

**MEETING OF THE ENTRY CLEARANCE USER PANEL  
ON TUESDAY 27 FEBRUARY AT 1300 HRS AT CMS CAMERON  
MCKENNA**

<b>Those Present:</b> Robert Brinkley(Chair)	JECU
Tony Mercer	JECU
Lynn Cousins	JECU
Sarah Williamson (Secretary)	JECU
Bill Brandon	IND
Pat Lingham	IAS
Susan Rowlands	ILPA
Richard Dunstan	NACAB
Mahmud Quayam	The Law Centres Federation
Julia Onslow-Cole )	International Bar Association
Tanya Goldfarb )	
Kate Handforth	UKCOSA
Rachel Rogers	Policy Advisors - Immigration & Legal Aid
Stanislaus Saverimuthu	Refugee Working Party
Anne Owers	JUSTICE
Sheila Grewal	RLC

Opening Remarks

1. Robert Brinkley opened the meeting and welcomed everyone to the third meeting. He thanked Julia Onslow-cole and Tanya Goldfarb for hosting the meeting and providing lunch. Apologies were received from Sherman Carroll, Mohammed Akram, Paul Morris and Don Flynn.

Progress Report

2. Robert Brinkley stated that the JECU had progressed and achieved some notable successes, citing the clearance of the correspondence backlog as an example. He said that improvements had also been seen overseas, noticeably in Islamabad, which had undergone many positive changes, including a new management team.
3. Many other changes and improvements had taken place or were planned for the future. The family visit appeal fees had been reduced in response to concerns raised in Parliament and a review of the system was underway. New visa facilities were planned in the Indian sub-continent to enhance existing services, Keith Vaz had hosted several visa forums to publicise entry clearance work and Visa News also carried out this function.
4. Robert Brinkley said that the User Panel was a useful conduit for the frank exchange of views, however the Parliamentary Question that had

arisen from the unfortunate use of the phrase 'primary purpose' at the last meeting was disappointing. He requested that if any issues such as this arose again they could be more usefully discussed at the time.

5. In response to a request regarding the agenda he informed the Panel that the various topics that they had put forward that were not included had been noted and would be discussed under Any Other Business.

#### Report on the ISC Immigration Conference – New Delhi 15/16 February

6. Robert Brinkley explained that such conferences would be held every two years and that their aim was to enable officials from the FCO and the HO to discuss current issues and problems with Entry Clearance Managers (ECMs). New Delhi had hosted this conference due to the importance of the sub-continent in terms of the number of applications, some 15% globally, and also the large communities from that area in the United Kingdom.
7. Robert Brinkley reported that over the two days some very useful discussions had taken place about varied topics, including staffing requirements, policy issues, changes in the Immigration Rules and how to improve general guidance issued to posts.
8. Representatives from the Overseas Labour Service (OLS), which is responsible for issuing work permits, were also in attendance at the conference. A valuable exchange of views took place between the OLS and the ECMs, which led to an agreement for greater co-operation between them. It was agreed that the two would liaise where work permit holders did not meet the criteria of the Rules and was refused entry clearance or abusive cases were identified. This would enable the OLS to monitor any possible trends and act swiftly to end abuse of the system.
9. Robert Brinkley also reported that the appeals system had been debated and that adjudicator's decisions often caused concern amongst entry clearance staff. It was suggested that it might be useful, especially with the increased number of adjudicators being recruited, for them to visit an entry clearance post as part of their training.
10. Tony Mercer said that the discussions had been forward looking. He said that posts priorities were managing the entry clearance process successfully, implementing governmental policy commitments and maintaining the integrity of the immigration control. The role of JECU was to provide direction in fulfilling these and he was committed to doing this.
11. Bill Brandon reiterated that the ECMs were strongly committed to providing the best service possible. He said that Trevor Hall (Home Office Race Equality Advisor) had attended the conference and was pleased to see the way posts were operating. With regard to the

complaints that he had received about the service provided by the Integrated Casework Directorate (ICD), he had taken many points away and had implemented several suggestions on his return.

### Work Permit Applications

12. In November 2000 Julia Onslow-Cole had visited visa sections in Hong Kong and China and she reported that significant abuse of the WP scheme had been discovered. This had placed ECOs in a difficult position. The applicants should not have been issued with WPs, however the ECOs were under pressure to issue entry clearance to the holders.
13. ILPA had raised this issue in a recent meeting with Margaret Hodge at the Department for Education and Employment. It was also pointed out at the meeting that it was not the job of the ECO to establish whether the WP should have been granted in the first place, and that this abuse was damaging the credibility of the WP system. If the system operated in a more efficient manner this credibility would be restored.
14. ILPA had also met with Martin Craske of OLS prior to his attendance at the ISC Meeting in New Delhi to raise these concerns, of which he had been unaware.
15. Robert Brinkley said that the OLS delegation had taken part in useful discussions in New Delhi. The initial granting of the WP did not require them to see the applicant, only to be satisfied that the vacancy was filled in accordance with correct procedure. The role of the ECO was to consider the application under the Immigration Rules. If the ECO was not satisfied that the applicant qualified then they should refuse and notify OLS. He said the need for better feedback between posts and the OLS had been identified during these sessions.
16. Tony Mercer said that Martin Craske had taken on board the views of entry clearance staff. He had visited several posts and had seen first hand several abusive applications. He had undertaken to return to the OLS and look at how the system could be improved.

### ICD/Home Office Referrals

17. Bill Brandon gave an update on how the new ICD referral system was working. He said that since its inception on 1 August 2000 significant improvements had been seen. ICD was now making decisions within four weeks of receipt of papers and only one hundred pre-August cases were still outstanding. He said these cases would be cleared within one week of the meeting.
18. Bill Brandon said that there were posts with many cases outstanding, family reunion cases in Nairobi being cited as an example. He added that in many of these cases the papers were likely to have been lost in

the Home Office reorganisation several years ago. Plans were being drawn up to resolve this, involving sifting through all the papers in Nairobi and making decisions on those outstanding. If necessary the JECU would send out extra staff to assist this process.

19. It was suggested that it would be helpful to get this message through to legal representatives. They could ask posts to look at their outstanding family reunion cases as the sponsors and the representatives were best placed to raise such cases on an individual basis.
20. Steve Bosanquet said that the initiative was envisaged to clear all outstanding cases and that if Nairobi was inundated with requests about individual cases that this would detract from the process. He suggested that if any representatives still had any outstanding cases after the initiative they should then approach the post direct.

### Action

Bill Brandon and Steve Bosanquet to pursue the resolution of the backlog in Nairobi.

### Family Reunion

21. Tony Mercer said that the Focus Group on family reunion had raised several issues which were still outstanding, including documentation and GV3s, accepting applications and the definition of destitution. He said that the focus group may need to be referred back to and that JECU were committed to solving these problems.
22. A discussion then took place about concerns in this area.
  - i) There had been cases in Colombo where those seeking to join family with refugee status in the UK had been asked for evidence of maintenance and accommodation. Clarification was asked for as to how family reunion applications were processed.
  - ii) It was pointed out that at that a review of whether those seeking to join family with ELTR rather than refugee status should pay fees was still outstanding, and that a written update of progress in this area would be useful.
  - iii) Problems were still being encountered with incorrect endorsements on vignettes, imposing a restriction on public funds.
  - iv) It was asked whether a short cut could be set up to enable those affected as a result of the above problem to have this rectified quickly by the ICD.
23. Tony Mercer said that those seeking to join family recognised as refugees should not need to show evidence of maintenance and

accommodation. Lynn Cousins said that further guidance had been given to posts about family reunion applications. She added that in difficult cases, for example where the identity of the applicant was in doubt, more guidance was needed.

24. Robert Brinkley said that all ECOs had received instruction prior to 2 October 2000 and that if problems kept arising at a particular post it would be helpful to let the JECU know. Tony Mercer had put out further guidance to the Immigration Service about rectifying mistaken vignettes on arrival, but that he recognised that the problem must be corrected at the front end.
25. Bill Brandon said that the only recourse for those affected at present was to approach ICD. He added that as these were 'quick win' cases they should be dealt with quickly.

### Action

Lynn Cousins to look into issuing further guidance for posts about implementation of the family reunion concession. Bill Brandon said that he would look into setting up a system for dealing with the most compassionate cases affected by incorrect endorsements. Robert Brinkley said that the discussion had shown that there were outstanding issues that needed to be resolved and that the JECU would issue a progress report in due course.

### Uniformity of Documentation Required Overseas

26. There were several areas of concern over the documentation required from applicants overseas. In discussion the following points were raised:
  - i) Concern was voiced that those applying on marriage grounds in-country had to provide less documentary evidence than those applying on the same grounds overseas, especially in the sub-continent and several African posts.
  - ii) That a consistency in approach would be helpful, as different quantities and types of documents were required depending on where the application was lodged.
  - iii) The possibility that asking for different documentation at different posts may not be in compliance with the Race Relations Act. It would be better for this to be resolved without the need to take a case before the courts, but this would be pursued if necessary.
  - iv) It was acknowledged that some documentation was necessary, whereas other documents were merely helpful. It could become the case that the latter documents were being insisted upon when a decision could be made without them.

27. Lynn Cousins said that when an application was lodged overseas this was usually the first chance the ECO had to assess all the papers. When an application was lodged in country the ICD often had access to papers from posts and/or ports of entry.
28. Tony Mercer said that posts were becoming more pragmatic but that posts needed to retain flexibility over the amount and type of documentation required and that prescriptive guidance would be too restrictive. Posts themselves had requested that further guidance be provided. This issue was raised at the ISC Conference as an area that needs to be examined.
29. Tony Mercer noted that some consistency was needed but reiterated that flexibility was also important. Robert Brinkley said that the Immigration Rules applied world-wide and that ECOs had to satisfied that the relevant criteria was met. This necessitated flexibility of approach. The Rules did not go into details as that would be too limiting.
30. Robert Brinkley said that posts were moving away from over reliance on documentation and Tony Mercer said that the updated guidance leaflets would go some way to clarifying the type of documents necessary in different types of applications.

#### Action

Tony Mercer/Bill Brandon to provide further guidance to posts about documentation. Lynn Cousins to ensure that the updated guidance reflects the above needs.

#### Overseas Domestic Workers Concession

31. This issue had been raised at the last meeting. Steve Bosanquet said that INPD was currently reviewing this concession and that they hoped to have guidance out by Easter. He said that the Kamat judgement was under review and that amended instructions would be sent to posts as soon as this was completed.

#### Any Other Business

32. Tony Mercer said the JECU had looked into the issue of defining 'destitution' as it applied to visa fees. JECU was responsible for deciding the issue about fees thus would now examine this and report back in the next two months.
33. Robert Brinkley said that Paul Morris had asked whether the recent Immigration Appeals Tribunal Pardeepan Judgement applied to entry clearance cases. Consultation is ongoing with the Home Office about the implications of this judgement.

34. Robert Brinkley said that Paul Morris had also requested a definition of 'compelling and compassionate circumstances' from the JECU. He said that this was not possible. The flexibility of the Rules gave ECOs discretion and a definition of such circumstances would circumscribe that discretion. The role of the Entry Clearance Manager in reviewing decisions was also in place to ensure that this discretion was exercised correctly, as were appeal rights and MPs representations.
35. A discussion about this took place, at which the following points were raised:
- i) That this was a dangerous area to leave to the discretion of individual ECOs, as it was felt that they did not exercise this in favour of applicants.
  - ii) That discretion was not being exercised in the applicant's favour in the sub-continent, especially in cases involving elderly relatives.
36. Lynn Cousins said that it was up to the applicant and the sponsor to put forward their compelling and compassionate case to the ECO. She said that often this was not done until after an application had been refused and the sponsor had contacted JECU or their MP.
37. Tony Mercer, in responding to a question about non-settlement queue times, said that in December 2000 thirty-one posts out of one hundred and thirty were not meeting the best practice target of interviewing within ten days. He said that this stemmed from a difficult summer and an unprecedented increase in applications. Accra had seen an increase of 70% and the Indian sub-continent an increase of 20%.
38. Tony Mercer said that better monitoring systems were in place to enable JECU to respond to posts experiencing problems, however there had been difficulty with securing resources from the Immigration Service. This has been resolved and sixty extra staff are to be sent overseas, along with a dedicated permanent squad to cover operational difficulties.
39. A general discussion then took place during which the following points were raised:
- i) Whether JECU had any plans to change the time limit for non-family visit appeals back to three months.
  - ii) Appeal forms showing a three-month time limit were still being seen; if the appeal was not lodged within twenty-eight days would this result in the loss of the right?
  - iii) Whether posts would now accept the recommendations of adjudicators to issue entry clearance where a change of circumstances since the

refusal meant that the Rules were subsequently met at the time of the appeal.

- iv) Were ECOs correctly endorsing visas with the date of validity, where the applicant did not intend to travel immediately?
  - v) Whether children over eighteen could be incorporated into the family reunion concession, as in some cultures children remained dependant on their family until marriage, especially females.
  - vi) How the Race Relations Act will affect the operation of entry clearance posts.
  - vii) When will DSPs be updated?
40. Robert Brinkley said that there were no plans at present to revert back to a three-month time limit for appeals, however those forms issued containing the error would be honoured.
41. Bill Brandon said that the Home Office was responsible for looking at the policy considerations about the recommendations of adjudicators.
42. Tony Mercer said that ECOs had discretion to post-date visas for up to three months, but that the applicant also had to make the ECO aware of their travel dates.
43. Robert Brinkley said that the age of majority was set at eighteen globally and it would be difficult to vary this regionally. If this was seen to be non-compliant in terms of the Race Relations Act guidance would have to be sought. The areas where ministerial authority would be sought to exempt posts from the Act were still under consideration.
44. Steve Bosanquet said that DSPs were currently being comprehensively updated, to incorporate all the recent changes. He said that this should be completed within six-months, when it would be put onto the website.
45. Robert Brinkley said that the meeting had been very useful and thanked all the attendees. He said that the next meeting would be hosted by the JECU and would be held in approximately six-months time, after the summer break. If this was thought to be too long there could possibly be a Focus Group meeting in the meantime. The JECU Secretariat would look this into.

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