

**Independent Monitor for Entry Clearance
refusals without right of appeal**

Report to the Secretary of State

File sample: April to September 2008

Visits: October 2008 to April 2009

**Immigration and Asylum Act 1999 Section 23,
amended by paragraph 27 of schedule 7 of
The Nationality, Immigration & Asylum Act 2002**

April 2009



The Independent Monitor for Entry Clearance

(Refusals without right of appeal)
Foreign & Commonwealth Office
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To The Secretary of State for Home Affairs

This is my sixth and final report as Independent Monitor and the theme has to be change – to a unified Border Agency; to shifting the work of small visa offices into larger centres; to trimming budgets and costs; to the Immigration Rules. The evidence from the global file sample and my recent visits confirms that it has been hard for the visa service to focus on quality given all the other issues that have demanded time and attention.

I think the worst of the bumps on the road are now in the past. Whilst I have recorded the first downturn in decision quality, it is a small one and there are early indications that Points Based System applications may have a positive impact. The Visa Services Directorate recognises that it needs to spend the next year concentrating on the basics: a fair and efficient application process, good quality decisions, and paying attention to user feedback.

Finally, I wish to record my thanks to the overseas visa operation, which has been the most constructive organisation that I have worked alongside. You are, Secretary of State, most fortunate in having enthusiastic, energetic staff whose commitment to doing a good job means that they have sought, welcomed and thrived on straight talking external scrutiny.

L M Costelloe Baker MBA
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INTRODUCTION

This section of the Report is for first time readers. It is a simple explanation of what a visa is and who decides whether a visa should be granted.

Who needs a visa?

1. A person who is neither a British citizen nor a Commonwealth citizen with the right of abode, nor a person who is entitled to enter or remain in the United Kingdom by virtue of the provisions of the 2006 European Economic Area Regulations, requires leave to enter the United Kingdom. Entry clearance takes the form of a visa (for visa nationals) or an entry certificate (for non visa nationals). These documents are taken as evidence of the holder's eligibility for entry into the United Kingdom and, accordingly, accepted as "entry clearances" within the meaning of the Immigration Act 1971. The UK Government decides which countries' citizens are, or are not, visa nationals.

Where do you get a visa?

2. The Immigration Rules say that an applicant for an entry clearance as a visitor must be outside the United Kingdom and Islands at the time of the application and must apply to a Post designated by the Secretary of State to accept applications for entry clearance for that purpose and from that category of applicant. A Post is a British Diplomatic Mission (Embassy or High Commission), British Consular Post, or the office of any person outside the United Kingdom and Islands who has been authorised by the Secretary of State to accept applications for entry clearance. Any other application must be made to the Post in the country or territory where the applicant is living which has been designated by the Secretary of State to accept applications for entry clearance for that purpose and from that category of applicant. Where there is no such Post the applicant must apply to the appropriate designated Post outside the country or territory where he is living.
3. An application for an entry clearance is not made until any fee required to be paid has been paid. The level of fees set is aimed at ensuring that entry clearance work is funded from applicants rather than by UK taxpayers and the fee is for the application process, not the visa.

Who issues visas?

4. The UK Border Agency International Group Visa Services Directorate handles the overseas visa service. When the UK Border Agency was formed on 1 April 2008, the Secretary of State for Home Affairs became accountable to Parliament on matters concerning the entry clearance operation overseas.
5. At the start of 2009, the International Group managed over 150 visa application centres in British Missions (Embassies, High Commissions and Consulates). Of these, 73 were "spoke" posts where some or all applications are transferred to a "hub" post where the decision is made. In addition, there were 110 visa application centres run by the UK Border Agency's Commercial partners, VFS or

Worldbridge, 129 visa application centres run by the Department of Homeland Security in the United States and 3 biometric data capture centres run by Immigration New Zealand.

6. Over 2,600 UK Border Agency staff are directly involved in the overseas visa operation of whom around 355 work in London. Visa sections around the world employ 686 (458 full-time equivalent) UK-based staff who go overseas on short term postings and 1,632 (1,475 full time equivalent) locally engaged staff. I understand that the rise in staff numbers is caused by risk and airline liaison staff coming under the International Group umbrella.
7. Entry Clearance Officers assess applications against The Immigration Rules¹ made under section 3(2) of the Immigration Act 1971 and frequently amended. These Rules constitute a statement of practice, as laid before Parliament by the Home Secretary, to be followed in regulating entry into, and stay of persons in, the United Kingdom. Entry Clearance Officers are often referred to as Visa Officers, a term more easily understood by the public. They spend most of their time issuing visas to genuine applicants who meet the requirements of the Immigration Rules.

¹ <http://www.bia.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/>

THE INDEPENDENT MONITOR FOR ENTRY CLEARANCE REFUSALS

8. The role of the Independent Monitor for Entry Clearance Refusals without the Right of Appeal was established by section 23 of the Immigration and Asylum Act 1999 and amended by paragraph 27 of schedule 7 of the Nationality, Immigration & Asylum Act 2002:
 - (1) The Secretary of State must appoint a person to monitor, in such a manner as the Secretary of State may determine, refusals of entry clearance in cases where there is, as a result of section 90 or 91 of the Nationality, Immigration & Asylum Act 2002, no right of appeal.
 - (2) But the Secretary of State may not appoint a member of his staff.
 - (3) The monitor must make an annual report on the discharge of his functions to the Secretary of State.
 - (4) The Secretary of State must lay a copy of any report made to him under subsection (3) before each House of Parliament.
9. Although the legislation and the Independent Monitor's formal title refer to "no right of appeal", all applicants have limited rights of appeal on human rights and race relations grounds. Parliament decides which categories of visa applicant should not have full rights of appeal; the UK Border Agency's role is to implement the laws set by Parliament and as interpreted by Government policies.
10. Applications within the Independent Monitor's remit through section 90 or 91 of the Nationality, Immigration & Asylum Act 2002 are:
11. **Visitors:** a visitor, other than a visit for the purpose of visiting a member of the applicant's family as set out in the Immigration Appeals (Family Visitor) Regulations 2003. Non-family visitors constitute just over half of all visa applicants. The term visitor may apply to someone coming to the United Kingdom for a private visit, as a tourist or to see friends; someone who wishes to transact business; someone who arrives at one UK port or airport and needs to be in the UK for longer than 48 hours or to transfer to another port or airport to continue a longer journey, or someone coming to the UK for privately funded medical treatment. From April to September 2008, the UK Border Agency received 727,166 visit visa applications where there are limited rights of appeal, issuing 628,910 visas and refusing 94,007 applications. The refusal rate was 13%, one percent lower than the preceding six month period.
12. **Student Visitors:** a Student Visitor wishes to study in the UK for less than six months and does not intend to work or apply for an extension to their stay. From April to September 2008, the UK Border Agency received 35,786 applications, issuing 30,468 visas and refusing 4,862 applications, a refusal rate of 14%, two percent lower than for the preceding six month period.
13. **Short Term Students:** a student who has been accepted on a course of study of not more than six months. The UK Border Agency received 26,917 applications from April to September 2008, issuing 18,078 visas and refusing 6,350, a refusal rate of 26%.
14. **Prospective Students:** someone who intends to study in the UK but has not chosen or been accepted on a specific course. Applications can be refused under this category if the prospective student has been accepted on a course but the start

date has passed by the time the application is made or determined. From April to September 2008, the UK Border Agency received 105 applications, issuing 85 visas and refusing 20 applications, a refusal rate of 19%.

15. **Student dependants:** a dependant of a student who has not been accepted on a course or who wishes to study for six months or less. From April to September 2008, the UK Border Agency received 2,221 applications, issuing 1,363 visas and refusing 822 applications, a refusal rate of 38%.

Points Based System applications: Tier 1 highly skilled migrants

16. The Secretary of State issued a Direction in 2007 confirming that applications handled under the Points Based System fall within the Independent Monitor's remit. Tier 1 is for highly skilled workers, investors, entrepreneurs, and foreign students who have graduated from a United Kingdom university. Applicants do not need to have a specific job offer but must pass a points-based assessment covering income, skills levels and qualifications.
17. From April to September 2008, the UK Border Agency received 6,351 applications determined under Tier 1, issuing 2,902 visas and refusing 1,606 applications, a refusal rate of 36%. This rate will probably reduce because some applications were refused because they did not include an original bank statement dated within 7 days of the application. For applicants whose bank account was in the UK, postal services meant that it took longer than 7 days to reach their home country. The requirement was amended to 30 days when this problem became apparent and instructions given to issue the visa if the 7 day rule had been the sole reason for refusal.

Monitoring

18. My two year term of office started in April 2006 and was extended for a further year until April 2009; I am the fourth person to be appointed as Independent Monitor and the first to be appointed on a full time basis.
19. The Independent Monitor's role is:
 - to examine the quality of decision making, within the spirit of fairness and consistency, in certain cases where, as a result of legislation, there is a limited right of appeal: this includes cases determined under the Points Based System;
 - to ensure that correct procedures are used to reach decisions.

I am required:

- to examine the quality of information available to applicants with a limited right of appeal;
- to examine the quality of the UK Border Agency's complaint procedures for applicants with a limited right of appeal;
- to spend 3 months each year visiting entry clearance posts overseas;

- to submit a twice-yearly report on the discharge of these functions to the Secretary of State, who will lay a copy of the Report before each House of Parliament.

I may make recommendations based on my findings. I cannot investigate individual complaints or overturn a decision not to issue a visa.

Independence demonstrated

20. I provide my office, though my official address is at the Foreign & Commonwealth Office. The UK Border Agency forwards my mail, unopened. I have full editorial control of my written reports. Many of the practical matters that ensure a smooth working relationship between Independent Monitor and the UK Border Agency are included in a formal Memorandum of Understanding.
21. I record here my thanks for the help provided by all of the UK Border Agency staff who respond to my questions on policy, practice and statistics.

Costs

22. I provide my own office and office equipment, so no office related overheads appear in the budget. The costs include the printing of a limited number of copies of this Report which are available on request without charge.

travel and subsistence, including temporary Team Members	£64,193.	44
overseas Local Staff overtime (drivers)	£119.	77
IT for the Liaison Team and phone costs	£647.	58
printing for my Parliamentary Reports	£1,386.	50
catering at meetings	£95.	20
miscellaneous office expenditure	£248.	89
Liaison Team staff costs (without office overheads)	£75,621.	74
Independent Monitor Salary including employer's Pension and National Insurance	£136,509.	00
TOTAL April 2007 to March 2008	£278,822.	12

23. The UK Border Agency provides a member of staff (recorded under Liaison team staff costs) to provide administrative support for me in managing complicated travel arrangements and the administrative handling of the global file sample.
24. I note that around 80% of the liaison team's costs are properly those of the UK Border Agency, handling its response to my recommendations rather than undertaking work on my behalf.

EVENTS: October 2008 to April 2009

Hub and Spoke

25. From October 2008 to April 2009, as part of a major programme, 25 visa offices had decision making work transferred to larger centres. The UK Border Agency Visa Services Directorate is currently undertaking an efficiency and effectiveness review to check performance against the three reasons for changing the business model:
- quality: ensure that applications are processed consistently, and to a high standard, across the network;
 - efficiency: reduce operating costs in order to reinvest in more effective and comprehensive immigration compliance operations overseas;
 - coherence and flexibility: move work to hubs in stable locations to reduce the risk to staff and ensure operational resilience.

Checking against UK Police records

26. In October the biometrics of all visa applicants began to be checked against the UK Police fingerprint database and the Police National Computer to establish if someone has been arrested, cautioned or convicted of an offence. Police records will also show that someone has been in the UK on the date that they came to the attention of the Police.

Points Based Applications

27. From November, applicants wishing to work in UK needed to apply under the Points Based System:
- Tier 2: General: coming to the United Kingdom with a job offer to fill a gap that cannot be filled from within the resident labour force; intra-company transfer: employees of multi-national companies who are being transferred by an overseas employer to a skilled job in a United Kingdom based branch of the company; elite sportspeople and coaches whose employment will make a significant contribution to the development of their sport at the highest level; Ministers of Religion filling a vacancy as a Minister of Religion, Missionary, or Member of a Religious Order.
 - Tier 5 (Temporary Worker): creative and sporting: coming to the United Kingdom to work or perform as sportspeople, entertainers or creative artists for up to 12 months; charity workers: coming to the United Kingdom to do voluntary, unpaid work for a charity; religious workers; Government authorised exchange: coming to the United Kingdom through approved schemes that aim to share knowledge, experience and best practice; International agreement: coming to the United Kingdom under contract to provide a service that is covered under international law.

- Tier 5 (Youth Mobility) is for sponsored young people (over 18 and under 31) wishing to experience life in the United Kingdom. The applicant's government acts as sponsor and Australia, Canada, Japan and New Zealand have joined the scheme. Applicants who are British Overseas Citizens, British Overseas Territories Citizens or a British National (Overseas) may also apply. Tier 5 visa holders are free to do whatever work they like during their stay in the United Kingdom except for self-employment (subject to certain exceptions), working as a professional sportsperson or sports coach, or working as a doctor in training. They may engage in privately funded studies, voluntary work and au pair placements.
28. From 31 March 2009, applicants who wish to study in the UK, other than as a Student Visitor, are assessed under Tier 4 of the Points Based System.

Special Visitors

29. At the end of November, the Government introduced new Immigration Rules for business visitors: people who want to visit the UK for short periods to undertake business related activities. Applicants must be based abroad and not intend to transfer their base to the UK, even temporarily and receive their salary from abroad, although it is acceptable for them to receive reasonable travel and subsistence expenses whilst in the UK and they must not be involved in selling goods or services direct to members of the public.
30. A number of existing visa types were clustered together under the Special visitor heading, including prospective students, visitors for private medical treatment and academic visitors.

Fees

31. On 6 April 2009, visa application fees rose by £2 to £67 for a 6 month multiple entry visit visa or student visit application. Long term visa application fees rose by £10 to £215 for 2 years, by £195 to £400 for 5 years and by £295 to £500 for 10 years. Some fees include an element which will be used to fund a Migration Impact Fund. The cost of a student visa application handled under the Points Based System is £145, a rise of 45% compared with the former application process.

External Scrutiny

32. At the end of April, the Chief Inspector of the UK Border Agency takes on the Independent Monitor's role. His much wider remit includes all of the matters that the Independent Monitor is directed to cover, though by statute rather than Ministerial direction.

VISITS

The Independent Monitor is expected to spend at least three months each year on operational visits to Posts examining the way they handle applications within the Monitor's remit. My visits focus on the information that is available to applicants, the quality of decision making, and how Posts handle complaints and post decision correspondence.

33. From October 2008 to April 2009, I visited 6 Posts and 2 spoked Posts, examining 542 files in cases within my remit and 36 cases not within my remit as comparators. If I find problems that are not within my remit I do not report formally on them but draw the matter to the attention of the UK Border Agency, whose response has always been positive.

The Independent Monitor team

34. In the past eighteen months, in around half of my visits I invited pairs of visa staff, nominated on the basis of excellent performance, to assist me. The venture has been a great success and I commend the approach both for internal and external scrutiny. From my point of view, working with operationally experienced staff with little experience of audit has brought freshness to what might become a routine process. The temporary team members have commented positively on the value of seeing the visa service from a different perspective, and on gaining audit skills.

Tehran: October 2008

35. **Application process** Applicants pay the application fee at a local bank and lodge their application and provide fingerprints at the visa office in the British Embassy.
36. **Background** In 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. The overall refusal rate had fallen slightly from 23.6% to 22.7%. 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.
37. **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. Notice board information on the street was generally good though how to apply (not here, on-line) could be more prominent and on the website the application process could be presented in a clearer step by step order. In the waiting area 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.

38. **Decision quality:** I reviewed 76 files where visas had been refused. 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 (below 85%). There was a single reason, in that Entry Clearance Officers were overlooking key evidence. Of 18 Student Visitor or Short Term Student applications, 5 had been determined against the wrong Immigration Rules and it is important for Entry Clearance Officers to look carefully at all of the papers to check, for example, the fee that has been paid in order to determine the applicant's intentions. 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 document verification report which confirmed that bank funds were both genuine and adequate.
39. I was surprised to find little use of verification checks. Only 8% of the cases had had evidence verified and only 4% referred to that in the Refusal Notice. Letting applicants know that information has been verified, whether the outcome is good or bad, is an effective way of influencing behaviours – one of the four stages of UK Border Agency's work. Verification can be a simple phone call and checks need to be imaginative and case specific.
40. There was a lack of consistency in the use of both evidence and judgement and I recommended a short and intensive series of team meetings to secure improvement. Noting the team's concern about being harshly criticised for issuing a visa to someone who applies to remain in the UK, I emphasised 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 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.
41. **Overview** I thought that morale and commitment were affected by an undetermined date to move decision making into a regional hub, and though my findings with regard to decision quality were critical they were well received. I rated Tehran Good for information provision generally and correspondence handling. Decision quality was very Poor and the team needed to focus on the need to improve. The very low rating for decision quality meant that my overall assessment was that performance in Tehran was **Poor**. Given the open and constructive response to my findings and feedback I trusted the team to undertake the necessary changes and all the signs are that they are working well on a programme of improvements.

Dhaka: November

42. **Application process** Most applicants complete a paper Visa Application Form and then attend the Visa Application Centre run by VFS, UK Border Agency's commercial partner, to pay the application fee, provide biometric data and submit their application. Only 2% of applicants complete an online form, attending the Application Centre by appointment.
43. **Background** In financial year 2007-08, Dhaka received 44,751 UK applications, a decrease of 0.2% over the previous year. From April to October 2008, comparative demand fell by 5.4%. Excluding children, 22.5% of applications are for non-family visits. The overall refusal rate was 43.9%. From August to October 2008 I found that non-family visit visa applications (excluding children) had a refusal rate of 21.6%; Business Visitors, 25.5%; and Student Visitors, 27.1%. Data for short term students was not adequately robust. Tier 1 of the Points Based System had a refusal rate of 13.5% based on 37 decisions.
44. **Staffing** There was a major discrepancy in actual staffing levels (7 Entry Clearance Officers and 3 Managers) and the official information in my briefing pack which listed 18 Officers and 6 Managers, many of whom had left, some over a year earlier. The UK Border Agency explained that the staffing figures provided in the briefing related to slots used for planning purposes including vacant posts and a post that had been deleted. I thought that was unconvincing and remain concerned that planning might be based on inaccurate data.
45. **First impressions** The VFS Visa Application Centre was clean, tidy, smart and welcoming and well located in a busy business district. The waiting room at the High Commission was also of a very high quality.
46. **Decision quality** Whilst generating the file sample, I noted a problem with the accuracy of data entry on the case management system, amounting to an error rate of at least 25%. Failing to amend default settings when a visa is refused appears to be a major problem. Good planning, and especially good resource planning, depends on good data and the UK Border Agency should be acting on the problems I repeatedly find.
47. We reviewed 103 files where visas had been refused on randomly selected dates in August, September and October 2008. Dhaka scored 78.6%, placing it in the Poor band. All the sample cases had been assessed against the correct Immigration Rules, all had been given correct information on appeal rights and there were no examples of maladministration. There was a single cause of the low score: 21% of the Refusal Notices included reasons and comments that directly contradicted material evidence provided in the application form and supporting documents. For example, alleging that a UK sponsor's letter was in poor English, when the sponsor's letter was fine but the Bangladeshi applicant's letter had poor grammar and spelling; the reason for refusal was the UK sponsor was not genuine and that cast doubt on the genuineness of the applicant. Inaccurate claims such as this make the decision as a whole unsound. The team willingly re-assessed these faulty cases and in five found that the visa should have been issued. In a third of the remainder, the Refusal Notice was sufficiently faulty for it to be corrected and re-issued with an apology.

48. I noted problems with reading and analysing bank statements and thought it would be useful for banks to show what a genuine business bank account might look like. Financial information needed to be split into the evidence that related to circumstances in Bangladesh, such as a regular income, linking this to being a genuine visitor under Immigration Rule 41(i), and intending to leave the UK, 41(ii), against having sufficient funds to pay for maintenance and accommodation in the UK, Rule 41(vi) and travel Rule 41(vii).
49. Given the need for verifiable evidence in Points Based applications, visa offices must show that they are doing the best they can, even in difficult circumstances where corruption is commonplace. The Dhaka team responded positively to my recommendation and moved from "we can't do it because . . ." to building up reliable contacts in order to have a structured and effective system of verifying bank statements and documents.
50. I looked carefully at the decision process in Dhaka as it differs from the traditional model. Risk Assessment staff complete profile sheets which determine what happens next. The risk assessment work appeared to be evidence based and fully integrated into the visa office but their report is an indicator and not a decision: Entry Clearance Officers were swayed by scorings provided by the risk assessment unit and did not always check that they were well founded. The standardised paragraphs that assistants pop into templated draft Refusal Notices are written and approved by Entry Clearance Officers and I find it reasonable for locally engaged staff to do that as they have a deeper understanding of local documents and circumstances. They have to be accurate though, and there were too many mistakes so it was clear that Entry Clearance Officers were not checking draft Notices thoroughly enough. Entry Clearance Managers skimmed the surface in their reviews and were not uncovering the very high level of errors that my structured system revealed.
51. The problem was, therefore, not that the process model was wrong, but too much being taken for granted coupled with poor attention to quality assurance. Entry Clearance Officers make the decision and they, and they alone, are responsible for deciding and evidencing whether a visa application meets, or fails to meet, all the requirements of the relevant Immigration Rules and for approving a Refusal Notice that is lawful and reasonable as well as of adequate quality.
52. **Overview** I rated Dhaka Good for information provision generally and for post decision correspondence handling. Decision quality was Poor and all staff needed to focus on the need to be scrupulously accurate with evidence. Given the low rating for decision quality, my overall assessment was that performance in Dhaka was **Poor** because its good points were not strong enough to offset this significant problem. I was confident that the team would make the necessary changes and I note that Dhaka's follow on reports, demonstrating its compliance with accepted recommendations, have been the most detailed and constructive that I have seen.

Warsaw and Prague: December

53. **Application process** Applicants in 8 countries in the east of the European Union complete an online Visa Application Form and then attend a Visa Application Centre run by UK Border Agency staff in a British Embassy (a spoke) to pay the application fee, provide biometric data and submit their application. Applications are couriered to Warsaw (the hub), where Entry Clearance Officers make the decision. The applicant's passport, with the visa or a Refusal Notice, is then couriered back to the Spoke where staff contact the applicant to confirm the application is ready for collection. EEA nationals do not need visas, so applications are from other nationalities who live in one of the 8 countries, typically Latvian and Estonian non-nationals, Russian, Indian, Turkish or Vietnamese, but covering around 140 nationalities in all.
54. **Demand** From April to November 2008, Warsaw received 5,180 UK applications. Excluding children, 41.1% are recorded as being for non-family visits. There was a high level of data entry however, in that 33% of a sample of files had been recorded in the wrong category; I was not satisfied that any of the data was adequately robust, including breaking down refusal rates into application categories. The April to November overall refusal rate is recorded as being 18.2%. From September to November 2008 I found that the overall refusal rate was 22.4%.
55. An incident in Warsaw led me to look at the guidelines for the photograph that is taken at the same time as fingerprint biometric data. I was surprised to find that the guidance to staff on the biometric process did not mention the digital photograph. Guidance to staff and applicants on the print photo applicants provide with the application is, however, inconsistent. On the UKvisas website it says *full face and without sunglasses, hat or other head covering unless you wear this for cultural or religious reasons (but the face must not be covered)*. On the visa application form this is shortened to *full face and without sunglasses, hat or other head covering*. On the Worldbridge, the commercial partner's website it says *full face without sunglasses, hat or other head covering unless for ethnic or religious reasons*. On the website of VFS, the other commercial partner, it says *The photograph should be taken without a hat, helmet or other headgear, unless you wear such an item for religious reasons. The photograph should be taken without sunglasses, although everyday glasses can be worn*. UK Border Agency accepted my recommendation to provide consistent information on photograph requirements based on UK Government requirements for UK passports.
56. **Decision quality** I reviewed 112 files where visas had been refused on randomly selected dates in September October and November 2008. There was a very low use of verification of evidence provided (1%) and gather that this will start, along with Europe-specific risk profiles, early next year. 6% of applications had been refused under Immigration Rule 320 (7A) relating to deception.
57. Warsaw scored 83% on whether the decision and Refusal Notice was lawful and reasonable, placing it in the Poor band. All but one of the sample cases had been assessed against the correct Immigration Rules; there were no examples of maladministration nor of wholly unreasonable judgement. 5% of the Refusal Notices included reasons and comments that directly contradicted material evidence provided in the application form and supporting documents. The main problem was that 9.8% of the sample cases had been given incorrect information

on appeal rights, compared with 4.6% in the global sample for the same period. These were, in the main, not tricky questions of whether a cousin is a qualifying family member but straightforward cases where the applicant had declared that they intended to visit their sister, or daughter, or brother. I concluded that the Entry Clearance Officers were not reading the application forms in full, or carefully enough.

58. Refusal Notices were generally neat and tidy with very few spelling or typo errors and listed the key documents that formed the basis of the decision. The print quality was not good however as Entry Clearance Officers were leaving optional text in red which prints out as grey. All visit visa Refusal Notices had an out of date (2007) version of the Immigration Rules; 84% correctly stated both the period and the purpose of the proposed visit.
59. **Overview** The UK Border Agency says that its move to a Hub and Spoke business model has three key benefits: improved quality and consistency of decision making, improved efficiency and greater resilience and flexibility. In my file sample for the period October 2007 to March 2008, the combined score for reasonable and lawful decisions in the 8 posts hubbed into Warsaw was 86.4%. There was, therefore, at 83%, a small reduction in decision quality in the sample I assessed. There is no evidence of an increase in consistency, because refusal rates from each of the Entry Clearance Officers making decisions in Warsaw varied from 14.7% to 38.4%, though I was told that all of them dealt with a similar range of applications. Finally, Warsaw failed the resilience and flexibility test because it had to rely on a series of temporary staff, some of whose work was of poor quality. As to improved efficiency, applicants will not have seen the 7 week delays and problems getting information to be more efficient, though the UK Border Agency might have found cost efficiencies.
60. I rated Warsaw Fair for information provision generally; there were problems of consistency and accuracy on the website and poor access to other sources of information. Decision quality was Poor by a small margin, caused mostly by providing incorrect information on appeal rights. There had been a deluge of correspondence about the significant delays experienced and whilst the replies were courteous, they focused solely on delay and did not address other complaints raised; for that reason complaint handling and recording is Poor. My overall assessment is that performance in Warsaw is **Poor**. All that sounded quite gloomy, but it was not a criticism of the Hub and Spoke business model, about which I am wholly neutral. It is reasonable to expect firm and robust evidence to support a change of business process and I did not find that Warsaw was able to provide such evidence, not through lack of will and enthusiasm but through misdirected effort, resourcing problems and inadequate data.

Manila: January 2009

61. **Application process** Applicants complete an online Visa Application Form and then attend a Visa Application Centre run by VFS, UK Border Agency's Commercial Partner, to pay the application fee, provide biometric data and submit their application. VFS send the documents to the British Embassy where Entry Clearance Officers make the decision.
62. I noted that if an applicant wished to pay in cash, VFS charge a handling fee. My understanding was that a cash payment had to be accepted without penalty and I recommended that the UK Border Agency confirmed if the additional charge is lawful. In response, the UK Border Agency explained that the Commercial Partnership contracts say that there should be a payment option that is surcharge free but it does not specify that this has to be in cash as that can be more problematic, more expensive, and less secure than electronic payment or bank drafts. It intends to review the legal position in the light of my comments.
63. **Background** From April 2007 to March 2008, Manila received 37,201 UK applications a year on year decrease of 8.2%. From April to December 2008, there was an increase of 32.8%. Excluding children, 23.8% of applications are recorded as being for non-family visits and 9.4% were students. The April 2007 to March 2008 overall refusal rate was recorded as being 13%, rising to 18.8% so far this year, apparently caused by student applications for courses in the UK where there is doubt that the applicant will be studying rather than working. From October to December 2008 the overall refusal rate for non-settlement applications was 28.8%.
64. **Decision quality** We reviewed 119 files where visas had been refused on randomly selected dates from October to December 2008. Manila scored 85.7% for decisions and Refusal Notices being lawful and reasonable, placing it in the Fair band (85% to 94%). Data accuracy was very good and it was easy to generate an accurate file sample.
65. All but 2 of the sample cases had been assessed against the correct Immigration Rules, the more serious had an out of date version of Immigration Rule 320 (11) because the finding was not that the applicant *previously contrived in a significant way to frustrate the intentions of these Rules*. The Refusal Notices in these cases were corrected and re-issued. I found that 9% of applications had been refused under Immigration Rule 320 (7A) or (7B) relating to deception and the Refusal Notices contained a good level of detail so the applicant would understand the reasons and the Rule. Document Verification Reports had been completed properly and formed a sound basis for audit.
66. 12% of Refusal Notices contained statements that were material to the decision and not in accord with the evidence, though there was no clear pattern of error. In one, a woman was told that she had no dependents in the Philippines when she had a young daughter living with her, in another a woman appeared to be criticised for leaving a dependant daughter when the Application Form confirmed that the daughter was over the age of 18 and not a dependant. I found one case of wholly unreasonable judgement and noted an allocation problem in that three friends travelling together had had their applications assessed by different Entry Clearance Officers and in only one was there doubt over the proposed accommodation. Taking a fresh look, the Entry Clearance Officer thought the

visa should have been issued. Allocation practice does need to ensure that people travelling together are considered as a whole even when one might be "fast tracked" given their previous travel history. Only one Refusal Notice (0.8%) contained incorrect information on appeal rights, a very good performance. There was one example of maladministration caused by delay.

67. The Manila team is fortunate to be in a country where cooperation with local authorities is strong. I noted one case where the applicant's passport had an *entry to The Philippines* stamp but the Immigration Authorities had confirmed from their records that the stamp was forged. Such cooperation provides verified evidence to support an allegation of deception. 100 applicants had been referred to The Philippines authorities when there has been firm evidence of non-genuine official documents and the visa team explained that non-genuine land registry documents had all but disappeared. This is a good way to influence applicant and agent behaviour.
68. Manila has tamed the wayward global template and produces Refusal Notices that look professional - short and to the point, free from repetition and wordiness, neat and tidy with very few spelling or typo errors. Most listed the key documents that formed the basis of the decision. I liked a recent wording explaining why documents showing the applicant's personal circumstances are necessary, with a short list of the points that would help an Entry Clearance Officer determine the applicant's personal circumstances - the "pull" factors that may make it more likely that the applicant would leave the UK at the end of a visit, linking this to Immigration Rule 41(i) and (ii). I also commended the way they recorded a failure to complete the Visa Application Form – clear and concise.
69. I was concerned by widely different refusal rates amongst the team of Officers. I was told that allocation is random and I took into account a small amount of specialisation. Of the 14 Entry Clearance Officers who had undertaken general work in Manila in a 3 month period, four recorded refusal rates of under 20%, and one refused over 50%: only two came within 5% of the team average of 28.8%.
70. We looked at the work of the risk assessment unit to see if it had been effective in improving the quality of decisions and refusal notices. The team had undertaken compliance exercises on visit visa and business visitor applications. It did not find unusually high levels of failing to leave the UK though the work provided useful data on different compliance rates between male and female applicants and between regions within The Philippines. Entry Clearance Officers were, in the main, aware of these results but they were also appropriately clear that each applicant should be treated as an individual. I was pleased to see that risk related information was seen as a useful background rather than the deciding factor.
71. **Overview** The Manila visa team had a positive attitude. I rated them Good for information provision generally. Decision quality was Fair with no single cause so a general tightening up on the problems found should be effective; the lack of decision consistency should be a priority. Complaint handling and recording was Good, though it is vital to address queries about UK Government policy and to send adequate responses first time round. My overall assessment is that performance in Manila is **Good**.

Jakarta: January

72. **Application process** Applicants complete a paper or online Visa Application Form and then attend a Visa Application Centre run by VFS, UK Border Agency's Commercial Partner, to pay the application fee, provide biometric data and submit their application. VFS send the documents to the British Embassy where Entry Clearance Officers make the decision.
73. **Background** From April 2007 to March 2008, Jakarta received 16,723 UK applications, an increase of 8.6% compared with 2007. From April to December 2008, there was a decrease of 7.4%. Excluding children, 77.6% of applications are recorded as being for non-family visits and 4.1% were students. The April 2007 to March 2008 overall refusal rate was 4.5%, falling slightly to 4.3% so far this year. From October to December 2008 I found that the overall refusal rate for non-settlement applications was 5.6%.
74. **Information** The VFS run Visa Application Centre was of the normal high standard. The waiting room at the British Consulate was, in sharp contrast, the most unloved and neglected that I have seen: the fees notice was dated March 2008 despite changes in exchange rates; noticeboards had sample forms from 2002: there were no information leaflets and no reading material. Worst of all was a copy letter on display which listed applicants' names, dates of birth and passport numbers, breaching the requirement to protect personal data, and doing that for the 5½ years since the letter was written. For applicants who are interviewed, and Jakarta interviews at least 14%, this is the first impression of the United Kingdom and for those whose visa is refused it is their only impression. No-one had gone into the room to see what it looked and felt like from an applicant's point of view yet 10 minutes of effort made a huge improvement. The team undertook to ensure that there are up to date versions of all the required notices.
75. **Decision quality** I reviewed 42 files where visas had been refused on randomly selected dates from October to December 2008. Using my 5 point scale to assess whether the decision and Refusal Notice is lawful and reasonable, Jakarta scored 85.7%, just into the Fair band. Data accuracy was good and it was easy to generate an accurate file sample. Case allocation is random and the average refusal rate was 5.9%, with the 2 Entry Clearance Officers clustered around that very tightly at 5.7% and 6.1%. This is the best consistency score that I have found, and is comfortably within the 5% either side of the average that I consider to be reasonable.
76. Only 5% of Refusal Notices contained statements that were material to the decision and not in accord with the evidence, a better performance than most Posts, and the visa team are to be commended for their care. There were no cases of wholly unreasonable judgement, all the sample cases had correct information on appeal rights and there were no decisions affected by maladministration.
77. 90% of the sample cases had been assessed against the correct Immigration Rules. In 3 cases, according to the Refusal Notice, the Entry Clearance Officer had found evidence of false representations, false documents or material facts not being disclosed. The Immigration Rules require such cases to be refused under Immigration Rule 320(7A) and this is mandatory. We spent much of the week looking up law and guidance and the team concluded that the Rule had not been

fully understood when it was introduced. Two cases (5%) had been refused under Immigration Rule 3207B and the team were more familiar with this. The Refusal Notices contained a good level of detail so the applicant would understand the reasons and the Rule.

78. The case that caused me most concern involved a genuinely held, but wrong, belief about the circumstances where the Police in the UK would take and retain fingerprints. I recommended that the case was reconsidered because it appeared that the applicant had not been convicted and had, therefore, not failed to declare a conviction on the application form and should not be subject to a 10 year ban from the UK under Rule 320 (7B). Jakarta had not had training on interpreting information proved by these checks which started to operate at the end of 2008. The UK Border Agency responded constructively and will improve the quality of information provided to staff.
79. Jakarta had not tamed the wayward global template and produced Refusal Notices with page breaks in odd places and repetitive paragraphs; there is no need to repeat the Immigration Rules or sections of the Rules in three places. I was also concerned about an optional paragraph in [brackets] indicating that the applicant was entitled to apply again; it was, apparently, used when there was a reasonable chance that the applicant would succeed the next time if they produced some missing information. Providing information selectively is inappropriate, rather like providing appeal information only to those the Officer thought would not win. These points were quickly amended.
80. **Overview** The Jakarta visa team fully understood the importance of sound decision making, both to the UK and to the applicant. Indonesia as a country is full of opportunities for the UK, in business, in climate change, in multi-faith understanding, in global influence: 17,000 ordinary citizens form their impression of the UK through their application experience. Jakarta was Good for information provision generally, though very poor for on site information at the British Consulate. Decision quality was Fair, but there was excellent decision consistency between the Entry Clearance Officers who discuss cases and thus develop a common approach. I thought that complaint handling and recording was Good. My overall assessment was that performance in Jakarta is **Good**.

Canberra: March

81. **Application process** Applicants in Australia complete an online Visa Application Form and attend a Visa Application Centre in a British Consulate to provide biometric data. They submit their application to the UK Border Agency office in Canberra, by mail or in person, paying a postage charge if they wish the decision and associated papers to be returned to them by mail. In mid February Canberra began to handle applications from New Zealand.
82. **Demand** From April 2007 to March 2008, Canberra received 31,778 UK applications, a decrease of 43.8% compared with the previous year. From April 2008 to January 2009, there was a further decrease of 4%. Excluding children, 6.2% of applications are recorded as being for non-family visits and 49.9% for Working Holiday Maker visas which, by the time of my visit, had been transferred into the Points Based System as Tier 5 Youth Mobility. The April 2007 to March 2008 overall refusal rate is recorded as 3%, rising to 6% from then to March 2009. From December 2008 to February 2009 I found that the overall refusal rate for non-settlement applications was 11%.
83. **Information** The British High Commission website, in a well meaning attempt to be helpful, suffered from overload and had errors which gave a poor impression. I recommended that it was pruned, with more direct links to central UK based information. Noting that a significant proportion of Points Based Applications had been refused because the applicant has not provided specified documents, I recommended that the global Application Forms are amended to include the word *Original* in the section on supporting documents and, if there is room, confirmation that internet printouts on their own are not acceptable as this is a widespread problem.
84. **Decision quality** I reviewed 55 files where visas had been refused on randomly selected dates in January and February 2009. Data accuracy was good. Using my 5 point scale to assess whether the decision and Refusal Notice is lawful and reasonable, Canberra scored 87.3%, placing it in the Fair band.
85. All but two (96%) of the sample cases had been assessed against the correct Immigration Rules. In one case there was evidence of breaching the UK's Immigration Rules but the Refusal Notice failed to record a refusal under Rule 320 (7B). The second case raised what has been a contentious problem for the team, which has been given conflicting guidance. The applicant, using the on-line application form, had completed the form as a 2 year visit visa and had been refused on the grounds that she wished to work. I noted, however, that she stated that the purpose of her visit was as a Working Holiday Maker. The fee for both types of application is the same. Given the clearly stated purpose, I thought the application should have been handled as a Working Holiday Maker and when it was re-considered the visa was issued. I was content that similar applications where the intended purpose was "work and travel" should be considered, and refused, under the visit visa Rules.
86. 9% of Refusal Notices contained statements that were material to the decision and not in accord with the evidence and there were no cases of wholly unreasonable judgement. Two visit visa applications had incorrect information on appeal rights. Two cases were adversely affected by maladministration because correspondence had not been linked to the application. In a Points Based System

Tier 1 case, I recommended that the fees for further applications (principal and dependants) be refunded, along with an apology because the initial applications should have been successful.

87. Before reaching a combined score, I assessed visit visa applications, of all limited appeal right types, separately from Tier 1 and Tier 5 of the Points Based system finding that the highest error rate was with visit visas which scored 73%. Tier 5 Youth Mobility had no errors but it is worrying that so many young Australians are wasting the visa application fee because they do not realise that they have to provide supporting evidence, or that it has to be original bank statements rather than downloaded from the internet.
88. Canberra's Refusal Notices were excellent, well written, clear, neat and tidy.
89. **Overview** I thought Canberra was Fair for information provision generally, decision quality was Fair but complaint handling and recording was Poor. My overall assessment is that performance in Canberra is Fair. It has a backlog of applications and is taking far longer to reach a decision than the official 5 to 15 day target. It was hard to establish the real turnaround time from the applicant's perspective as there were gaps before an application was recorded on the system and gaps between the decision date and the Refusal Notice being posted out. Removing the backlog has to be the team's priority so that they have room to breathe and implement the quality changes that are necessary.

Wellington: March

90. **Application process** Applicants in New Zealand complete an online Visa Application Form and make an online appointment to provide biometric data at one of three centres provided in Immigration New Zealand offices staffed by New Zealand officials. They submit their application by mail for it to be delivered to Canberra where the decision is made by UK Border Agency staff. The Wellington office continues to handle applications made before the end of January.
91. **Demand** From April 2007 to March 2008, Wellington received 8,032 UK applications a decrease of 18.4% compared with the previous year. From April 2008 to January 2009, there has been an increase of 12.7%. Excluding children, 3.9% of applications are recorded as being for non-family visits and 39.5% for Working Holiday Maker visas, now Tier 5 Youth Mobility. The April 2007 to March 2008 overall refusal rate is recorded as 1%, rising to 5% from then until March 2009. From December 2008 to February 2009 the overall refusal rate for non-settlement applications was 7%.
92. **Staffing** From February, there is one UK Border Agency administrative support officer, and a former Entry Clearance Officer is handling outstanding visa matters.
93. **Information** When the UK Border Agency outsources some of its responsibilities to others, whether they are commercial partners or agencies of other Governments, it is vital that applicants know who is capturing their personal data and who will have access to it. This was not adequately clear in Wellington. At the biometrics enrolment centre, applicants will probably queue at the New Zealand desk before being directed to the UK Border Agency section because signs were not well located or specific; I recommended that signs should be visible and have an obvious UK Border Agency logo. I was concerned to find that supplies of the well written UK Border Agency leaflet, which is handed to applicants, had run out; this gives vital information about the handling of personal data and stocks must be replenished as needed.
94. **Decision quality** I reviewed 35 files where visas had been refused on randomly selected dates in January 2009, though some had not been issued to the applicant. Data accuracy was good and it was easy to generate an accurate file sample. Using my 5 point scale to assess whether the decision and Refusal Notice is lawful and reasonable, Wellington scored 87.3% which places it in the Fair band.
95. I was concerned to find that a number of Application Forms had not been signed, and that regional management had apparently said that was acceptable, even though UKvisas accepted my October 2007 recommendation that on-line applications must be signed on paper. Without the applicant's signature there is no authority to handle data and no statement that the information is correct: both are important, but all the more so for the Immigration Rules relating to deception. Many of the Application Forms had handwritten additions but it was impossible to tell whether they had been made by the applicant or by visa staff. Once again, it is crucial to know because of the need for firm evidence on deception.

96. All but two (94%) of the sample cases had been assessed against the correct Immigration Rules. In one application for Tier 1 of the Points Based System, whilst there was evidence of previous deception; the applicant had been granted Entry Clearance on arrival in the UK after the alleged deception and it was more likely than not that the Immigration Officer in the UK had known of the previous deception. This later application should not have been refused under Immigration Rule 320 (7B). I recommended that the case was reconsidered and when it was, the visa was issued along with a letter explaining why the passport had an incorrect refusal stamp in it in case the applicant was questioned on arrival in the UK. In the second case, the applicant applied as a visitor but was wrongly assessed as a Youth Mobility application and refused because he had had a Working Holiday Maker visa in the past. This case was reconsidered and refused under the correct Rule. 16% of Refusal Notices contained statements that were material to the decision and not in accord with the evidence. There were no cases of wholly unreasonable judgement, and all of the sample cases included correct information on appeal rights.
97. Before reaching a combined score, I assessed visit visa applications, of all limited appeal types, separately from Tier 1 and Tier 5 of the Points Based System. Visit visa applications had a Very Poor score of 63% of the decisions being reasonable and lawful. This is a significant fall in quality since I recorded Wellington's score as 81% in 2006. Facts based Points Based System applications should have fewer errors and they did: Tier 1 scored 91% and Tier 5 scored 93%.
98. Refusal Notices were neat and tidy though Wellington has been using an out of date version of the Immigration Rules relating to visit visas, having not changed the template in September 2007.
99. **Turnround time** Wellington had built up very lengthy backlogs and whilst official information said that between 92% and 100% of general or business visit applications were completed within 15 days, the applications I assessed had a processing time of 6 to 15 weeks. I gather that the system counts as the completion day the day the Entry Clearance Officer makes the decision, but in Wellington there was a very, very long gap from then until the decision was reviewed and dispatched.
100. **Overview** I thought Wellington was Good for information provision generally but Poor for failing to ensure data handling and complaint information was provided to all applicants. Decision quality was Fair, though the fall in the percentage of visit visa decisions that were lawful and reasonable to Very Poor is worrying. Correspondence and the handling of complaints was Very Poor. My overall assessment is that performance in Wellington was **Poor** though I did note that the tidying up of outstanding cases is being handled by excellent and committed staff.

Monitoring visit Reports

101. I prepare Reports immediately after a visit with detailed findings and recommendations for the UK Border Agency to address. I send a copy of the Report to the Chief Executive of the UK Border Agency, to the Director of the UK Border Agency International Group and to the relevant High Commissioner or Ambassador. The UK Border Agency publishes the Report and its response on its website² and my key findings are also included in this Report.
102. The Independent Monitor Liaison Team supervises a follow-up programme, checking that recommendations that have been accepted have been implemented. This works well, ensuring that my short visits are part of a longer term programme of improvement.
103. Key findings:
- **Information** I see the same problems on my visits and many Posts do not seem to realise that recommendations I make and which are accepted apply globally. Information should be accurate, accessible, and focused on an applicant's needs at a specific point in the process.
 - **Data accuracy** Failing to amend default settings when the visa application is refused continues to undermine accurate information on demand and refusal rates. Sudden swings in refusal rates might be caused by different Entry Clearance Officers recording data differently rather than exercising judgement differently.
 - **Attention to evidence** Material evidence is, increasingly, misread or overlooked. Entry Clearance Officers generally tell me that there is productivity pressure and they do not have enough time to go through applications carefully. The UK Border Agency disagrees but has not provided an alternative explanation. It must demonstrate that it is tackling this problem, whatever the cause.
 - **Refusal rates** In a fair process, a non specialist allocation system should cluster outcomes no more than 5% either side of the average. Only Jakarta, a small visa office, achieved that. Applicants should not be three times more likely to be issued with a visa, as they were in Manila, depending on which Entry Clearance Officer picks the application from the waiting pile.
 - **Refusal Notices** Entry Clearance Officers need to read Refusal Notices in full, preferably on paper and not just on screen, to see if they make sense, remove errors and repetition, and check for overall quality.
 - **Turnround times** Information captured from the case recording system does not accurately record turnround times from the applicant's perspective and published data is not, therefore, sufficiently helpful. There are lengthy backlogs in some places which should be addressed.
 - **Correspondence** There is little consistency in the way contacts from applicants, their sponsors and their agents, is assessed, recorded or replied to, whether as enquiries before an application or in correspondence after the decision.

² www.ukvisas.gov.uk

INFORMATION FOR APPLICANTS

Information is important for all applicants, but especially so for those who do not have a full right of appeal. Good pre-application information gives them the best possible chance of choosing the right category, completing the application form accurately and enclosing relevant supporting documents. Competent local advice is not always available and without accessible, understandable, consistent and accurate information, applicants with limited rights of appeal can run into problems and may need to pay a further fee to make a second application.

104. Some time ago, I recommended that visa information was provided centrally, rather than by each visa office, to ensure consistency and make it simpler to amend information in a rapidly changing world. This recommendation was accepted, but in order for a central platform to work well, it must be updated promptly so that information is accurate.

105. The main www.ukvisas.gov.uk website has not, for example, caught up with the need for all applicants to apply in person to provide fingerprints:

How do I apply for a visa? You can apply in a number of ways, for example, by post, by courier, in person and online.

I see this type of error on almost all of my visits, for example, on a page of Frequently Asked Questions, the Worldbridge website says *The Visa Section aims to resolve applications on the same day and entrance to the Visa Section is limited to strictly one person per [...] group application*, which is misleading. Information is often written from an internal perspective referring, for example, to *ECOs* and *spoke posts* without explaining what they are.

106. Although the UK Border Agency expects its staff to read my reports, recommendations that have been accepted, especially those relating to accuracy of information, are not always applied globally. I thought it would be helpful for managers to have a formal prompting system so that when there are changes to the Immigration Rules or formal guidance, the Business Assurance checklist includes a tick list prompting managers to act and to confirm that necessary changes have been made to websites and noticeboards at Visa Application Centres and Visa Offices, Refusal Notice templates, etc.

107. UK Border Agency now has a strong user perspective on this because, I am pleased to record, in late 2008, the Visa Services Directorate undertook a sound and sensible customer survey on its information provision securing nearly 10,000 responses from people in 142 countries. Nearly 90% of respondents said that the visa application guidance they received from UK Border Agency and its partners fully answered their questions.

108. Telephone and e-mail services were identified as the main weakness with nearly half of respondents not satisfied with the quality of guidance and information provided. The cost of obtaining information by phone was also noted. On one visit, I sent a test email asking about how to appeal on the basis of racial discrimination. Worldbridge replied the next day, but the response was standard text which did not answer my simple question. One week after my follow up query, my email was returned as undeliverable. The Visa Services Directorate is carrying out further research into the concerns raised about telephone and e-mail information services, and has given a commitment to implement changes where required. The report was due at the end of March.

109. I note that an oft repeated complaint is that applicants do not know what documents they should provide to support their application. If, in Nigeria, a birth certificate cannot be used as evidence of parentage as they are *easily available*; if, in India a report by a Chartered Accountant is of no evidential value as they are *easily available and cannot be verified*, then this should be made clear before the applicant spends money on obtaining such documents.
110. The varying requirements for what is required (but not specified) or cannot be taken into account (without prior warning) makes the on-paper, evidence based application system appear fickle. The official position is not to provide a prescriptive list, other than for Points Based System cases, because that might encourage recourse to forged documents, but improvements in detection and deterrence should remove much of the suspicion. I am, after repeatedly raising this key concern, pleased to see that the customer survey has led to a commitment to resolve this information gap at the next review of the Visa Application Form, also due in March. If the UK Border Agency cannot list what is required, it should be able to say what it will not take into account.

Information on appeal rights

111. A proportion of Refusal Notices give inaccurate information on appeal rights, indicating that rights are limited when there are full appeal rights because the applicant wished to visit a qualifying family member³ or study for more than six months. The paper Visa Application Form now asks specifically if the applicant intends to visit a member of their immediate family making it easier for Entry Clearance Officers to understand whether, if refused, the applicant qualifies for full appeal rights. This has been a success and in the file sample for April to September 2008, the information error rate fell from 5.5% to 4.6%. Given the positive impact of asking this question, it is of concern that the on-line application form will not be updated until April 2009.

Case study

Good practice in New Delhi: Your sponsor is your grandfather's brother in law. Your relationship to your sponsor is not therefore close enough to be classified as a family visit under the UK's family regulations. Your application does not therefore attract a full right of appeal as a family visitor.

112. From the current file sample, I returned 33 cases to the UK Border Agency where I found that the applicant had not been informed that they had full appeal rights recommending that the Refusal Notice was re-issued with correct information. In 8 further cases, I thought that there was no need for action, noting in particular cases from Bangkok, Lusaka and New York which had been corrected before the file was sent to me.

³ The Immigration Appeals (Family Visitor) Regulations 2003

113. Legal advice is that visit visa categories carry full rights of appeal if, in addition to some other purpose, the applicant would visit a qualifying family member. The application form in use during the sample period did not ask Student Visitors if they would see a qualifying family member and Entry Clearance Officers were not specifically briefed that as this is a visit visa, there might be full appeal rights. I note that the paper form was amended in November 2008 and it now asks if a Student Visitor applicant intends to visit a family member.

Information for Entry Clearance Officers

114. Accurate, accessible guidance is just as important to the Entry Clearance Officer as it is for the applicant. Many Entry Clearance Officers rely on the bulky ring binder that they are given on their training course and which is, given the frequency of changes, immediately out of date. It seems a very long time ago that I recommended that AECIPs, the guidance and instruction notes issued by headquarters, were put onto the intranet to make them easier to locate. That first recommendation was refused on the grounds that it was technically impossible.
115. Each of my reports since then has charted improvements. It *was* possible to put the AECIPs online, though you still needed to know which year and which number as there was no search facility or index. Alongside, however, a small team worked on improving the complementary Entry Clearance Guidance, to great effect. When I am working on files, I use these references because I need to be in the same position as an Entry Clearance Officer so I am particularly appreciative of the guidance team's work.
116. In February UK Border Agency Visa Services Directorate issued a new staff guidance site called Entry Clearance Toolkit which provides easy access to operational instructions and policy guidance relating to visa work. It has hyperlinks to relevant websites, such as the Immigration Rules, it is simpler to navigate and the Guidance section has a word search facility if you don't know where the answer might lie. Almost all of the guidance and instruction is available to the public.
117. When I work alongside Entry Clearance Officers on my visits, I check whether they look up law, guidance and directions online: many do not know how to. I have already recommended that UK Border Agency should promote a look it up culture because the pace of change and the complexity of visa regulation means it is hard to keep up to date and accurate. Perhaps this culture could start on the induction training programme, with delegates simply being given an email containing a link to the Entry Clearance Toolkit?
118. On my visit to Canberra I noted email chains to and from Visa Services headquarters' relating to policy and practice guidance. I commended Canberra for wanting to clarify how the Immigration Rules and organisational policy should be interpreted but the responses were often contradictory and the impression was of policy making on the hoof.

119. I set out three different stages:

- Step 1: law – this cannot be broken or amended;
- Step 2: formal guidance, normally accessible to the public and applicable to all cases;
- Step 3: the reasonable interpretation of guidance as it applies to a specific case.

To ensure global consistency, I recommended that guidance relating to other than a single and specific case should be formally approved and added to the guidance library.

FILE SAMPLE FOR APRIL TO SEPTEMBER 2008

The Independent Monitor is directed to prepare two Reports each year for the Secretary of State to lay before Parliament. In addition to commenting on information and complaint handling for applications within my remit, I assess a global sample of cases that have been refused under the legislation and directions that govern the Independent Monitor.

Sample basis

120. I directed the UK Border Agency to generate a sample of applications refused with limited rights of appeal under Sections 90 and 91 of the Nationality Immigration and Asylum Act 2002, and Tier 1 of the Points Based System from 1 April to 30 September 2008.

- There should be a computer generated randomised selection of 0.75% of the cases determined within the sample period.
- There should be a further randomised selection to provide at least 2 files per Post for each of 2 quarterly slices. *This weighting allows for an adequate assessment of smaller Posts which might otherwise be required to provide only one file.*
- The deadline for receipt should be 15 December and Posts should provide an explanation if files miss the deadline. *Only 81% of the packages arrived by the deadline compared with 95% for the previous sample.*
- Files should be numbered with the UK Border Agency's reference number in addition to a Post specific numbering system and, if there are two numbering systems, the Entry Clearance Manager must confirm that the files provided are those requested.
- Posts should enclose files that are closely linked with the selected file, for example other family members intending to travel at the same time, previous or subsequent applications whether refused or issued. *Most did, or provided sensible explanations such as the application was one of a large group.*
- Entry Clearance Managers should provide an explanatory note for any file substituted. *Most did.*
- I find brief translation notes helpful for documents that are not in English. *Most Posts provided notes and I appreciate the time they spent doing that.* I note, however, that UK Border Agency now requires applicants to provide English translations so there should be no need for visa staff to do this. From the sample it is clear that not all Posts are informing or requiring applicants to provide translations.

Delayed and missing files

121. UK Border Agency needs to find out why there was a sharp slippage in the proportion of Posts which send the files on time, though I am more concerned to learn that in some cases, the delay was caused by packages of files being misdirected.

- Two packages sent by Accra on 2 December by diplomatic bag arrived in the UK on 4 December. They were eventually located in Foreign & Commonwealth Office premises in Buckinghamshire on 28 January. The

packages had not been properly addressed, having only my name and title on the outer envelopes. One package had been opened, but the applications were in sealed envelopes which appeared not to have been opened. This was a serious failing as the files contain sensitive personal data, accessible only to staff who need to see it.

- Files from Islamabad and Pretoria were also misdirected despite being correctly addressed, though these packages were intact when I finally received them.

Substituted files

122. This year, the proportion of files that were replaced before dispatch rose from 9.3% to 10%.

- 6.7% were **errors in data entry** in that the cases had not been recorded accurately on the case management system. Performance was patchy. Lagos recognised that it had made major improvements in data recording needing to replace only 3% of its files and I commend them for realising that accurate data entry is a vital foundation stone for the whole visa service. In contrast, Islamabad (sample size = 80) had a data entry error rate of 24%, and Rabat, Sana'a and Seoul (sample sizes = 4 per Post) of 75%.
- 3.1% (up from 1.6%) of the sample were cases that had had full appeal rights notified correctly - that is both **data entry error** and **managerial error** as the files are supposed to be checked by an Entry Clearance Manager before dispatch.
- 2.5% (up from 1.2%) of the cases provided were not within my remit for other reasons. Given the precise and limited nature of my remit I accept that such errors will happen because I do not review all cases with limited appeal rights. In an odd twist, Ministerial directions say that Points Based applications are within my remit, though applications from the dependant of a Points Based applicant are not even when the application is correctly refused with limited rights of appeal.

The UK Border Agency's overall performance

123. The UK Border Agency's performance tracking system, the Balanced Scorecard, includes the Independent Monitor's assessments in its complex matrix of measurements covering Controls, Competitiveness, Costs, and Capabilities. I have agreed a stretching target that 95% of Refusal Notices should be lawful, reasonable and include correct information about rights of appeal. A score of under 85% is Poor.

124. Assessing the UK Border Agency's performance overall, in 84.8% of the sample of 906 cases the Refusal Notices were lawful, reasonable and provided correct information about rights of appeal. This figure includes cases that are not within my remit but were included in the sample having been given inaccurate information on appeal rights. Performance falls into the **Poor** band by a small

margin and compares with 85.7% in the last sample. This is the first fall after a pattern of slow but steady improvement over the past 3 years.

125. A small number of sample cases (13) were Tier 1 Points Based System applications. Separating these out, they score 92.3% well up in the Fair band lifting the overall global score by 0.01%.. Given the size of this sample, and the fact that I did not see all Points Based System cases because Mumbai did not realise they are within my remit, it is too early to say that the new facts and evidence based system will improve the quality of decision making.
126. Regional ratings:

Africa	81.3%	POOR (down from 88% Fair)
Americas	89.4%	FAIR (up from 87%)
Euromed+ Russian Federation+ Commonwealth of Independent States	81.3%	POOR (down from 83%)
Asia Pacific	84.5%	POOR (up from 82%)
South Asia Gulf	86.7%	FAIR (up from 84% Poor)

127. I can provide Post specific scores when the sample size is large enough to be robust:

Abuja	88%	FAIR (up from 85%)
Accra	70%	POOR (down from 71%)
Chennai	85%	FAIR
Islamabad	88%	FAIR (no change)
Lagos	84%	POOR (down from 94%)
Mumbai	80%	POOR (down from 83%)
Moscow	74%	POOR (down from 93%)
New Delhi	91%	FAIR (up from 84%)

128. I note the comments from Accra outlining the difficulties they faced over the sample period, feeling overstretched and relying on inexperienced temporary staff.

Cases within the Independent Monitor's remit

129. Putting the cases that have full rights of appeal to one side, I have assessed in detail 864 cases within my remit as either **lawful and reasonable**, or faulty in the use of **judgement**, the use of **evidence**, the **Immigration Rules** or suffering from **significant maladministration**.

Reasonable

130. A reasonable Refusal Notice is one which is in accord with the Immigration Rules *and* the decision is not perverse *and* it is based, even loosely, on the evidence *and* there is correct information on appeal rights. In this sample 88.9% of Refusal

Notices were reasonable, down from 91.2% in my last global sample. This performance falls into the **Fair** band. This is the first fall that I have recorded over a three year period using a consistent assessment method.

Immigration Rules

131. In the file sample 4% (up from 3.2%) of Refusal Notices assessed an application against the wrong Immigration Rules. Almost all children's applications were, at last, handled under the child specific Immigration Rule 46A, though not all Entry Clearance Officers have heard of it as I came across *Immigration Rule 41 (viii) requires that you are not under the age of 18. You are under the age of 18 and I therefore refuse your application.* I recommended that this case was reconsidered properly under IR 41 (i) to (vii) and the child visitor Rule 46A.

Business related training

132. I noted lack of consistency in whether someone intending to undertake business related training in the UK was expected to apply as a Business Visitor or Student Visitor. 60% of Posts failed to amend the templated Immigration Rule 41 when the Student Visitor category was introduced in September 2007: the out of date version says that the applicant must not intend "*to study at a maintained school*". Smarter Posts who made the change have generally realised that the correct version, "*does not intend to study*", affects business visitors whose purpose is to attend a training course. If the course is provided by their employer who has business premises in the UK, that can be handled as a business visit. If the intention is to attend a separate training provider to study latest hairdressing techniques or security systems, or IT programmes, then that is a course of study and should be handled as Student Visitor. When Posts do that, they may refuse the application on the grounds that the training provider is not registered by the Department of Innovation Universities and Skills register.
133. From correspondence on the files, business skills course providers are applying to be registered. I cannot, however, find any helpful advance information that the September 2007 Rule changes would affect such providers and many of their would be students will have wasted a visa application fee. There is inconsistency in the way these applications are handled and **I recommend** that UK Border Agency issues guidance.

case study

Good practice: in Copenhagen, the applicant wanted to attend a one day course and had applied as a visitor. The Entry Clearance Officer refused under Immigration Rule 41 (v) *does not intend to study*, but then said that if the applicant had applied as a Student Visitor, he would have been refused as the place of study was not on the Department of Innovation Universities and Skills register. I thought that this was a helpful Refusal Notice which prevented the applicant from wasting time and money on a further application which would have to be refused.

Not applying the Immigration Rules correctly

134. A small Post has routinely refused applications under Immigration Rule 320 8(A):

"I have considered your application against paragraph 320 8(A) of the Immigration Rules. In the light of the information disseminated by the Embassy through a variety of media – all of which you could reasonably be expected to have access to – regarding supporting evidence (specifically that relating to your financial ability to maintain and accommodate yourself) I am satisfied on the balance of probability that you have failed to supply information documents, copy documents or reports as requested and I am not prepared to exercise discretion in your favour."

135. I thought that was an incorrect use of 320 (8A) which states that an entry clearance application outside the UK can be refused on the grounds of *failure by [the applicant] to supply any information, documents, copy documents or medical report requested by an Immigration Officer*. My reading of this is that there has to be a specific request, by an Immigration Officer, to a specific applicant and for a specific document. The UK Border Agency agreed and accepted my recommendation that all 10 cases refused on this ground by this Post should be reconsidered.

136. To make matters worse, if the applicant did look up the Embassy website (the web address is included in the Notice) there is no information on documents. It takes three links through the commercial partner's website to reach *"There is no set list of documents which should be provided as this varies depending on the category that you are applying for. The guidance notes list the documents most commonly asked for. Please contact the visa application centre or visa section overseas where you intend to make your application for a full list of documents which you may have to provide there."*

Click on the guidance link and you get: *Visitor applications (VAFs 1A - 1K) - supporting documents checklist is now found in Part 11 of the application form.*

Get as far as looking at the Form and it says: *Please ensure you submit all the relevant original documents that you want the Entry Clearance Officer to see when considering your application. The list below is for guidance only. It is not a list of documents that you should or must supply.*

So, applicants cannot have declined to *supply information, documents, copy documents or reports as requested*, because there is no prescriptive list.

The Rules on deception

137. From 29 February 2008, under Paragraph 320 (7A) of the Immigration Rules, an applicant must be refused entry clearance if false representations or documents are used, or material facts not disclosed, whether or not the false representations or documents are material to the application, and whether or not the deception is with the applicant's knowledge. Rule 320 (7A) is a general ground for refusal which means that cases involving deception have to be established to a higher balance of probabilities than refusals under the category specific Immigration Rules. The Entry Clearance Officer is responsible for proving the alleged deception but refusal is then mandatory. In the file sample 6% of Refusal Notices cited 320 (7A) though there were a significant number of applications (1.4% of the sample) where the Refusal Notice set out grounds to support a

refusal under this section but failed to mention the Rule itself or there was adequate evidence on file that was not mentioned at all.

138. In July 2008, the UK Border Agency accepted my recommendation to have policy and practice meetings to develop a consistent approach, confirming that training sessions on the changes to Immigration Rule 320 would be delivered worldwide in July and August, though only on request. It appears that only three places, Cairo, Chennai and New York, requested training, covering around 10% of Entry Clearance Officers and Entry Clearance Managers worldwide. The lack of a consistent approach is obvious from the files I have reviewed.
139. In the training pack for new staff, which has, since September, included a specific session on the General Grounds for Refusal, the fact that an applicant fails to declare a previous refusal by ticking the "no" box means that 320 (7A) applies unless, for example, there is related evidence to suggest a genuine mistake, such as the applicant enclosing a copy of the Refusal Notice. Algiers, Istanbul and Minsk, amongst others, failed to apply 320 (7A) in cases where the applicant ticked the "no" box when there had been a previous refusal. Belgrade found an undeclared application and refusal for a Schengen⁴ visa and confirmed this with the Embassy involved, yet there was no mention of 320 (7A). In Jeddah, a failure to declare a visa application two weeks earlier was found to be a false representation and refused under 320 (7A) whereas in Beirut, a failure to declare three previous visa refusals was not refused under 320 (7A).
140. There is a similar lack of consistency in applying the Rules where there is strong evidence to conclude that the applicant has provided false documents. Dubai and Lagos, for example, failed to refuse under 320 (7A) despite a Document Verification Report confirming that documents were not genuine. Moscow, refused an application on the basis that a recent previous application had shown deception relating to employment, but in neither application was 320 mentioned.
141. The UK Border Agency expects that all refusals under the new deception Rules will be checked by an Entry Clearance Manager. The Manager in Nairobi noted that neither of the sample cases which had been refused under 320 (7A) had been reviewed and had circulated a reminder. On my visit to Manila I found that half of the 320 (7A) and (7B) refusals had slipped through a three layer safety system.

Case study

Excellent practice in New Delhi: The visit visa application had been refused citing 320 (7A) because the applicant had ticked the "No" box on the form to deny having been refused a visa in the past. The case was quality checked by an Entry Clearance Manager who thought was unreasonable because the previous application had been for an EEA family permit when the applicant was aged 17, there was, therefore, reasonable doubt that she had known about it. I also have doubts whether an ordinary member of the overseas public would know that a "permit" is a visa.

142. If an applicant uses deception in their current application they can only be refused under 320 (7A). The automatic refusal of future applications does not apply at

⁴ common visa area for most European countries

this point, though 10% of the relevant Refusal Notices (52 in all) suggested that it did. An applicant can only be refused under 320 (7B) if they used deception in a previous application and future applications should be automatically refused, for the same reason, for 10 years from the date of the first 320 (7B) refusal.

143. Immigration Rule 320 (7B), introduced on 1 April 2008, says that a visa must be refused if the applicant has previously breached the UK's immigration laws by overstaying; breaching a condition attached to his leave; being an illegal entrant; using deception in a visa application, leave to enter or remain (whether successful or not). There is a list of exemptions including that the applicant was unaware that the documents submitted or representations made were false; had previously been issued a visa in the knowledge of the immigration breach; the deception in an application for entry clearance was more than 10 years ago. The file sample revealed lack of consistency in the application of this Rule too.

Case studies

Missing it in Port of Spain: the visit visa applicant had overstayed in the UK, worked, used a state school and the NHS all in contravention of the visa conditions and, allegedly, lied to an Immigration Office - but the Refusal Notice did not mention Rule 320 (7B).

Good practice in Kingston: the Entry Clearance Officer used employment letters from previous applications as well as detailed information from the UK to confirm a long standing pattern of breaching UK laws and cited 320 (7B).

144. The need to keep the supporting evidence in such cases is even more vital than in refusals for other reasons, given the impact of a 10 year ban. Yerevan, for example, refused an application because of an undeclared refusal of an application for a US visa but there was no supporting evidence on file.

Case study

Good practice in Caracas: a very good Refusal Notice spelled out the reasons for a 320 (7A) refusal in detail. The file included a colour copy of a page of the applicant's passport, and a properly signed and dated Document Verification Report explaining the attempt to erase a refusal stamp and a call to another Embassy to check its records.

145. I have been asked whether the fact that the applicant encloses a passport which shows a "refusal" stamp is enough to suggest ticking the "no" box was a genuine error; I have been asked for my view on whether an incorrect "no" should lead to a 10 year ban. My view is that my view is immaterial: it is the responsibility of the UK Border Agency to provide clear, unequivocal, accessible direction and

guidance, and to have robust systems to ensure that laws and directions are followed consistently across all of its visa offices. **I recommend** that it now does that.

Biometric matches

146. None of the sample cases included evidence of an adverse biometric match, down from 0.6% in the last sample.

Evidence

147. For me to register concern about the use of **evidence**, the Entry Clearance Officer has to set out reasons that fly in the face of the evidence provided, or have made a decision that took no notice of material evidence obtained at interview or in supporting documents. 7% of the sample cases had material errors with facts, a sharp rise from the 4.9% I recorded in my last global file sample. I have, in visit reports during 2008, also noted a worrying rise in Refusal Notices that make material errors by overlooking evidence or not reading it carefully enough.

case studies

Attention to detail in Warsaw When preparing the files for dispatch to me, the Entry Clearance Manager in Warsaw noted that the Refusal Notice did not convert the currency to £sterling, as required. When he did that, he found that the amount quoted was wrong because the Entry Clearance Officer had not taken into account a later bank statement. He arranged for a revised Refusal Notice to be sent to the applicant - still a refusal, but at least one without mistakes.

Missing it in Chennai The applicant wanted to join her husband on board ship where he was employed as a crew member. The Refusal Notice took no account of the documents provided, including a letter which explained what her accommodation would be, and a bank account with details of funding.

148. My findings on evidence are an underestimate as it was not always possible to check the statements made in the Refusal Notice against the evidence provided by applicant because the supporting documents had been destroyed or returned to the applicant. **I recommend** that the UK Border Agency reminds staff of the Operating Standards and Instructions requirement to retain *copies of all relevant supporting documents*.

case study

In Accra the Entry Clearance Officer claimed that the applicant had not submitted evidence of how the trip would be funded. But the applicant had provided a letter from her partner in which he confirmed that he would pay for her to accompany him on a business trip and that he enclosed his pay slips. The pay slips had not been kept on file, nor had the list of documents that had been submitted. I recommended that the application was reconsidered.

Judgement

149. The Independent Monitor's assessment is not the same as a review by an independent tribunal so I do not substitute my own judgement in the cases I look at. This is the trickiest part of my assessment method for people to understand: for me to record concern about use of **judgement**, the decision has to be perverse - a decision that no reasonably competent and fair Entry Clearance Officer would make. When I work with temporary team members, they are surprised at how poor a decision has to be before I record it as wholly unreasonable: there has to be little or no doubt that a competent Entry Clearance Officer would have issued the visa.
150. I found wholly unreasonable judgement in 1% of the assessed cases, very similar to the last sample.

case study

The applicant in Kiev wanted to attend a 4 week English language course. He had a good history of relevant study, finances were in place, the course fees had been paid and a verification check had confirmed his claimed employment was genuine. The decision did not take into account any of these positive points, but used routine arguments that did not apply to these specific facts and circumstances.

Maladministration

151. Less than 1% of the file sample were cases where significant maladministration undermined the fairness of the decision, the same proportion as the previous sample. Maladministration includes cases where the visa decision would or might have been different if there had not been an administrative failing.

case study

The reason for refusal in a visit for transit application was that the applicant's entry visa for his final destination was not valid. It had, however, been valid for his intended travel dates. The application had been made in good time but was not considered for 7 weeks. The applicant re-applied and the visa was issued so I recommended that the second application fee was refunded.

Quality Pointers

In addition to the 5 key indicators that determine whether a decision and Refusal Notice is lawful and reasonable, I assess 5 indicators relating to the overall quality of the Notice: does it look good, does it make sense, does it confirm that the Entry Clearance Officer has read all of the Application Form and supporting documents, does it confirm the period and purpose of the intended visit?

Appearance

152. Applicants pay a fee for the application process and a poor quality Refusal Notice, with a messy layout, formatting errors, or unnecessary repetition shows a lack of care which gives the applicant the impression of lack of care with the application as a whole. The appearance of Refusal Notices has slipped, both in appearance and content, caused I think by too much haste, use of short cuts and poor quality control.
153. Too many Refusal Notices have page breaks in odd places leaving expanses of white; an unscrupulous applicant could use this to add their own text, but even without this possibility the effect is messy and unprofessional. I am mystified why the UK Border Agency can roll out a technically difficult system to check applicant's fingerprints but cannot provide Refusal Notice templates that print without page breaks in odd places. Although a new global template was issued in August, this problem remains and despite the need for consistency I can understand why some Posts have developed their own better quality layout.
154. The use of standardised text has reduced typing and spelling mistakes, but lack of proof reading means that optional sections are not completed or left in grey. In some Posts, neither Entry Clearance Officers nor Managers see the printed Notice and reviewing on screen does not always show the imperfections that are so obvious in printed form. Poor quality control by the Entry Clearance Officer leads to errors such as missing off the applicant's name; random use of bold text; variations in font and text size; failing to insert applicant specific evidence into standard templates, the applicant's nationality being incorrect especially in Posts which handle applications for different nationalities and, finally, Oslo gets the Agency's name wrong, thinking it's the UK Borders Agency.

Case example

Lack of care with templates that need parts to be filled in results in nonsenses such as:

- your passport and the original documents you provided including
 - 1.list relevant documents
 - Copies of the following documents
 - 2 list relevant documentsand
- You have applied for entry clearance as a visitor for DURATION

155. Entry Clearance Officers must remember that they are writing something that the applicant needs to understand and should avoid using standard paragraphs

unthinkingly. Poor use of a collection of templated paragraphs make the Notice muddled and jumbled. It is unnecessarily repetitive when the Immigration Rules are set out at the start, and then repeated. It is common for Notices to start paragraph two by saying *You have applied to visit the UK for a 2 week holiday*; to start paragraph four by saying *You have applied for entry clearance to the UK as a visitor*, and to start paragraph five *You state that you intend to travel to the UK for a period of two weeks on a visit*. Once, at the beginning is enough, for example,

You have applied for a visa to visit a friend in the UK for a period of two weeks. I have therefore, assessed your application against the visit visa Immigration Rule, which is

156. Ottawa, Canberra and Kuala Lumpur stood out as preparing high quality Refusal Notices, both in terms of appearance and with plain English reasons for refusal that will make sense to applicants. Reasons were brief with none of the tedious padding seen elsewhere, yet with all of the required elements.

Case study

Good practice in Kuala Lumpur:
You have provided your bank statements as evidence of your ability to fund your visit to the UK. I am satisfied that you can meet the cost of your travel to the UK and maintenance and accommodation when you are there: paragraph (vi) and (vii).
You are a student and have a student pass until May 2009. The only evidence you have provided of your studies is a letter dated May 2008 confirming that your studies have been extended and you must complete your studies within the given period. You failed to provide any other documentation that would indicate your progress and attendance in your studies. Bearing in mind you have taken back your passport and your husband has failed to attend for interview and we have been unable to contact you on the telephone number provided, I am not satisfied that your intentions regarding your travel to the UK are as stated by you.

The impression is of good quality thorough work, and that brings with it assumptions of good quality well founded decisions.

Unreasonable reasons

157. There are still a few of these about and I highlight just two which make unreasonable assumptions:
- *I have refused your husband's application. As you are an unemployed housewife, you are no longer able to travel.* I could not see any evidence that the husband would refuse to pay and in the absence of such evidence the Refusal Notice should have read: You depend on your husband for money. His visa application has been refused and without evidence that you have any funds of your own or that your husband would pay for you to visit without

him, I am not satisfied that you have the money for maintenance and accommodation, or for the costs of your travel.

- *You have provided no evidence from your husband why he and your son do not intend travelling with you to the UK [for a six day trip with a female friend]. The applicant was employed and had her own funds. The Immigration Rules do not require someone to explain why they are NOT intending to visit the UK!*

Verification

158. In the file sample, 9% (down from 12% in the last sample) of cases had formal evidence that checks had been made on documents or phone calls made to check claims such as employment. I understood that the business process was moving towards fewer documents and more being verified, so the fall in the proportion of verification is unexpected.
159. Verification can be simple, for example using an internet search engine revealed that the phone number on the claimed booking from a genuine hotel was an estate agent's office. In Ekaterinburg, a check with the applicant's university revealed that leave of absence had been requested for three months, and not for the six month English course applied for. In New Delhi the Refusal Notice noted that a tourist visitor had not explained why she intended to stay at a particular address; the Refusal Notice would have been strengthened after an internet search which would show the address as a Nursing and Care Home and the Entry Clearance Officer would have been justified in refusing on the grounds that the applicant was intending to work.

CHECKS, COMPLAINTS and EXTERNAL SCRUTINY

Internal review

160. This file sample covers the period when almost all Entry Clearance Managers were expected to review all refusal decisions and if that approach worked, then I would not see the errors that I do. I remain of the view that Entry Clearance Managers should use a comprehensive basket of quality assurance measures to improve decision quality, including a thorough review using targeted, risk based, sampling.
161. I am aware from discussions with Entry Clearance Managers that many continued with a routine skim of all refusals despite the change to a targeted approach in September 2008. I ask them to think again. Targeting does mean that you have to tackle some difficult questions: Which of my Entry Clearance Officers are weak and which are competent? How do I explain to them why I think that? How do I undertake a structured review? Have I got time to read all of the supporting evidence? How do I fit this in to all the other demands on my time? Who is going to know if I don't do anything other than click a button?
162. The answer to that last question has to be regional management and I have not seen any business assurance system that confirms whether Entry Clearance Managers are undertaking the necessary decision quality checks and whether they are applying the risk based approach and whether the reviews are in adequate depth. I have suggested random, not routine, questions in the monthly and quarterly Business Assurance checklist.

Complaints and post decision correspondence

163. In my visit report on Islamabad in December 2007, and repeated in my Parliamentary Reports, I recommended that the UK Border Agency developed a performance measure to show whether a response to correspondence is adequate as well as being on time. There has been little firm progress and I remain concerned that insufficient effort and energy are given to handling correspondence.
164. I am, however, pleased to record a more helpful policy on how long it takes to respond to a letter. I recommended that there should be a uniform policy on the acknowledgement of correspondence, including complaints and enquiries. The UK Border Agency agreed that it will send a substantive reply to correspondence as soon as possible, although the officially agreed public sector target is 20 working days. Where resources allow, an acknowledgement will be sent within 2 working days if the correspondence cannot be answered immediately, confirming that the matter is being investigated and by whom, and the anticipated reply date. This will, I am sure, save time handling prompts and reminders from people who think their initial letter has been lost or ignored.

Complaints and feedback at Posts

165. In **Tehran** 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 the UK Border Agency. I commend the Manager for including a sensible amount of detail in the complaints register which allowed proper overview and analysis. I noted an excellent and detailed response to a complaint about the use of Immigration Rule 320 (7B).
166. In **Dhaka**, recent complaints were recorded in detail with good responses. There was a healthy level of applicant feedback at the Visa Application Centre with excellent, courteous, detailed responses from the Manager there. Given the high level of factual errors in the Refusal Notices in the file sample, I was concerned to see that none of the applicants had written in after the decision. In an open and fair system, and in a country where there is good use of English, one would expect aggrieved applicants to write in with complaints and corrections. The errors with evidence were very obvious and the low level of complaints may indicate that applicants feel there are barriers to complaining.
167. Dhaka responded positively to my recommendation to improve complaint access and handling. Rather than correspondence being dealt with by a unit which often sent out stock replies, all correspondence is referred to the relevant Officer or Manager or, if appropriate, the Country Operations Manager, who reply direct or draft responses to address the specific points made. The team has a dedicated member of staff to log complaints, send them to the specific officer, monitor progress, log the response and record lessons learnt.
168. In **Warsaw** the record of complaints showed a relatively low number and contained a good level of detail. When I looked at a sample of recent correspondence, however, I found a number of cases that constituted a complaint but had been classed as enquiries. Almost all of the correspondence related to significant delays in application processing. If someone wrote to ask for information on progress, that is an enquiry; if they say that the advertised time is 5 to 15 days and it is now over 30, that staff were blasé or unhelpful, if they complain that the phone was not answered, then those are complaints.
169. In **Manila**, I noted that VFS held a well maintained register of complaints. I was satisfied that complaints were being forwarded appropriately to the visa office at the British Embassy and that VFS were responding to complaints relating to their service. There was a delightful compliments book with letters of praise for pleasant helpful staff.
170. In the visa office, I found an impressive systematic series of steps to link a call or letter with a case when that information was not immediately clear. It was easy to find trends and themes from a generally well kept complaints register, though I recommended that the column to indicate whether any element of the complaint had been upheld should be completed to provide a simple indicator for concern or further action. I noted from my briefing that Manila has some complaints that tend to remain unresolved. I shared some useful strategies, the most important one of which is get the first reply right and make sure it covers ALL of the issues raised. I did note that some replies drafted by Entry Clearance Officers tended to

be too brief and standardised and was not surprised to see follow up letters heading up the managerial chain.

171. My briefing for **Jakarta** contained a more informative than normal account of complaints, giving the impression that they were taken seriously. VFS held a well maintained register of complaints and it was simple to identify key themes only one of which was their responsibility. In the past, as many of the general enquiries related to "when will my visa be ready" and the visa team had piloted a turnaround time notice in the Application Centre waiting room - very sensible and a good example of using feedback to improve service. During my visit, UK Border Agency Visa Services started to publish global information on how long normal processing takes.
172. The visa office kept a well maintained complaints register and it was interesting to note that 80% of the complaints were of delay even though the actual turnaround time varied from 3 to 6 days; I assumed that applicant and agents were harking back to the days of a same day service. The only real "delays" were a small number of cases where applicants had been given the opportunity to provide more documents: many visa offices would have simply refused the application.
173. Staff in **Canberra** knew that there were problems with correspondence handling and the Entry Clearance Manager was about to change the administrative arrangements. 20% of the sample cases included correspondence, far higher than the 4.7% global average. A third of the letters/emails were complaints about delay but I also found applications that had been refused improperly because correspondence had not been linked. More than half of the letters and emails had had no response, including some that were service complaints which had not been recorded on the complaints register.
174. As a simple process path, I suggested that Canberra bore 4 A's in mind:
 - Attach correspondence to the specific case;
 - Assess the content and then direct and respond accordingly (assistant, officer or manager);
 - All papers on one case in one place;
 - Analyse complaint patterns and use the feedback to improve.
175. Of the 12 complaints recorded in **Wellington** from July to October 2008, some had a response within 2 or 3 days but others, for no obvious reason, had to wait 5 or 6 weeks. When the complaint is about taking too long to process a visa application (6 weeks) taking a further 5 weeks to respond to the complaint is inexcusable. Some replies were critical of Government policy, regretting the rigidity of Points Based decisions for example.
176. The complaints register had only been completed up to complaints dated October 2008. I was told that the Manager had then been instructed to stop responding to complaints because his 30% visa time (the balance was for Consular matters such as UK passports) needed to be spent on the process of transferring work to Canberra and on moving backlog applications to completion. It is unfair to fail to respond to a complaint unless it is addressed to the High Commissioner because that makes the UK look as though personal influence is what matters, rather than equality of treatment. Given the significant delays, I recommended that the outstanding complaints should be handled by regional management.

Global complaints analysis

177. From late 2006, Operating Standards and Instructions say that Directors of Visa Services should examine the Complaints Register for their area each quarter and provide a brief analysis of complaints received and handled, to include trends and lessons learnt. They should ensure that an audit of complaints is conducted on a sample basis. I asked for copies of these routine reports, but it became clear that not all regions provide the quarterly return and there is no follow up for those that fail. I assumed that someone in headquarters prepared a global impact summary for a Board level meeting; it appears not.
178. Regions which do follow instructions demonstrate how useful this simple measure is.

GULF AND IRAN: REGIONAL ANALYSIS OF COMPLAINTS RECEIVED APRIL-SEPTEMBER 2008

Total complaints to Posts across the region were 94 in the period April to September 2008. This represents a rise of over 200% over the same period the previous year.

There would appear to be two significant reasons for this:

- Serious IT problems affecting the biometric matching process for a period of up to one week at the height of peak demand in June. This was a setback which Posts in the region took many weeks to recover from, and which caused an increase in complaints over speed of service and telephone response times.
- Better awareness and recording on the part of visa staff, although I am still of the view that there may be significant under-recording in some Posts. This is exacerbated by the current BSC metric for complaints which punishes accurate and comprehensive recording with a red rating.

However, there is now a real impression that ECMs are taking the issue of investigating and responding to complaints much more seriously and are using the customer feedback from complaints to refine and improve customer service. There have been several good examples in the region this quarter including a system for VFS to monitor and adjust available appointment slots according to demand, adjustments to website information on likely processing times, and new procedures at one Post for logging the return of passports and documents to applicants. Also, on two occasions, Tehran referred complaints to the Regional Manager, due to the complexity and seriousness of the cases, for him to formulate substantive responses directly to the complainant.

Taking out complaints regarding the decision itself, the breakdown of complaints is as follows:

Quality/Speed of Service by Embassy	33%
Quality/Speed of Service in VAC	46%
Telephone services	10 %
Other	15%

The level of detail being recorded by some Posts does not currently allow for more accurate classification - for example was the complaint at the VAC about staff, premises, information resources etc, and ECMs have been asked to ensure that in future their logs note this.

VFS reported 111 complaints received by them across the 9 VACs in the region. It is not possible to provide a comparison with the year before since VACs did not become operational in this region until the end of 2007. After a slow start VAC managers now seem to be taking the issue of recording and investigating complaints more seriously as well as now working closely with Visa staff in this area. A particularly good example from Dubai is set out in the attached

179. Complaints and correspondence are a useful early warning to senior managers that all might not be well at the frontline. The Americas, the Gulf and India understand that, but the lack of interest in complaints analysis at the top means that valuable information is ignored.

Complaints and correspondence in the file sample

180. 41 of the sample files, (4.7%) contained post decision correspondence and in 8 cases (20%) there was no record of a response being sent, either in the paper file or recorded on the case management system. 16 of the letters were comments on the use of judgement by the Entry Clearance Officer but 25 files (2.8% of the sample) contained a service complaint, half of which drew attention to factual mistakes made in the Refusal Notice. Only 15 (60%) of these service complaints had had a response.
181. I asked if the UK Border Agency Visa Services Directorate had developed its understanding of why applicants with genuine grievances may not complain and if so, how was it addressing those barriers. It replied that it "*welcomed feedback, including complaints, from anyone who is dissatisfied with the service received*". This missed the point as good organisations address barriers to complaining in order to ensure as wide as possible feedback. In a visa service, barriers might include assuming that a complaint would have to be in English; fear of affecting future applications; assuming that complaints will be ignored. With a record of failing to reply to 1 in 5 letters, maybe complainants have good reason to believe that a complaint will be ignored so this is an easy barrier for the UK Border Agency to address.

Complaints to Visa Customer Service

182. The UK Border Agency International Group says that it received 159 complaints at its London headquarters from April to September 2008. It does not keep a record of how many complaints were made directly by applicants and the figures provided for complaints made by sponsors, representatives and UK elected Members add up to more than the complaints received so I have no confidence in the figures.
183. International Group does not keep a record of whether a complaint is upheld and for what reason so it cannot learn from information on problems, trends and areas requiring attention. Apparently there are better records about complaints made about its Commercial Partners but more than 50% have no recorded outcome and there is no record of the underpinning complaint or reasons for upholding those that are upheld.
184. I make no further recommendations on complaint handling to the ones I have made in previous reports and in my thematic report on complaint handling in early 2008. There is much ground to cover to bring correspondence and complaint handling up to a reasonable standard.

Complaints to the Independent Monitor

185. Most people who write to me know that I cannot investigate a complaint or act as an appeal body. I receive around 80 letters a year from applicants, sponsors or agents and 80% are about cases within my remit. 75% of the letters contain complaints about the service provided by the UK Border Agency, mostly about factual errors in Refusal Notices; 3% complain about the decision to refuse a visa without making a service related complaint and 11% are about Government policy. For service complaints, I suggest that the writer refers a complaint to Visa Customer Services in London, especially if part of the complaint is that there has been no response to a complaint made to the overseas visa Post. One letter did, however, lead to me referring the problem directly:

Case study

The complainant wrote to say that he had made 5 calls to the phone number on the letter head trying to speak to the person who had written to him from UK Border Agency Visa Services Directorate headquarters. He was on the phone for 66 minutes in all. In each call he was put through to a different department, Consular, Political, regional Foreign Office sections. In one, he was kept holding on for 8 minutes and then cut off, in another he was given a phone number to make a complaint, but the number was not recognised when he tried it.

I thought I would try the number to see what happened, and the only thing that made my experience shorter was that I was able to say "No, that's not the section I want."

Visa Services confirmed to me that the call centre had followed directions and the mistake had been putting the Foreign & Commonwealth Office switchboard number on the letterhead, which was an oversight. The phone number had been immediately removed from letterhead templates.

I asked what was the correct number for someone to use when they wished to speak to the author of a letter from headquarters. Visa Services confirmed that it does not make available a phone number for people to call to talk to its staff. Not exactly a user focused attitude and also potentially discriminatory.

Independent scrutiny

186. Referring to the Public Administration Select Committee's March 2008 report, "When Citizens Complain", the Chair said "*One of the most important principles underpinning a robust complaints system is that of independent review. Having an independent body to review how complaints have been handled will sometimes be necessary as a safeguard to ensure that complaints are dealt with properly. This helps to guarantee the credibility of the system. There is a particular need for independent review bodies in areas where large numbers of complaints are being made and upheld. For this reason, we concluded in our report that the principle of the independent review of complaints is indispensable. Independent review means the public can have the confidence that their complaints are being taken seriously.*"

187. Although there have been improvements in the way the UK Border Agency Visa Services Directorate (and UKvisas before) handle, record and respond to complaints, I doubt that the slow progress would be maintained without tough external pressure. For applications with limited appeal rights that pressure does not come from UK elected members, whose constituents care little about a tourist visit visa being refused. The Chief Inspector of the UK Border Agency's duties include complaint handling, but not looking at individual complaints. The Parliamentary Ombudsman's powers do not cover most visa refusals. I note that where there is a significant imbalance of power between the organisation and complainant, knowing that an independent person can review a complaint is most helpful in evening out the imbalance. I think, therefore, that there is merit in an independent case examiner but as the role may be most useful if it applied to the whole of the UK Border Agency I make no formal recommendation in that regard.

Administrative Review

188. The introduction of the Points Based System means that such applications do not have the right of appeal on immigration law grounds, their rights being limited to race relations or human rights acts grounds. If an applicant wishes to challenge a decision, they have the right to request an Administrative Review, which is an internal process.
189. I assess Administrative Reviews on my visits and have already noted problems. UK Border Agency policy is that the Reviewer must be demonstrably independent from the Entry Clearance Officer who made the original decision and the line manager who may have quality checked it. In larger Posts this means that a colleague Entry Clearance Manager reviews the case and I doubt whether applicants believe that this is adequately independent. My view is that Reviews should be done in regional centres or in the UK so that there is no collegueship link with the decision maker. I have indicated that the Reviewer must see the original documents and not faxed or scanned copies. UK Border Agency policy is that where there is only one Entry Clearance Manager, review papers are faxed to another location; they can be hard or impossible to read, especially bank statements where it is necessary to check each line.
190. In my visit to New Delhi, I commented that a Points Based System application was not quick and easy for the Entry Clearance Officer. Now that I have assessed a reasonable number of Administrative Reviews, the review process is not quick and easy for the Reviewer if it is done properly. There can be a lot of paper; each Review can comprise 40 to 60 pages. The time allocation needs to be substantial if the intention is for an adequately thorough review rather than the quick surface skim that is typical of line managerial reviews. In the cases I have seen on visits and in the global sample files I have found an error rate of up to 20%: Reviewers do not take into account the representations made or make the same errors with evidence as the Entry Clearance Officer.
191. In the cases I assessed in Canberra, I noted that 36% of the Tier 1 applications and 23% of the Tier 5 applications had applied for Review and that in half, the applicant provided documents that were missing first time round. These

additional documents cannot be taken into account, so there does need to be better pre-application information. Of the 46 Administrative Reviews completed to date, the Entry Clearance Officer's decision was overturned in 20% and the Reviewer corrected the reason for refusal in a further 4%. This is a high rate of initial error for fact based cases. In addition to Canberra not determining the original application with the UK Border Agency's time targets, 74% of the Administrative Reviews took longer than the 28 days allowed.

192. I assessed in detail 10 Administrative Review cases from Canberra on my January visit to Jakarta and found an error rate of 20%. In the cases included in the Canberra sample, Reviews had been conducted thoroughly and accurately, perhaps helped by being able to see the original papers. I support Canberra's view that when receiving a Points Based application, it is vital to record all of the accompanying papers and whether they are copies or originals so that the Reviewer is able to see which were available to the Entry Clearance Officer. I also note that the practice of faxing file papers to another location means that Reviewer is unable to tell if the papers provided with the initial application were copies or originals.
193. I thought that, even with just a few months' experience, there should be a workload and demand calculation so that resources can be allocated appropriately. The recent decision⁵ to remove from the Reviewer the responsibility to assess the whole case appears to have been made to reduce the time Administrative Review takes. It is hard to see how a Reviewer can "note and act on errors" other than those raised by the applicant if they do not look at the whole case, and doing that takes time that must be made available. In these control focused times it is extraordinary to limit the review on the basis that it takes too long to be thorough.
194. The Administrative Review system cannot claim to be fair alternative to the right of appeal before an independent tribunal if there is lack of capacity to consider a case fully, lack of training in relevant detail, lack of will to courier original papers so that all the relevant documents can be read, a worrying level of errors and scope is curtailed. **I recommend** that UK Border Agency considers these points and confirms whether its business model is appropriate. It must work on instilling confidence that the Administrative Review process is truly independent of the decision maker, robust, thorough, fair and prompt.

Appeals

195. In the file sample, 2.8% (up from 1.7%) of the cases included evidence that an applicant had lodged an appeal to the Asylum and Immigration Tribunal. In 0.5% of the sample an appeal specifically raised race relations or human rights act grounds. In some cases, it was not clear from the paper file or the IT case system that an appeal had been forwarded to the Tribunal. I referred 4 cases to the UK Border Agency, recommending that the appeal papers were handled correctly.
196. I am concerned to note cases where the Asylum and Immigration Tribunal found no evidence to support a Race Relations or Human Rights Act appeal but upheld the appeal on Immigration Act grounds. When an Immigration Judge makes a decision that the UK Border Agency considers is not lawful it can be challenged

⁵ Operating Instruction 138

by a Specialist Appeals Team which applies for reconsideration. They have 5 days to do this but, because of resource constraints, they are not currently able to meet their target of reviewing 100% of allowed determinations within the required period. Failing to look at contentious cases can cause a huge amount of work and aggravation for the Post concerned who should not, presumably, issue the visa if the appeal has been upheld on invalid grounds.

The Ombudsman

197. The Parliamentary and Health Service Ombudsman investigates complaints of maladministration. The Ombudsman does receive cases from complainants based overseas and who do not, therefore, have ready access to a MP. In practice, such complainants are normally referred to the Chair of the Public Administration Select Committee which has generally been willing to refer them on for the Ombudsman's consideration.
198. The UK Border Agency says that during the six month period covered by this Report, one complaint was made to the Ombudsman about visa applications within my remit. The complaint was about not receiving a reply from UK Border Agency headquarters regarding a previous complaint about the application process employed by VFS and contested the decision to refuse a visit visa. Apparently the complaint had been investigated and completed in May but due to an administrative error a response had not been sent. Once the Ombudsman had drawn attention to the matter, the UK Border Agency sent the complainant a copy of the reply. I am told that the Ombudsman then confirmed that as a reply had now been sent, she would not be investigating the matter further.

Judicial Review

199. The exercise of powers by public authorities, including Ministers and officials, is always open to challenge in the Courts by way of Judicial Review; the Courts do not assess the merits of the decision but rule upon its lawfulness. Where an applicant does not have full rights of appeal, s/he can seek to challenge the Entry Clearance Officer's decision through Judicial Review. When considering whether a body such as the UK Border Agency has been acting outwith the law, the Court will look at the relevant statutory provisions and the purpose of the statute. Public authorities must also act with reason and the Courts have defined unreasonableness as "conduct which no sensible authority acting with due appreciation of its responsibilities would have decided to adopt" so the Court would assess if a decision was "so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it." The Court would also look for consistency in the decision-making process.
200. Between March and September 2008, five Judicial Reviews were raised in applications with limited appeal rights compared with seven in the preceding six months. Five cases were concluded: in one the applicant was refused permission to proceed and four settled by consent. Over time, there is a consistent pattern of outcomes in favour of the applicant. It is likely that Judicial Review will be sought more frequently in cases where appeal rights have become limited, especially if the Administrative Review fails to operate fairly. The UK Border Agency should bear this in mind when determining the resources that are available to the Review process.

CONCLUSIONS

201. This report reveals evidence of an organisation under pressure. I noted in my last two Reports that the major programme of organisational, business model, cost cutting and legislative changes were placing strains on frontline staff so whilst the first recorded downturn in decision quality for applications within my remit is of concern, it is not unforeseen.
202. I have identified a number of issues for the UK Border Agency International Group to address and summarise them under key headings:
- ensure accurate data capture;
 - ensure that all of the evidence is taken into account when reaching a decision;
 - promote consistency in decision making for the new Immigration Rules relating to deception;
 - improve the quality, accuracy and readability of Refusal Notices;
 - improve complaint and correspondence handling;
 - develop an internal audit function to take on and expand on the information that Independent Monitors have provided;
 - develop a constructive working relationship with the Chief Inspector of the UK Border Agency.
203. I do not directly represent the interests of visa applicants with limited appeal rights, but rather Parliament's interests in having a fair and balanced system. Although I have recommended that the legislation that governs the Independent Monitor is repealed, I do hope that there continues to be a sharp and specific focus on applicants who have little or no influence in the UK because they have no family members here, have no-one to engage the attention of an MP and no right to have a UK based tribunal look at their case.
204. Until the Independent Monitor legislation can be amended, the Chief Inspector of the Border Agency formally takes over the role when my term of appointment ends in April. The Chief Inspector's duties include inspecting and reporting on the provision of information, practice and procedure in making decisions, and the handling of complaints, so there is a comfortable fit with the Independent Monitor's remit in addition to his wider statutory duties. The Chief Inspector and I have worked co-operatively in recent months, including on my visit to Dhaka where he welcomed the opportunity to see how an overseas visa office operated and how I undertake monitoring. I have worked with his staff demonstrating my file assessment and monitoring methods. I am content that the handover will be smooth.

L M Costelloe Baker
Independent Monitor

