

**ENTRY CLEARANCE USER PANEL MEETING
TUESDAY 9 DECEMBER 2008**

PRESENT

User panel:

Mohammed Akram	Council for British Pakistanis (Scotland)
Keith Best	Immigration Advisory Service
Nichola Carter	Immigration Law Practitioners' Association
Alison Harvey	Immigration Law Practitioners' Association
Hina Majid	Joint Council for the Welfare of Immigrants
Gulay Mehmet	Law Society
Nadine Owen	International Bar Association
Michael Pinchbeck	Association of Regulated Immigration Advisers
Mahmud Quayum	Camden Law Centre
Naadiya Rawat	English UK
Sue Sumellingham	Hindu Council UK
Kate Handforth	UKCISA

UK Border Agency:

Charlotte Taylor	Outreach Programme Manager (Chair)
David Armour	Projects and Strategy, Outreach Programme
Rafe Courage	Manager, Customer Services and Standards
Jessica Mabbutt	ECO Support
Sally Miller	Head, Internal Communications, Outreach Programme
Frankie Pearson	Project Officer, Stakeholder Engagement
David Pike	Head, Central UKBA Stakeholder Team
Tim Rymer	Programme Manager, Network Development

Agenda

Item

1) Charlotte Taylor, as Chair, welcomed members, and all introduced themselves.

2) Minutes and action points of the last meeting

1. These were accepted. The revised guidance explaining Indefinite Leave to Enter was found to be very helpful. There was one action point missing, which Rafe Courage picked up later in his update on Customer Service Standards.

3) Change of name of UKvisas User Panel

1. The Chair proposed the new name of 'Visa Services User Panel' as UKvisas now no longer existed. There was discussion on whether it should be 'International Group User Panel' as it was hoped the Panel could consider wider issues than the visa service, eg legislation, as there was no other forum in which to raise such matters. But Visa Services was agreed as it better reflected the remit of the committee, with the understanding that broader eg European issues could be discussed. **Action: Charlotte Taylor and David Pike to consider where European and legislative issues might best sit in wider Agency fora.**

4) Members' Forum

1. One member had raised a question regarding appeals and whether ECOs had contact with UKBA re authenticity of determinations. Jessica Mabbutt said that if the rep/appellant had a copy of the determination but Post had not received their copy of this, Post should get in touch with the POU involved to check that we are not challenging that determination and then proceed to issue. **Action: To remind Posts of these procedures.** There was also discussion on the scope of presenting officers to concede cases listed for appeal.

2. On paragraph 320(11) refusals, it was pointed out that if people challenged their refusal to stay which then went on to appeal, they may stay in the UK longer whilst the judicial process was taking its course. Jessica Mabbutt said 320(11) should only apply to people who had significantly frustrated the system and it should not necessarily be the sole reason for refusal. If members had cases for which 320(11) had been the only reason, we could look at them. **Action: Members to send any information to take forward. ECO Support to review the guidance on this section.**

3. A member asked what the arrangements were for monitoring the impacts on countries over maintenance requirements under PBS. Tim Rymer said we had set maintenance levels at what we thought to be appropriate levels for a workable system but we would of course need to monitor. **Action: Tim Rymer to pursue through policy colleagues.**

4. There had been occasions where applications had been refused entry because large bank transactions had taken place just prior to an application and ECOs were not satisfied that the funds were available to the student. The onus was on the applicant to provide details of the origins of moneys and that it was available whilst in the UK. The Points Based System would make decisions more objective, and UKBA were investing more resources on document verification. It was an opinion that decision-making had deteriorated of late. Charlotte Taylor said we welcomed feedback on any systemic problems experienced. **Action: Tim Rymer to find out if stakeholders would be able to access the on-line calculator for Tier 4 before it goes live.**

5. One member was concerned that it appeared there was no statistical data on Administrative Reviews to date, by Post. Tim Rymer said he thought there would be data. **Action: To circulate Admin Review data to date.** There was now a UKBA MI tool for Posts which would provide comprehensive figures. **Tim Rymer to provide further data by January/February.**

6. On Posts not always issuing appeal documents with refusals, **Jessica Mabbutt agreed to send reminders to Posts.** Forms should also be easier to find on the website.

7. On Metock, one member said applications of family members *had* been refused and was concerned that legislation had not been acted upon. Guidance on this to Posts was due to be circulated imminently. **Note: This has now been sent to all Posts: see at end.**

8. On Tum and Dari, there was concern that guidance on this also had still not been acted upon. Paris was mentioned as a post of particular concern in relation to this. Advice is being sought and guidance will be issued shortly.

5) Update on recent developments

1. Rafe Courage picked up some questions asked in the members' forum and also updated members on customer service standards. On posters to be displayed in the offices of commercial partners, Rafe said stakeholders had been consulted and it was decided to have two posters: one setting out what commercial partners can and cannot do; and one on how to get advice, on which there was to be further discussions with the OISC. But in principle they were finalised. There were still concerns on information versus advice from commercial partners which UKBA is trying to address. It was asked whether the posters could direct applicants to registered bodies for assistance, as it was thought UKBA needed to be more proactive in steering people away from rogue firms. Rafe confirmed that the posters directed people to OISC-registered advisers and lawyers based in the UK only. (Overseas firms would not be specified as they would not be registered with OISC.) As many applicants thought the VAC office was in fact the Embassy or High Commission, it should be made absolutely clear that this was not the case and people in the VAC were not able to take any decision on applications. **Action: Rafe Courage to consider scope for provision of posters in local languages.** It was asked if these posters could also be cleared through the Law Society. **Action: Rafe Courage to send posters to the Law Society for comments.** There would be a final decision on the posters by the end of the month.

2. On services that commercial partners provide, eg form-filling, translating etc, there was a document being put before the Risks and Issues Board in the next few days. **Action: Rafe Courage to inform members of the outcome from the Board.** It was suggested that any services provided by commercial partners should be set out on a cover sheet with the application, giving the name of the person and the

service provided. Rafe said that is indeed what we were looking to do. VAC offices were also monitored by CCTV, and it was thought notices to this effect should also be put in premises. **Action: Rafe Courage to check if there were such notices.**

3. It had not been possible to include a joint biometric appointment for families or groups in the on-line application procedure, but it had been taken up with the visa4uk team to try and resolve. **Action: Rafe Courage.**

4. One member asked what criteria were used to deem an application as having been lodged, as this was an on-going problem with on-line payments and the differing lengths of time it took to get an appointment for biometrics. Charlotte Taylor recognised the position as it stood was unclear and UKBA were trying to get a consistent message which would be communicated to members as soon as possible. **Action: UKBA to inform members of criteria for lodged applications.**

5. Customer services standards: Rafe Courage said this had been prompted by the Independent Monitor and the roll-out of commercial partners. By end December/early January information should be ready to be published, but basically the end to end timescales were:

Straightforward applications – 90% within 5 working days

Non-straightforward applications – 90% in 15 working days

Settlement – 95% in 60 days; 100% within 120 days

6. Targets and performance figures were to be published against each Post and VAC every quarter, and it may be possible to update every month. We would encourage Posts to identify local changes, eg peak periods, floods, to identify changes in demand. It should also be possible to identify applications in each category. **Action: Rafe Courage to check this point.**

7. Rafe Courage also agreed to provide data on the current situation with regard to applications that fall into the final "10%" of cases not covered by the old 90% PSA targets. This would include the volumes of cases involved, average processing times and data on the oldest cases. **Action: Rafe Courage/Adrian Goodworth.**

8. Contacting Posts: Rafe Courage was grateful for members' input. We had now launched a major review of all the telephone and email services and the question of contacting Posts was included in that research. Members thought legal advisers and representatives should not have to spend large sums of money calling commercial partners when they know they cannot answer the question. There was some discussion of possible solutions to ensure only those who are registered advisors could access ECMs and agreement that a non-bureaucratic approach was preferable. **Action: Rafe Courage**

9. There was also discussion on how applicants' passports are returned to them, particularly in Pakistan. At present it differed from Post to Post but it was felt there should be a consistent approach. **Action: Rafe Courage to investigate the situation in Pakistan.**

10. A member asked about alternative arrangements when biometric equipment fails. Charlotte Taylor said that if it was a small-scale problem then applications would be pended. If the problem was larger then decisions would be taken on a case by case basis. This was the same for the on-line application system.

11. One member had found that two Posts had refused to give out information on clients quoting Data Protection Act. Jessica Mabbutt said if the solicitors showed Posts that they had written consent from the client then Posts should discuss the cases. **Action: Jessica Mabbutt to remind Posts**

12. Tim Rymer gave an update on other recent changes. The Points Based System Tiers 2 and 5 went live on 27 November. Figures to date showed 11 T2 applications; 15 T5; and 199 Youth Mobility applications. There were zero refusals under T2. The 7 day financial maintenance rule had now been extended to 30 days.

13. Hub and spoke continued to be rolled out. There are now 95 visa issuing Posts and will be 70 by the end of March. Systems were being developed to move information around in future, rather than documents.

14. A London hub opened on 3 November for processing applications from Algiers, and would be looking at settlement applications from Pakistan in the near future. The Post in Algiers carries out document and risk assessment checks and sends an electronic template to London, with papers being couriered. It was envisaged that 30-50% of all applications would be dealt with in the UK in future. One member asked to see the Action Plan for further planned moves. **Action: Jo Cheeseborough to let members know of any further changes. See update at end.**

15. UKBA had commenced work on a Visa Waiver Test to examine whether there should be visa regimes on 11 countries. Once the six month mitigation process ends, a decision will be taken on each country and stakeholders will be updated.

16. On the China short term visit visa pilot which had just ended, the results had been disappointing with numbers actually down on the same period in 2007. It was felt that the Beijing Olympics and the earthquake there had had an impact on visa demand during that time. UKBA were now repeating this concept in India through trusted partners, and would consider the outcome of both pilots.

17. Currently the visa fee for 1, 2, 5 or 10 year long-term visas was the same and discussions were in hand re price differentiation. **Action: Members to indicate if they want to be kept informed of developments.**

6) Any other business

1. On the number of Working Holidaymaker applications still pending on 27 November, members were informed that there were transitional arrangements in place and those who applied before 27 November would be considered under the old arrangements. **Action: Tim Rymer to confirm.**

2. The position of TWES under PBS was discussed. **Action: Tim Rymer to check with policy colleagues on final policy decisions.**

3. There was discussion on the sponsorship arrangements under Tier 5 where an over-reaching sponsor was needed. **Action: Tim Rymer to check latest position.**

4. It was noted that there had been an inaccuracy on the website in New York regarding those affected by the recent changes to the Business Visitor rules but this was now resolved.

ACTION

Agenda item no	Action	Responsibility	By date / outcome
4.1	ECO Support to re-circulate guidance on appeals	Jessica Mabbutt	asap
4.2	Send scenarios on 320 (11) refusals	Members to email Frankie Pearson	asap
4.2	ECO Support to review guidance on 320 (11)	Jessica Mabbutt	asap
4.3	Monitoring of maintenance levels impact	Tim Rymer	
4.4	Can stakeholders access on-line calculator before T4 goes live?	Tim Rymer	There will not be a 'calculator' developed for Tier 4 due to the more simple points criteria of offer letter/CAS+ maintenance. Instead, information on what points are needed for Tier 4 will be on the website.
4.5	Circulate data on Admin Reviews to date	Tim Tymer	Next meeting
4.5	Provide statistical data by Post on Admin Reviews	Tim Rymer	Jan/Feb
4.6	Remind Posts of the need to send Appeal documents with refusals	Jessica Mabbutt	asap
5.1	Send VAC posters to Law Society	Rafe Courage	asap
5.1	Check if posters could be translated into local language	Andrew Brodie	asap
5.2	Let members know outcome of Risks and Issues Board meeting on commercial partners' services	Rafe Courage	Asap
5.2	Check whether VACs carried notices re presence of CCTV cameras	Rafe Courage	Asap
5.3	Look into provision of on-line group biometric appointments	Helen Holmes	
5.4	Criteria for appointments being considered 'lodged'	Rafe Courage	

5.6	Check if categories of applications could be included in target and performance figures	Rafe Courage	Asap
5.7	Final "10%" of cases not covered by the old 90% PSA targets	Rafe Courage/ Adrian Goodworth	asap
5.8	Update on contacting Posts	Rafe Courage	Next meeting
5.9	Procedure for returning passports, particularly in Pakistan	Rafe Courage	All three VACs in Pakistan now telephone applicants to arrange return of passports
5.11	Remind Posts to liaise with authorised agents on specific cases	Jessica Mabbutt	asap
5.14	Inform members of further UK hub moves	Jo Cheeseborough	See below
5.18	Indicate whether members wish to be kept informed of developments on pricing of long-term visas	Members to email Frankie Pearson	Asap
6.1	Confirm number of outstanding WHM applications	Tim Rymer	Next meeting
6.2	Check policy decisions for TWES applicants	Tim Rymer	Asap
6.3	Check sponsor arrangements for over-reaching sponsors under Tier 5	Tim Rymer	Next meeting

Update on information sent to Posts re 'Metock'

On 25 September 08 we advised Posts of the ECJ Judgement informing Posts that applicants were no longer required to show lawful residence in the EEA and that we could no longer apply the Immigration Rules to cases outside the EEA (Regulation 12 (ii)(b)). Until new updated guidance could be agreed with Ministers, we advised Posts to:

- a. continue to issue EEA Family Permit applications as normal if they met the requirements of the EEA Regulations (including the Immigration Rules if appropriate)
- b. continue to refuse EEA Family Permit applications where they fell for refusal under the EEA Regulations eg where EEA national was not residing in the UK in accordance with EEA Regulations, for reasons of marriage of convenience etc.
- c. pend EEA Family Permit applications which would normally fall for refusal under Regulation 12 (b)(ii) **only**, because they would have been refused leave to enter the UK as a family member of the EEA national or his/ her spouse were the EEA national or his/ spouse a person present and settled in the UK. (Lines to take were also sent to Posts to explain the delay in processing the limited number of applications.)

We issued further guidance on 10 December 08. This reminded Posts on how to deal with EEA Family Permit applications under the EEA Regulations in light of the Metock judgement and included instructions on how to handle pending applications. Entry Clearance Guidance is currently being updated and will appear online soon.

UK hub

The UK hub project will establish a pilot visa processing centre in London, in line with proposals agreed by the Executive Board in April 08. It will enable us to test various options for "onshoring" work, as well as developing business models and provide an office that will be useful for training purposes and testing new innovations in the future.

The UK hub started to handle all applications from Algiers (20,000 per year), from 3 November 2008. All Pakistan settlement applications (25,000 per year) will be processed in the UK from 26 January 2009. This will enable us to fully test the concept of the UK hub, particularly sponsor checks and interviews, whilst enabling the reduction of staff in Islamabad and reducing pressure on the hub in Abu Dhabi. Each location or category processed in the UK will be tested for a minimum of 6 months.

The pilot will undergo evaluation and results will be used to inform plans for the UK hub from the end of the pilot.