfactory evidence of the wedding

arrangements, for example wedding reception/catering arrangements/sight of wedding invitations etc.

#### UKCOSA

- 8. The 'Do I need a UK visa?' section of the UKvisas website needs to be amended. Currently, when someone who is a non-visa/specified national (eg a Brazilian) indicates that the purpose of entering is as a 'student longer than six months' or a 'student nurse longer than six months', they are advised 'no, you do not need a visa'. There is a footnote explaining the new rules which restrict extensions to those on degree level courses, but this is confusing rather than helpful in the face of the very clear message 'no, you do not need a visa'.**

The purpose of the "Do I need a UK visa?" questionnaire is to tell an enquirer whether or not there is a mandatory entry clearance requirement, based on the answers given to the questions on purpose of visit and nationality. There is no mandatory entry clearance requirement for a non visa/specified national intending to stay longer than six months. Therefore, the only correct answer can be "No, you do not need a visa". It would be incorrect to respond otherwise.

The numerous changes and additions to the Immigration Rules on students, charging for leave to remain and granting of leave to enter on arrival has left us with a complex situation in which it is not easy, in the context of the questionnaire, to explain all the permutations that now exist. This unsatisfactory situation will be improved once mandatory entry clearance is extended to all those seeking entry for more than six months, by the end of 2005.

We provide a link from the questionnaire to the Students guidance on the UKvisas website which was also updated in February to advise that only six months leave to enter may be granted on arrival and that a fee is payable for extensions of stay. There is also a link from the Students guidance to the British Council's First Steps guidance which has information on the policy regarding leave to enter on arrival and extensions of stay and costs.

#### UKCOSA

- 9. When can we expect an announcement on when the 'specified nationals' list will be expanded to cover all those non-visa national countries that were not included in phase 1.**

This will come into effect towards the end of 2005. The Home Office will be making a change to the Immigration Rules and we expect an announcement on this shortly. Students travelling to the UK for the start of the 2005-6 academic year will not be affected.

The new entry clearance requirement will apply to all remaining non-visa nationals intending to stay for longer than six months.

#### Camden Law Centre

- 10. Implementation of IAA decision: Why is it that that in some posts it takes more than 3 months to issue in cases of allowed appeal?**

It is for POUs to notify Posts as soon as possible when an appeal has been allowed. We are aware that, unfortunately, delays do sometimes occur, but an

ECO cannot issue an allowed appeal without receiving the determination from the POU. We have reminded ECOs of the importance of dealing promptly with allowed appeals.

We are continuing efforts to improve the current system. The system of electronic forwarding of scanned copies of determinations is continuing on a trial basis, and we hope to be able to extend this in the future. We are meeting with POU Managers in mid April and we hope to be able to report further progress at the next User Panel meeting.

#### Camden Law Centre

**11. Under the new appeal system, would the AIT be able to keep the time table for disposing of appeals. What systems are in place for the ECOs to send the notice of appeal to the AIT without delay?**

The new appeals system has only been operational since Monday 4 April so it is too early to comment on how the new system is working. You may wish to raise your query direct with the AIT or DCA. The key stakeholders will review the new system in a few months.

Under Rule 6(6) of the Asylum and Immigration Tribunal (Procedure) Rules 2005, where a Notice of Appeal is served on an ECO, the ECO must "endorse on the notice the date that it is served on him; and forward it to the Tribunal as soon as reasonably practicable, and in any event within 10 (working) days". This is the procedure we have instructed our Posts to follow. The Notice of Appeal will be sent to the AIT in the UK by Diplomatic Bag.

**12. When is the next report of the Monitor going to be published?**

To be dealt with under agenda item 6

## ANNEX C

### SINGLE TIER BRIEF

#### Overview

- As you will be aware, the long-awaited changes to the appeal process finally took place 10 days ago;
- On 4 April the AIT – Asylum and Immigration Tribunal – replaced the old IAA;
- The new system’s primary focus is to speed up the way in which asylum appeals are dealt with;
- It is designed to be simpler and faster than the old system and offers those using it a clear end-to-end process;
- UKvisas has been working with the DCA and the HO for the last 18 months designing the new system and now we have the challenge of making the new system work.

#### Process

- So what does this new system mean for ECO cases?
- In all, there are not too many major changes that are visible from our Posts overseas, most of the changes occur once the appeals reach the AIT and enter the system;
- **But there are 3 major changes for us:**

- (i) **ECO appeals (all appeals) can now be lodged directly with the AIT in the UK. But the system also allows appellants, if they want, to serve the Notice of Appeal – the new AIT-2 form – on ECOs at Post as before.**

Posts will therefore act as a postbox until the appeal has been lodged with the AIT.

**NB: An appeal is only considered to have been lodged once it has been received and acknowledged by the AIT;**

- (ii) **APC3 in the HO is no longer part of the main ECO appeals process;**
  - (iii) **The AIT now controls all aspects of the appeal process and incorporates many of the responsibilities previously handled by APC3. The AIT has sole jurisdiction on the timeliness and validity of appeals.**
- May be helpful if I run through how the new process will work:

### **If the Notice of Appeal is sent to Post**

- On receipt of the AIT-2 form, Posts must stamp it with the date of receipt;
- Flag up any issues of validity/timeliness;
- And forward it to the AIT in Loughborough by the next available Bag, or within 10 working days at the latest (this process is laid out in the Procedure Rules);
- **The appeal is not considered to have been lodged until the AIT have received it, accepted it as valid and in time, and entered the information onto their database;**
- ECOs need do nothing further until they receive a Notice of Receipt from the AIT confirming that the appeal has been lodged;

### **If the Appeal is Lodged Directly at the AIT in the UK**

- If appellant/sponsor/legal rep lodges the appeal directly with the AIT in the UK, the AIT will send Post a hard copy of the Notice of Receipt by Bag, together with the Notice of Appeal and any supporting documents once appeal deemed as lodged.

### **Next**

- Receipt of the Notice of Receipt at Post is the signal for Posts to start the clock on processing the appeal;
- ECM reviews application in the light of grounds of appeal;
- If refusal is maintained, this is the trigger to prepare the ES (if there is one) and 3 appeal bundles;
- Family Visit and Non-Settlement – bundles must be prepared and sent to AIT Arnhem within 1 month of receiving NoR;
- **But Posts are still preparing/dispatching FV cases as a priority;**
- Settlement – bundles must be prepared and sent to AIT Arnhem within 3 months;
  
- Once the appeal reaches the AIT it joins the system and follows agreed procedures;
  
- Determinations for allowed appeals will still be sent to Posts by POUs.

### **Transitional Arrangements**

- It may be helpful if I say a quick work on Transitional cases;
  
- Date decision made is key. If the decision was made before 4 April the following applies:
  - The applicant/appellant will continue to lodge the appeal form (N2) direct at Post;
  - ECOs will deal with these cases under the old system;
  - All bundles will be sent to APC3 except Family Visit cases which will go to Loughborough (at the new AIT address);

- Once in the system, all appeals will be considered by the AIT under agreed transitional procedures;
- Appeals will be passed from APC3 to the AIT on an agreed quota basis – but we know that ECO cases will take a lower priority than asylum cases

**How have we prepared for the new system?**

- Written guidance to Posts as AECIPs;
- Currently clearing updated DSP;
- New appeal forms and guidance available on UKvisas website and AIT website and have been sent to Post;
- Revised refusal notices;
- Regional training o/seas;
- VCS trained.