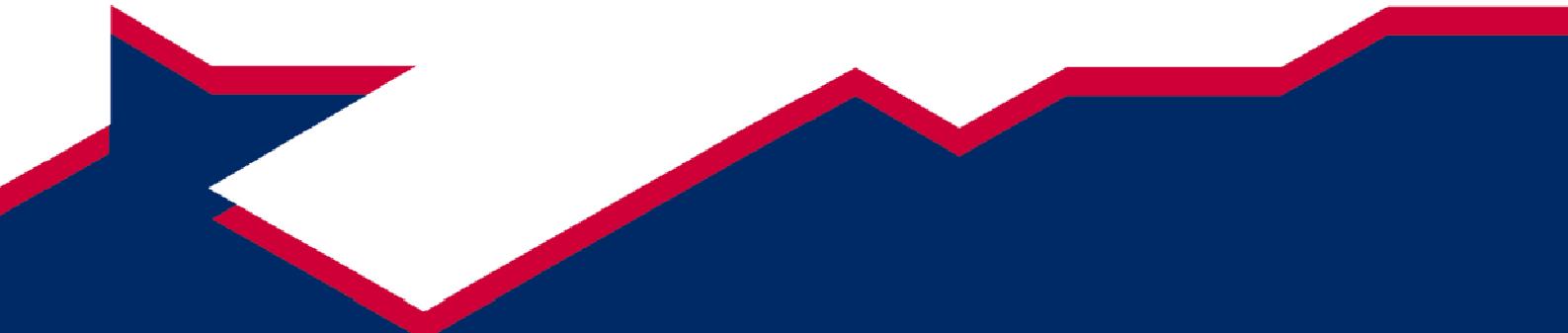




## **THE UK BORDER AGENCY RESPONSE TO THE INDEPENDENT CHIEF INSPECTOR'S REPORT: AN INSPECTION OF THE VISA SECTION IN AMMAN**



The UK Border Agency thanks the Independent Chief Inspector (ICI) for advance sight of his report and is pleased to note the positive comments in the report regarding good stakeholder relations, correspondence handling, leadership and the good working relationship developed between the visa section and the commercial partner operations. The Amman visa section processes some of the most complex visa applications in the world. Many of the issues highlighted in this report were already known to the UK Border Agency and work was in hand to address them at the time of the inspection.

### **The UK Border Agency response to the Independent Chief Inspector's recommendations:**

**Provides applicants with clear information and guidance in advance of their application, about the requirements they need to meet for their visa application to be successful:** The UK Border Agency notes this recommendation and agrees with the principle of providing clear information and guidance to applicants. However, the UK Border Agency operates in 136 locations around the world, considering applications from all non-EEA nationalities across a broad range of visa categories. This range of categories, and the diverse circumstances of applicants in different geographical locations, means that it is not practical to issue detailed guidance covering every category of visa application.

- 1.1 The requirements that an applicant needs to meet for their visa application to be successful are contained within the Immigration Rules. These state that an applicant must satisfy an Entry Clearance Officer (ECO) that they meet the requirements of the particular Immigration Rule under which they are applying. Entry Clearance applications are decided on the balance of probabilities - the correct legal standard. For non-Points Based System (PBS) applications – such as ‘visit’ and ‘settlement’ – there are no specified mandatory documentary requirements, as there are for PBS categories. PBS applications cover employment and most study routes and in such applications, the role of a UK sponsor is central to the process. In non-PBS cases the ECO’s assessment of the credibility of the application is central to the consideration process - they are not decided on the basis of the production and verification of prescribed documents.
- 1.2 The onus is therefore upon the applicant to satisfy the ECO that they meet the requirements of the Immigration Rules. In non-PBS applications, as there are no documentary requirements, applicants demonstrate they meet the requirements of the Immigration Rules by presenting evidence to the ECO setting out, amongst other things, their personal circumstances and intentions. Applicants are very rarely interviewed. This is clearly signposted to applicants throughout the application process – on the application form and through the supporting documents guidance on the UK Border Agency website.
- 1.3 Paragraph 320 (8A) of the Immigration Rules allows an ECO to request any additional information or documents that will assist them in deciding an application, but ECOs will normally make decisions based upon: the application form and information contained within it, biometric/biographic data and any original documentation submitted by the applicant. The ECO will consider all this information when assessing a case and then apply the correct test – *‘does the applicant satisfy the ECO that they meet the requirements of the Immigration Rules, on the balance of probabilities?’*

- 1.4 Following a number of previous recommendations from the ICI, the UK Border Agency developed category-specific supporting document guidance for the majority of the visa application categories in October 2010, covering all of the most common routes. This guidance is included on the recently updated Visa Services website and is available to applicants through our commercial partners.
- 1.5 Whilst this standardised guidance was produced to help applicants in selecting the documents that an Entry Clearance Officer (ECO) might find helpful to see when considering applications, the guidance clearly states that "*it is not a list of documents that you must submit. We do not expect you to provide all of the documents listed below, it is for you to decide which documents are most relevant to your application*" and that "*The submission of all or any of these documents does not guarantee that your application will be successful*".
- 1.6 The UK Border Agency operates in 136 locations around the world and offers over 70 different types of visa categories to non-PBS applicants. The Agency's client base is extremely diverse and it would not be practical to insist on the same documentation from every applicant in every location. It will not always be necessary for an ECO to see all the documentation detailed in the supporting documentation guidance, if s/he is satisfied that the applicant meets the requirements of the Immigration Rules, taking into account all of the applicant's personal circumstances based on information supplied on the application form. Conversely, an ECO may not be satisfied that an applicant meets the requirements of the Immigration Rules even when they have submitted a full range of supporting documentation, and will reach a decision based on the balance of probabilities after considering the range of information available to them about the applicant's personal circumstances and intentions.
- 1.7 The supporting documentation guidance was further amended in February 2011 to cover points highlighted by the ICI.
- 1.8 The UK Border Agency accepts that there were deficiencies in the way that evidence was presented in a number of refusal notices sampled by the ICI, but is satisfied that the decision to refuse was correct in the majority of cases and has rectified all those where it was not.

**2. Allows applicants the opportunity to meet any additional evidence requirements in cases where they have followed published guidance, and Entry Clearance Officers require further information to support the decision making process:** The UK Border Agency notes this recommendation. Whilst in some cases an application can be paused to allow an applicant to supply additional evidence, it is not practicable to allow applicants to submit evidential requirements during the consideration process in every case.

- 2.1 The UK Border Agency resolves the vast majority of visa applications on the basis of the application form, biometric data and documentation submitted by the applicant. Applicants are very rarely interviewed. This is clearly signposted to applicants throughout the application process – on the application form and through the supporting documents guidance on the UK Border Agency website. Applications are not routinely deferred to

enable applicants to produce additional documents, unless in exceptional circumstances when a decision cannot otherwise be reached. The onus is on the applicant to satisfy the ECO that they qualify for entry under the Immigration Rules, and to ensure that they have prepared the application properly before lodging it.

- 2.2 The UK Border Agency accepts that there were deficiencies in the way that evidence was presented in a number of the refusal notices sampled by the ICI. The UK Border Agency will issue guidance to all posts by the end of April, to remind ECOs that non-PBS applications should not be refused solely for failure to provide specific documents.

**3. Ensures risk profiles are only used as a guide for decision making, and that staff understand their purpose:** The UK Border Agency accepts this recommendation but does not accept that risk profiles were being used to “make rather than to inform decision making” in Amman.

- 3.1 Risk profiles are used as a guide for decision makers. Each application is considered carefully on its own individual merits and Amman visa section deals with all applications in line with published guidance. Risk profiles are used to determine the relative level of risk associated with an application, based on analysis of previous applications containing similar characteristics, and act as a guide to the level of scrutiny that should be applied by decision makers.
- 3.2 Risk profile training for new ECOs is covered in detail on the ECO induction training course. All ECOs are required to take and pass this course before arriving at Post. The training emphasises that ‘high risk does not mean refuse; low risk does not mean issue’. In addition, training in the use of risk profiles is delivered to all ECOs in Amman as part of local induction training. Information contained in the risk profiles and any changes are then highlighted through the regular local briefing sessions on new and emerging risks.

**4. Ensures that where risk profiles are used to inform decision making, this is clearly recorded on the case working IT system:** The UK Border Agency rejects this recommendation:

- 4.1 Guidance states that ECOs should fully evidence their decisions on the case working IT system. Visa applications are decided on a case by case basis, on the evidence presented by the applicant and in accordance with the Immigration Rules. They are not decided on the basis of risk profiles and the UK Border Agency does not, therefore, accept that details of the risk profile used should be routinely recorded on its IT systems.

**5. Ensures that supporting documents pertinent to entry clearance decisions are retained on the file, in accordance with the guidance:** The UK Border Agency accepts this recommendation.

- 5.1 An operational instruction was issued on 21st January 2011 to all entry clearance staff clarifying the policy on retaining supporting documents relevant to entry clearance decisions. ECOs and Entry Clearance Managers (ECMs) were reminded that they should ensure that only documents specifically required are retained, and that this should

include copies of supporting documents that are directly relevant to the decision and documents addressed to the visa section. Where it is not possible to retain all such documents (for reasons such as a lack of secure storage space) they should be clearly referenced in issue notes/refusal notices. Staff were also reminded of the importance of ECOs evidencing their decision making for other audit purposes. Staff in Amman are aware of this guidance and follow it. Adherence to this guidance will be measured through regular Entry Clearance Manager reviews of decisions.

**6. Ensures that Entry Clearance Officers produce comprehensive case work notes for visas that are issued to provide an audit trail of their decision:** The UK Border Agency accepts that ECOs should fully justify their decisions to issue a visa but does not accept that it is necessary to provide comprehensive notes for every case.

- 6.1 An operational instruction was issued on 21st January 2011 to all entry clearance staff reminding them of the importance of evidencing decision making for audit purposes. Guidance states that notes should fully justify the ECO's decision to issue a visa. 80% of visa applications worldwide are granted every year, from an application base of around 2.5 million. The UK Border Agency is mindful of the resource and customer service implications of ECOs making 'comprehensive' issue notes in all cases, as a very large percentage of cases are straightforward and the applicants represent little or no risk to the UK's borders.
- 6.2 The Regional Manager (EuroMed East) issued an instruction to all ECOs and ECMs on 28th July 2010 clarifying the minimum standards required for issue notes. Inter alia, the instruction stated that issue notes should contain at least the following details:
- The length, purpose and destination of travel.
  - Brief description of employment and salary in sterling equivalent (or the approximate conversion rate).
  - Bank balance in local currency, and either the equivalent in sterling (or the approximate conversion rate).
  - Details of previous travel.
  - Sponsor's details and immigration status, including financial details if they are funding.

**7. Ensures the practice of refusing applications prior to receiving the results of document verification checks is stopped immediately:** The UK Border Agency accepts this recommendation but does not believe that the Amman visa section acted improperly when dealing with the applications highlighted in the report that led to this recommendation.

- 7.1 The UK Border Agency understands that this recommendation relates to Amman's handling of five settlement applications that were initially refused due to concerns regarding the validity of the Syrian marriage certificates that were subsequently found to be genuine. During the period of the file sample, the number of Syrian Marriage certificates submitted with settlement applications increased dramatically. The channels that had been used previously to verify these documents could not cope with the increase in demand and meet customer service targets. Local management therefore authorised ECOs to make decisions on the authenticity of the documents submitted based on a comparison with known genuine documents. The UK Border Agency regrets

the fact that these decisions were found to be incorrect, but supports the action taken in the difficult and exceptional circumstances.

- 7.2 The UK Border Agency's standard practice is to await the result of checks before resolving a case. It is not always practical or possible to independently verify the veracity of a document. In these circumstances, one method that is used is to compare documents to known genuine samples and draw a conclusion on the veracity of documentation submitted based on the skills of our forgery officers and on the balance of probabilities.
- 7.3 The Risk and Liaison Overseas Network (RALON) have conducted a significant amount of work concerning these document types. There is now a process in place in Amman for checking these documents using a risk based approach overseen by RALON.

**8. Improves the effectiveness of Entry Clearance Manager reviews and examines whether current targets are impacting negatively on the quality of reviews undertaken:**  
The UK Border Agency accepts this recommendation.

- 8.1 Following a recommendation made by the former Independent Monitor of Entry Clearance Refusals Without the Right of Appeal in 2007, the UK Border Agency agreed to move from the universal ECM Review of all entry clearance decisions to a targeted approach. In May 2010 guidance on ECM review was further updated and incorporates similar methodology to that used by the ICI when reviewing cases. Although there are minimum levels of review in place for certain case types, ECM reviews are targeted towards cases in categories where there is a limited right of appeal, new application types, and where there are indications that decision quality is not of a sufficiently high standard. All applications refused under paragraphs 320 (7A) and (7B) are required to be reviewed by an ECM. ECMs must complete reviews of all decisions for any new, inexperienced or underperforming staff until the ECM is satisfied that the ECO is consistently making good decisions.
- 8.2 The ICI's report 'A Thematic Inspection of the Points-Based System: Tier 2 (Skilled Workers)' included a recommendation that the UK Border Agency "set a minimum figure of PBS cases to be reviewed by managers in line with other limited rights of appeal cases and implements a consistent formal quality assurance framework within overseas posts,,,". The UK Border Agency accepted this recommendation and agreed to consider whether the quality assurance frameworks for overseas and in-country caseworkers can be more closely aligned. The UK Border Agency will widen the scope of this work to include the current operation of ECM Review of visa decisions, which is underway.

**The UK Border Agency offers the following comments on other observations made in the report for further clarification.**

4.12 – 4.14 state “We found the office manager (a locally engaged member of staff) had access to all the correspondence received from applicants through the website operated by the commercial partner in Amman. However, although this member of staff accessed this website to review correspondence assigned to the visa section by the visa application centre, they did not review other correspondence received by the visa application centre in order to:

- assess the level of service provided;
- maintain an awareness of the types of enquiries and complaints received;
- identify correspondence themes; or
- determine whether the commercial partners were properly routing through all complaints about the service to the visa section.

We believe the visa section should monitor the performance of its visa application centres much more carefully, to ensure that good levels of customer service are being maintained, rather than relying solely on the commercial partners to make it aware of service related issues.

This was particularly important as we found a number of complaints on the complaints registers at the visa section and the visa application centre in Amman, concerning the conduct of staff and/or security guards at the visa application centre.”

Other correspondence and complaints received by the Visa Application Centres (VACs) are discussed at monthly contact meetings or quarterly visits. Daily contact with the VACs ensures that Post is aware of the types of complaints/enquiries that the VAC receives. It is not correct that other complaints/correspondence are not reviewed.

4.14 states “This was particularly important as we found a number of complaints on the complaints registers at the visa section and the visa application centre in Amman, concerning the conduct of staff and/or security guards at the visa application centre. The British Ambassador in Amman also raised concerns about the standard of customer service at the visa application centre in Amman, and cited an example of an applicant who had told him the service they received from the visa application centre was unhelpful.”

The British Ambassador Amman was reflecting anecdotal complaints he had received about service at the VAC. Post has intensified the monitoring of service standards at the VACs in Amman and elsewhere, and increased the number of visits they make to the VAC. The number of complaints has since reduced.

4.15 states “The last internal inspections carried out by the Agency of its visa application centres in Damascus and Amman were in October 2009 and February 2010 respectively. During the onsite phase of our inspection, we were told the visa application centre in Amman had recently been visited by staff from the Amman visa section, but were not provided with a copy of the inspection report. We believe systematic oversight by the Agency is essential in ensuring that its commercial partners are delivering an effective customer service to visa applicants.”

The UK Border Agency has a programme of formal inspections for VACs, with the frequency of the inspection being decided by the risk rating attached to the VAC, and any issues that previous inspections and visits have highlighted. The VACs had been inspected according to the timetable. It is incorrect to suggest that there was no systematic oversight of the VACs. Apart

from formal inspections, VACs are also visited frequently by UK Border Agency staff. It is not UK Border Agency practice for staff to produce a written report of every visit they make to a VAC.

**5.80 states “In the case study at Figure 15, the UK Border Agency did not respond to all of the issues raised. This was a general finding across our case analysis (in all visa categories). Although the Agency responded to some points of concern, it did not respond to many of our specific questions. This made it difficult for us to gain a full understanding of the reasons for the decisions made by Entry Clearance Officers, and as a result, in many of these cases, we maintained our view that decisions were not made in accordance with the evidence.”**

The ICI's file sample for this post consisted of 300 files (150 issues, 150 refusals). Of these, the ICI raised concerns with around 200 cases. Many of these concerns transpired to be of a minor nature. However, the UK Border Agency did not have the resources to respond in detail to all of these specific concerns in the timescales given by the ICI. The onsite inspection team consisted of 4 ICI staff; the visa section complement is 4.5 ECOs and 1 ECM. During the inspection, the visa section continued to accept and process visa applications as normal, whilst participating in the inspection. It is not a reasonable assessment of events to state that the UK Border Agency did not respond to many of the specific points that the ICI raised, without the context of the level of work that this involved.

**5.91 reports that “There were considerable delays between the date settlement applications were refused and the date refusal notices were sent to applicants. On average we found it took 21 calendar days to issue a refusal notice following the date of the decision. The longest time it took to issue a refusal notice following the decision was 67 calendar days. We believe this demonstrates poor customer service and is of particular concern as there were already significant delays in deciding settlement applications (as detailed in chapter 4). Decisions made by the Agency have a major impact on settlement applicants and we believe it is important that it ensures decisions are sent out in a timely manner”**

There had been delays in serving some settlement application refusals to Iraqi applicants. When some of the decisions had been returned to the VAC for the applicant to collect, the applicant had returned to Iraq. In many of these cases, the telephone numbers that applicants had given on their application forms were unreachable in Iraq or they had only given a temporary Jordanian mobile number. Even when post did manage to get through to applicants, they often did not understand English or Arabic and only spoke Kurdish; post have no Kurdish speakers in the section. Further attempts were made to contact the sponsor in the UK to inform them the decision was ready for collection. This all added to the amount of time taken to inform the applicant their decision was ready for collection, it was often the case that they would then have to apply for a Jordanian/Syrian entry visa in order to collect the decision from the VAC. Since the time of the file sample, post has altered the system; now sponsors in the UK are called directly after the decision has been made and sent to the VAC.

**5.103 – 5.105 states “We have found significant administrative delays in the administrative review process during previous inspections (Kuala Lumpur, Chennai, Abu Dhabi/Islamabad and Guangzhou). We therefore looked at administrative review processing times in Amman to assess whether this was also a problem. Only eight administrative review cases were decided during our file sampling period. We examined these cases and found none were finalised within the published 28-day timescale. On**

**average it took 74 days to process an administrative review application. The shortest time it took to process an application was 38 days, and the longest time was 98 days – 70 days longer than the published timescale. This demonstrates poor customer service. We have made three previous recommendations on this issue which the UK Border Agency has accepted. Most recently, in our report on the visa section in Guangzhou, we recommended that the Agency determines whether the 28 day completion target for administrative reviews is realistic, and if it is, takes action to ensure its overseas visa sections routinely meet this timescale. We believe this is essential in ensuring good customer service, particularly as an administrative review is the only way for applicants to have their points-based system refusal decision reviewed”**

At the time of the file sample, Administrative Reviews (ARs) for Amman were considered in Istanbul and Moscow. This added delay to the process, as original documents had to be transferred between the posts. ARs are now considered in Amman, and post is within the 28 day target.

**7.21 reports that “Staff told us there was no local formal local induction training for Entry Clearance Officers, and new staff did not receive an induction training pack. New Entry Clearance Officers shadowed an experienced member of staff for only half-a-day before assessing applications independently. Some Entry Clearance Officers told us that a structured local induction programme would be beneficial to help ensure all new Entry Clearance Officers were equipped with the skills and knowledge required to carry out their work effectively”**

The level of mentoring is dependent on a person's experience. Time is also spent with the Immigration Liaison Officer (ILO) for a briefing on risk profiles and local trends. The regional induction pack is now in use.