



**THE UK BORDER AGENCY RESPONSE TO THE  
INDEPENDENT CHIEF INSPECTOR'S REPORT: AN  
INSPECTION OF TIER 4 OF THE POINTS BASED SYSTEM  
(STUDENTS)**



**The UK Border Agency thanks the Independent Chief Inspector for advance sight of the Inspection report on Tier 4 of the Points Based System (PBS). The Agency is pleased that the Chief Inspector recognises that on the whole decision quality on Tier 4 applications was good. The Agency agrees that there is still more to do to improve consistency and to reduce the number of flawed decisions. It is also pleased with the Chief Inspector's positive comments around the improvements it has made to its Compliance Officer network.**

**The Agency accepts four out of the six recommendations in full, and two in part.**

**The report reflects the progress that has been made by the Agency in making the Tier 4 route more robust. Whilst the Agency accepts the need for a period of stability, it is necessary to react to changes in recruitment patterns or new instances of abuse and consider requests from students and sponsors in light of their experiences of using the system. The Agency must also ensure that it has resources and processes in place to effectively tackle non-compliance by students and sponsors.**

**The Agency recognises the need to continue to build on progress in implementing previous recommendations made by the Chief Inspector. Work is already underway to ensure an even more consistent approach to the application of the evidential flexibility policy. The Agency will continue to explore ways to improve productivity in decision making both in the UK and overseas.**

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

### **1. introduces and publishes a service standard for making decisions on sponsorship applications.**

The UK Border Agency accepts this recommendation.

1.1 The Agency will publish service standards across a range of sponsorship products from April 2013. These standards will provide customers with a realistic picture of processing times.

### **2. urgently addresses the volume of "incorrect or fatally flawed" in-country decisions and ensures that quality control processes are formalised across all locations.**

The UK Border Agency accepts this recommendation.

2.1 The Agency welcomes the Chief Inspector's finding that the overall quality of decision making in all locations is good but is aware that there is still room for improvement. It remains committed to making correct, consistent and robust decisions in all cases and is already taking action to improve data quality and minimise the number of flawed decisions.

2.2 Within the UK, the Agency's Tier 4 case working team in Sheffield has taken steps to improve the quality of its decisions. For the financial year to date, 97.39% of decisions made by the unit were assessed as correct against the target of 98%. The Agency has increased the number of Tier 4 decisions quality assured to identify common errors and training needs. Performance against quality metrics will continue to be monitored and staff will be supported to make good quality decisions.

2.3 The Agency is satisfied that the process for recording the results of Temporary Migration quality sampling - Quantum - is robust and supports sound decision making. It will however continue to review quality procedures to ensure that the system continues to be fit for purpose.

2.4 Following a number of previous recommendations from the Independent Chief Inspector, the Agency completed a review of the overseas visa quality control process in June 2012, looking at ways to improve its effectiveness. As a result, a new formalised review process was introduced in July 2012 for all overseas posts. The file sampling exercise undertaken as part of this inspection pre-dated this change. The changes saw the introduction of a new requirement to target each individual Entry Clearance Officer's decisions one day each quarter. This will not only allow for one to one feedback but will also allow Entry Clearance Managers to better gauge, and to set the standards for, decision quality across the post. The impact of these changes will be reviewed in the New Year.

- 3. takes all necessary steps to ensure that resources are effectively allocated to deliver its obligations in respect of;**
- **sponsorship decision making and notifications on the Sponsor Management System;**
  - **the identification of students who have failed to comply with the obligations of their leave and whose leave should be curtailed;**
  - **locating and removing students whose leave has been curtailed.**

The UK Border Agency accepts this recommendation.

- 3.1 The Agency recognises the importance of maintaining its compliance regime; identifying those students whose leave should be curtailed quickly and removing those that fail to leave the UK of their own accord.
- 3.2 Following the National Audit Office report '*Immigration: The Points Based System – Student Route*' the Agency has made significant progress in reducing the number of outstanding notifications and resulting curtailments. All Sponsor Management System notifications submitted before 27 February 2012 have been reviewed and curtailment action taken where necessary.
- 3.3 Curtailment across all Temporary Migration routes has been centralised and is now being handled by one specialist team.
- 3.4 As part of our wider curtailment improvement strategy we have undertaken extensive work to streamline the curtailment process across all Points Based System routes, including using data matching to identify notifications that do not warrant curtailment action. The Agency is also looking to automate sponsor notifications and licence revocation checks to focus case work resource on making curtailment decisions.
- 3.5 Locating and removing students whose leave has been curtailed remains a priority for the Agency's enforcement teams.
- 3.6 The Agency's Summer Enforcement Campaign, Operation Mayapple, was established to provide a targeted response to enforcement activity on overstayers, including students whose leave has been curtailed. The Agency will continue to build on the success of the operation. Mayapple will not stop and the practices developed as part of this campaign will now be incorporated into business as usual.
- 3.7 Plans are in place in the design of the Agency's new operating model for track and trace functions on a wide scale. The Agency's commercial partner Capita is providing contact management and case work services, locating individuals who have had an application for leave to remain application refused and encouraging them to return home voluntarily. Those that do not depart the UK voluntarily will have their departure enforced by the Agency.
- 3.8 The Agency is also taking action against those that abscond and fail to comply with their restrictions. It has developed a robust absconder strategy and has ambitious plans for the Command and Control Unit in Manchester, which will be expanded into a 24 hour duty office with a specialist team dedicated to locating and tracing immigration offenders.
- 4. protects children and vulnerable people by ensuring that all commercial partners who interact with these people;**

- **are trained to the same standard as Agency staff in the relevant Safeguarding functions; and**
- **have robust mechanisms in place to report any concerns about individuals to the Agency.**

The UK Border Agency accepts this recommendation in part

- 4.1 The Agency is working with its commercial partners to ensure that robust processes are in place to protect vulnerable individuals including children.
- 4.2 When a child under 16 enrolls their biometrics, they must be accompanied by a 'responsible adult', who can be the child's parent or guardian, or another person, aged 18 years or over, who takes responsibility for the child. The Agency is working with its commercial partner Post Office Ltd, which provides biometric registration services through a number of its branches, to improve the service it offers. Post Office staff, enrolling biometrics, will as part of their training by the Post Office receive training and guidance on safeguarding children. This guidance will detail how to make a referral to the appropriate body where issues with a child's enrolment are identified.
- 4.3 Overseas, the 'Keeping Children Safe' training is mandatory for all Entry Clearance Officer and Entry Clearance Manager level staff. The Agency does not accept however that providing such training for staff employed by its commercial partners overseas would be an effective investment. Applicants under 16 who apply overseas must have a parent, guardian or responsible adult accompany them when they provide their biometric data. In all such cases the name of the person accompanying the under 16 year old is recorded.
- 5. monitors the impact of tighter rules on the Tier 4 route and any impacts on other entry routes to mitigate against attempted abuse by those who are not genuine students.**

The UK Border Agency accepts this recommendation

- 5.1 The Agency welcomes the Chief Inspector's recognition that recent measures to make Tier 4 more robust have significantly reduced abuse. It recognises the risk of displacement of attempted abuse into alternative routes and continues to closely monitor other migration categories for any evidence that these are being targeted by those who are not genuine students. Risk and Liaison Overseas Network (RALON) teams overseas work to identify emerging risks across all application categories, including displacement of abusive applications from one category to another after changes to the Immigration Rules. The Agency proposes to mitigate risks of abuse by undertaking additional interviewing of visa applicants in high-risk routes in future.
- 5.2 The Chief Inspector's report mentions specifically the risk of displacement into the Student Visitor route. While there has been a rise in the number of Student Visitor visas issued, most of this increase is accounted for by the introduction of the extended Student Visit route in January 2011. This is a temporary concession outside the Immigration Rules which enables students wanting to come to the UK to study English language for between 6 and 11 months to apply as a visitor rather than under Tier 4.
- 5.3 The Student Visitor category does not confer the entitlements of a Tier 4 visa, such as the right to work, bring dependants, switch into other routes, and extend a stay in-country. Unlike Tier 4, this route also has a full intentions test that is exercised at entry

clearance stage. The Agency's overseas posts do not currently report any displacement of abuse from Tier 4 into the Student Visitor route but the Agency continues to keep under review how the route is operating.

**6. ensures that all complaints, including those relating to Sponsorship, and the Agency's commercial partners are recorded, monitored and analysed consistently to achieve performance improvement.**

The UK Border Agency accepts this recommendation in part

- 6.1 The Agency's Customer Service Unit records, monitors and analyses all official complaints in relation to Sponsorship. In some instances where a sponsor makes contact directly with a member of staff on the Sponsorship unit regarding a concern or problem, the Agency does not necessarily record this as a complaint. Issues can often be resolved before they become official complaints. The Sponsorship unit does keep a local record of queries received but the Agency disagrees that these should be recorded as complaints if they have been resolved to the customer's satisfaction.
- 6.2 The guidance on managing complaints and correspondence received overseas, both those directly made to the visa section or those directed to the Agency's commercial partners, is well established. The Agency issued a reminder to all operational managers on the complaint handling process in July 2012. The Agency is pleased to note that Independent Chief Inspector found evidence of good collaboration between the Agency and its commercial partners overseas.
- 6.3 As part of the Agency's transformation it is introducing a new operating model for official correspondence including complaints. This will bring with it greater central control and ensure timeliness, consistency and quality across all business areas of the Agency. The consideration of complaints from third parties and commercial partners will be included within the model.

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

**4.66 We found examples of when Evidential Flexibility had been used well but also where it could have been it wasn't. As a result, the Agency needs to do more to encourage and ensure a consistent approach is adopted across different locations.**

The Agency is committed to ensuring consistency in the application of policy and guidance across in country and out of country casework operations. Operational Policy responsibilities within the Agency have now been centralised under a single Director to ensure consistency of practice. There should no longer be a need for local instructions which give conflicting interpretation of the Immigration Rules. The Rules are being amended in December 2012 to try to address some difficulties in the previous application of the Evidential Flexibility policy in Points Based System casework in posts overseas.

The Agency is also working to simplify the Immigration Rules and its policy guidance to ensure consistency in decision making across all parts of the Agency.

**4.58 We report later on inconsistencies in approach to processing applications in different posts, and can therefore accept it may be reasonable for there to be some variation between posts regarding staff benchmarks. However, there was no clear rationale for the extent of the disparity between International Operations & Visas and Immigration & Settlement Group in the significantly different targets they set for staff.**

**4.59 It was not clear what if any progress the Agency had made against the recommendation we made in our report of Tier 2 of PBS because of our findings in the different locations. In the overseas visa sections, individual targets were high but decision quality was also good. However, in Sheffield, where targets are set differently and a lower number of decisions per case worker are required, there were concerns with the number of decisions that were 'incorrect or fatally flawed'.**

The Agency accepted the Chief Inspector's finding, in his report *'The Thematic Inspection of the Points Based System: Tier 2'*, that differences in productivity levels and targets for Points Based System decisions made in the UK and overseas should be compared and evaluated.

There remain significant differences between case working processes in the UK and overseas. Larger overseas posts, such as New Delhi and Beijing, operate a team based approach to decision making. Document verification units and pre-assessment teams, dealing with many different categories of visa, are responsible for ensuring that an Entry Clearance Officer has all the evidence needed to make a decision at the point at which they receive the application. Applications are sifted, profiled and selected documents are verified in advance of the Entry Clearance Officer receiving the application, facilitating higher targets for individual decision makers than in the UK where applications are generally considered and decided by a single caseworker.

The Agency is of course committed to continuous improvement and sharing best practice; colleagues in International and Visa Operations and Temporary Migration will be exploring opportunities for joint working on this issue.

While the introduction of the Immigration Casework (ICW) programme between 2012 and 2014 will provide a platform for making further efficiencies in the application process, the Agency envisages that it will still be necessary to tailor its approach to reflect the inherent differences between the processing of overseas and in-country applications. We expect to begin roll out of ICW in the UK for Tier 4 applications early next year.