



An inspection of the UK Border Agency Visa Section in New York

January - March 2011



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Independent Chief Inspector of the UK Border Agency

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Foreword from John Vine CBE QPM



The New York Visa Section is a major visa-issuing post in the Americas region and will process approximately 93,000 applications by the end of 2011.

I was impressed with the strong customer service ethos and commitment to providing high levels of customer care exhibited by managers and staff in New York. This was demonstrated by their recent success in being awarded accreditation in the government's Customer Service Excellence standard, for which I offer my congratulations. I also received positive feedback from various stakeholders who commended the New York Visa Section for the service they received.

It was good to see staff taking responsibility for the safe handling of the significant volumes of personal data in their care. I was also pleased to note that, unlike some of the other posts I've inspected, staff in New York had been involved in target setting and as a result, understanding and ownership of their targets had increased.

I found the quality of decision-making in New York was generally fair, and indeed higher than in some other posts I have inspected. However, my case file sampling identified some concerns about the quality and consistency of decision-making. I found that the Visa Section was, in some circumstances, applying additional evidential requirements to the UK Border Agency's published guidance, which applicants were not notified about in advance and so were unable to meet. This was clearly unfair on applicants.

It is imperative that the Agency ensures that its staff adopts a 'right first time' approach and makes correct and robust decisions. I found a high percentage of cases where the original decision was overturned before cases were allowed to proceed to appeal. This concerned me, as the Agency had not conducted any analysis to establish whether or not the original decisions had been correctly made.

Finally, I was reassured to find that, although there was still room for improvement, good progress had been made in New York in implementing some of the recommendations I have made in previous inspection reports.

A handwritten signature in black ink that reads "John Vine".

John Vine CBE QPM
Independent Chief Inspector of the UK Border Agency

1. Executive Summary

1. This inspection focused primarily on the UK Border Agency's handling of three separate visa categories: Family Visitor, Other Visitor¹, and Settlement. In all three categories, we assessed the quality of decision-making for cases granted and refused entry clearance, in order to determine whether decision-making was:
 - Efficient, effective and fair; and
 - In line with relevant Immigration Rules and UK Border Agency policy and guidance.
2. The inspection also examined the service provided to applicants, assessing performance against the Agency's customer commitments² and customer service targets.
3. Although our sampling showed that, for the cases we reviewed, the Agency did not meet all of its customer service standards in respect of the time taken to process all three visa categories examined, we found that there were no significant delays in processing visas. Our analysis showed that average processing times for all visa categories examined were within target, with most of them actually well within target.
4. In order to attain their customer service standards, the New York Visa Section had set benchmark targets that staff were expected to achieve. We found that staff were aware of and understood the targets and how they had been determined. Managers and staff told us that they thought targets were, on the whole, realistic and achievable, although they acknowledged that there could be problems if staff had to spend time on other duties and activities.
5. A further review of targets was due to take place before the end of the appraisal year. In many of our previous inspections we have found that staff have not been consulted or involved in setting targets, with a resultant lack of understanding, ownership and sense of realism. We were therefore pleased to see that staff in New York had been, and continued to be, involved in target setting.
6. We found the quality of decision-making in New York was generally fair, with good-quality writing in refusal notices. This was much better than we had found in other posts we have inspected, for example, Abu Dhabi, Amman and the UK Visa Section.
7. We did, however, have some concerns over certain aspects of the quality and consistency of decision-making. This included decisions being made that were not always in line with all evidence submitted or with published policy and customer guidance. We also found examples of cases where the Agency had applied additional evidential requirements, which applicants were not notified about in advance and so could not meet. An example of this was when the Agency refused applications due to a lack of evidence regarding applicants' legal entry into the USA.
8. Although it is reasonable, in our view, to consider previous immigration history, it is imperative that applicants are explicitly advised that they need to evidence this, otherwise the Agency could be considered to be unfair to the applicant. We have reported in previous inspections on similar problems in relation to the Agency imposing additional evidence requirements, most recently in Amman and Istanbul.

¹ Other Visitor visas include all visitor visa categories except for Family Visitor visas, for example, people travelling to the UK on holiday.

² The UK Border Agency customer commitments can be found at:

<http://www.ukvisas.gov.uk/en/customerservices/servicestyle/>

9. We found some cases where it appeared that decisions had been made to issue visas without the Entry Clearance Officer having collected sufficient evidence of applicants' and/or sponsors' circumstances to justify doing so. This was compounded by a lack of adequate case notes being made on the Agency's caseworking IT system to provide a rationale for the decision being made. A further problem in this regard involved staff failing to retain relevant supporting documents on file, particularly in cases where visas had been issued. We have found similar problems in other inspections where we have made recommendations for improvement that the Agency has accepted. We believe it is imperative that the Agency ensures that there is a clear audit trail substantiating why decisions have been made in order to maintain public confidence in the immigration system.
10. We found the quality of visa vignettes issued was good, with very few errors being made. We also found no problems in relation to file storage, retrieval and case administration. In addition, the overall quality of refusal notices was good. These were generally well written, easy to understand and personalised to the applicants.
11. We were concerned to find that the Agency was not complying with its own policy guidance in relation to staff carrying out additional sponsor verification checks. These should be made on a routine basis unless there are clear grounds for not doing so, with any exceptions being clearly recorded on its caseworking IT system to provide an audit trail. While we accept that staff in New York had been provided with an exemption from carrying out checks in certain circumstances, for example cases believed to be low risk, any decision not to perform checks should still have been recorded along with the justification for this.
12. Overall, we found evidence of structured training programmes being provided for staff. Additionally, we noted various local initiatives had been implemented to ensure that staff were kept up to date with sometimes frequent changes to policy and guidance. We also found local communication initiatives had been introduced to enable staff to provide feedback and receive updates.
13. We received very positive feedback regarding the New York Visa Section operations from staff and stakeholders at a number of spoke posts, all of whom were very complimentary about the service they received.
14. We found there were very good working relationships in evidence between entry clearance staff and the Risk and Liaison Overseas Network (RALON). We noted several examples of successful joint initiatives, including:
 - creating hybrid roles where staff worked on both entry clearance and intelligence work;
 - developing weightings for different types of visa application to feed into staff performance standards; and
 - introducing a risk index matrix to provide guidance for staff making decisions on visa applications.
15. We found staff were generally well informed on complaints processes and procedures, and that overall these were followed. However, we noted that improvements were required in relation to the administration of regional complaints.
16. We found staff were well informed about diversity issues and had a strong customer service ethos. We also found clear evidence to show that they took seriously their obligations to consider the need to safeguard and promote the welfare of children, and had been trained appropriately to do so.
17. We found a real strength in the New York Visa Section in relation to the seriousness given to the need to treat and store personal data securely. This was evidenced by the implementation of robust local data protection policies and procedures, all of which were fully understood by staff.

18. New York was the Agency's first international post to apply for accreditation under the government's new Customer Service Excellence standard (CSE). In March 2011, the week before the on-site phase of our inspection, the post was formally assessed and succeeded in being awarded CSE accreditation.
19. Managers and staff in New York had clearly worked hard and made considerable efforts to attain accreditation and should be congratulated on their achievement. They were committed to providing high levels of customer care, and we found several examples of good practice in New York to substantiate this. For example, applicants were emailed at each stage of their application to update them with details of its progress.
20. At the time of our inspection, for the 2010/11 financial year up to the end of February 2011, we found that New York's performance against the Agency target – to have no more than 25% of all appeals to be allowed – was 28%. Although the target had not been met, this was an improvement on the previous year's performance when 35% of appeals were allowed. Appeal allowal rates are important to the Agency, as the cost of cases proceeding to appeal is significant. Potential costs of processing all Entry Clearance appeals received by the Agency in 2010/11 range between £17 million and £43 million, so it is vital that the Agency ensures that its staff make correct and robust decisions and adopt a 'right first time' approach.
21. Entry Clearance Managers (ECMs) in New York act in accordance with Agency guidance by reviewing all applications for appeal before allowing them to proceed to appeal. This prevented a significant number of cases from going to appeal as the original decisions were overturned. For the 2010/11 financial year up to the end of February 2011, we found 35% of Settlement and 63% of Family Visit cases were overturned by an ECM. We were somewhat concerned that the percentage of cases where the original decision was overturned was so high and we found that no analysis had been carried out to determine any reasons for this, or if the original decisions made were of sufficiently high quality.
22. As part of a significant restructuring exercise in the Americas region to reduce costs and deliver savings, New York had absorbed work from the Chicago Visa Section, which was closed in 2010. Work was also ongoing to transfer work into the New York hub from the Los Angeles and Ottawa posts, which were also scheduled to close later in 2011. We were pleased to note that these change initiatives formed part of a formal programme with an appropriate 'programme and project' infrastructure in place, including specific risk registers.
23. As part of this inspection, we wanted to assess what progress had been made by the New York Visa Section in relation to the recommendations we had made in our previous inspection reports. Managers and staff in New York told us they had made efforts to implement as many of our recommendations as possible. We were therefore pleased to find some good progress had been made in implementing some of our recommendations. Certainly some of the problems we found in other posts did not materialise in New York. However, we found there was still a need for ongoing improvement in other areas. Full details of these are provided later in this report.

2. Summary of Recommendations

We recommend that the UK Border Agency:

1. Provides applicants with clear information and guidance in advance of their application, about the requirements they need to meet when submitting their application.
2. Ensures that when applicants have followed published guidance, but Entry Clearance Officers require further information to make a decision, applicants are given an opportunity to provide this.
3. Ensures that it records a clear rationale for entry clearance decisions and adequate case notes generally, on its IT caseworking system, and adopts a consistent approach to the retention of supporting documents on file, in order to maintain a clear audit trail.
4. Complies with its own guidance in relation to performing additional sponsor verification checks on a routine basis unless there are clear grounds for not doing so, with any exceptions recorded appropriately on its caseworking IT system.
5. Improves its administration of regional complaints, ensuring that:
 - access to the regional complaints inbox, facilitating the daily allocation of complaints to Entry Clearance Managers, is extended beyond the complaints champion;
 - all complaints correspondence is archived in a more structured fashion, and is linked to application records on the Agency's caseworking IT system, facilitating a clearer audit trail.
6. Amends its refund policy to ensure that cases with significant customer service failures are addressed appropriately.
7. Ensures that all staff complete the Agency's mandatory e-learning training on equality and diversity and that the appropriate records of their having completed the training are documented in the post's training log.
8. Implements across the Agency, as an example of good practice, the automated email system used in New York to update applicants on the progress at each stage of their application.
9. Extends its analysis of appeal determinations to include cases reviewed and overturned by Entry Clearance Managers; ensuring a focus on the quality of decisions helps identify trends of common errors and training needs.
10. Raises staff awareness of the risk register, making it clear how they can contribute to it, in order to ensure that managers are alerted to potential, emerging or changing risks as early as possible.

3. The Inspection

- 3.1 The role of the Independent Chief Inspector of the UK Border Agency was established by the UK Borders Act 2007 to examine and report on the efficiency and effectiveness of the UK Border Agency. In 2009, the Independent Chief Inspector's remit was extended to include customs functions and contractors.
- 3.2 On 26 April 2009, the Independent Chief Inspector was also appointed to the statutory role of Independent Monitor for Entry Clearance Refusals without the Right of Appeal as set out in section 23 of the Immigration and Asylum Act 1999, as amended by section 4(2) of the Immigration, Asylum and Nationality Act 2006 (regarding the introduction of the points-based system from April 2008).
- 3.3 The Chief Inspector is independent of the UK Border Agency and reports directly to the Home Secretary.
- 3.4 The Independent Chief Inspector's inspection criteria³, revised in March 2011, were used to assess the efficiency and effectiveness of the Visa Section in New York under the themes of:
 - Operational Delivery;
 - Safeguarding Individuals; and
 - Continuous Improvement.
- 3.5 This inspection also addressed the statutory remit of the Independent Monitor for Entry Clearance Refusals without the Right of Appeal⁴. This is set out in section 23 of the Immigration and Asylum Act 1999, as amended by section 4(2) of the Immigration, Asylum and Nationality Act 2006 (regarding the introduction of the points-based system from April 2008).
- 3.6 To help us make an informed judgment about the quality of customer service, we measured the performance of the UK Border Agency against the objectives in its customer commitments.⁵ These set out the level of customer service people subject to Agency services can expect.

Purpose and aim

- 3.7 This inspection measured the performance of the Visa Section in New York against the strategic goals and performance targets set by the UK Border Agency's International Group. It also examined whether decision-making was:
 - efficient, effective and fair; and
 - in line with relevant Immigration Rules and UK Border Agency policy and guidance.

³ The Independent Chief Inspector of the UK Border Agency's inspection criteria can be found here <http://icinspector.independent.gov.uk/wp-content/uploads/2010/03/Inspection-Criteria.pdf>

⁴ Although the formal title of the Independent Monitor refers to cases without the right of appeal, all requests for entry clearance in fact carry appeal rights on the basis of humanitarian and race relations grounds.

⁵ The UK Border Agency customer commitments can be found at:
<http://www.ukvisas.gov.uk/en/customerservices/servicestyle/>

3.8 The inspection also examined the service provided to applicants, assessing performance against the Agency's customer service targets and customer commitments.

Background

3.9 The information in this section was provided by the UK Border Agency and sets out general background information about International Group and the work of the Visa Section in New York.

3.10 International Group is a Directorate of the UK Border Agency formed in 2008 from UK Visas and other international policy strands. The Group delivers the wider overseas remit of the UK Border Agency, including the visa issuing service, and is fundamental to achieving the Agency's strategic objectives listed below:

- To protect the border and national interests of the UK;
- To tackle border tax fraud, smuggling and immigration crime; and
- To implement fast and fair decisions.

3.11 The International Group 2009/10 Business Plan identifies 13 strategic objectives; Figure 1 lists the objectives most relevant to this inspection.

Figure 1: Relevant International Group 2009/10 Strategic Objectives

Strategic Objective	Milestone / Input / Measurement
Meet all customer service targets	<ul style="list-style-type: none">- Meet all customer service targets for visa decision-making and handling complaints, (available at http://www.ukvisas.gov.uk/en/aboutus/customerservicestandards) including the introduction of new complaints handling procedures and replying to 95% of MPs correspondence within 20 working days.- Remove backlogs and introduce pilots to develop more effective working (e.g. complaints exercise in India).
Improve decision-making quality	<ul style="list-style-type: none">- Implement all accepted 2008/09 recommendations of the Independent Monitor.- Implement structured decision-making through the introduction of the Decision Support Tool by March 2010.- Exploit biometric data to inform our risk profiles so we continue to bear down on visa abuse.
High quality leadership and staff management	<ul style="list-style-type: none">- High-quality leadership and staff management in line with IiP standards and Home Office guidelines.

3.12 International Group has approximately 2,300 staff in 136 countries around the world, working to deliver the government's objective of facilitating trade and travel that benefits the UK and preventing travel that does not. To manage its work overseas, International Group has structured its visa operations into six regional locations:

- Africa;
- Americas;
- Asia Pacific;
- Gulf, Iran and Pakistan;

- EuroMed; and
- South Asia.

3.13 The New York Visa Section forms part of the Americas region.

Hub and Spoke

- 3.14 The redesign of the Agency's global network of Visa Sections began in January 2007 as part of a wider programme of change, supported by the introduction of biometrics and commercial partners.
- 3.15 This redesign allowed the Agency to think about how and where it considered applications, giving it an opportunity to make better use of its resources overseas. The redesign of the network into a 'hub and spoke' business model aimed to deliver three main benefits:
- improved quality and consistency of decision-making;
 - improved efficiency and productivity; and
 - greater resilience and flexibility.
- 3.16 This business model has seen decision-making move from small Visa Sections to larger regional hubs, or processing centres. In early 2007, there were over 150 posts around the world, working largely independently and handling all aspects of visa processing including the receipt of applications and decision-making. By late 2010, the number of locations in which an application could be registered (spokes) had increased to 315, serviced by 70 processing centres (hubs).

The New York Visa Section

- 3.17 The New York Visa Section acts as a hub and is situated within the British Consulate-General in Manhattan. At the time of inspection, it was one of seven visa issuing posts in the Americas region, processing applications from 35 countries across the Caribbean and Central and South America, in addition to 18 states in America. The New York hub, along with the wider UK Border Agency Americas region, is undergoing a period of major transformation. The Visa Section in Chicago closed in 2010, with Los Angeles and Ottawa closing in May and October 2011 respectively, transferring their workloads to New York. At the same time, applications from Latin American spoke countries will transfer out of New York to new hubs elsewhere in the region, leaving New York to deal with all applications made in North America. This programme of change is due to be completed by 31 October 2011, generating savings in the region of £2.25 million per annum and increasing the annual volume of applications handled by New York to just over 100,000 visas.

Commercial partners

3.18 The New York hub has two corporate partners. They are:

- The Department of Homeland Security (DHS) of the USA, for the collection and transmission of biometric information on behalf of the Agency. UK visa applicants applying in the USA have the choice of using any of the 133 DHS Application Support Centres (ASCs), located throughout all 50 states, for the biometric enrolment stage of their application process; and
- The UK Border Agency's commercial partner, WorldBridge Services, a subsidiary of Computer Science Corporation (CSC), who have been operating front-end visa services⁶ and information services in the region since 2007 on behalf of the Agency. Outside of the New York hub and spoke operation, they provide visa application services in Rio, Kingston and Ottawa. More recently, WorldBridge Services have been able to extend the coverage of the New York operation into more

⁶ Including collecting visa paper application forms and supporting documents, visa fees and biometric data.

remote locations through the provision of a mobile biometric service for which applicants pay an additional fee. As of June 2010, CSC have also provided Priority service processing and Premium appointments (currently only available for PBS Tier 4 applicants), which applicants may purchase for an additional fee.

The application process

- 3.19 The application process differs slightly depending on whether the application is made within the USA or one of the spoke locations as listed below in Figure 2:

Figure 2: Spoke countries forwarding applications to New York Visa Section

Country	Location of spoke
Bermuda	Hamilton
Bahamas	Nassau
Dominican Republic	Santa Domingo
Barbados	Bridgetown
Trinidad & Tobago	Port of Spain
St Lucia	Castries
Guyana	Georgetown
Venezuela	Caracas
Guatemala	Guatemala City
Costa Rica	San Jose
Belize	Belmopan
Mexico	Mexico City
Panama	Panama City
Ecuador	Quito
Peru	Lima
Chile	Santiago
Argentina	Buenos Aires
Uruguay	Montevideo
Bolivia	La Paz

- 3.20 The visa application process is set out in Figure 3 below.

Figure 3: New York Visa Section – application process

- 1 Applicants complete an online application form, pay the relevant fee and book an appointment to have their biometrics taken. For USA applications, this will take place at one of 133 Application Support Centres, and for spoke applications this will be at a spoke post or a mobile clinic operated by WorldBridge Services.
- 2 Applicants attend the biometrics appointment location to submit their biometric data and, if it is a spoke post, their supporting documents.

3	The application form and supporting documents are sent to the Visa Section by either the applicant or, in the case of spoke applications, by the spoke post. If a visa facilitator / representative ⁷ is engaged by the applicant, or it is a Premium application (currently only available for Tier 4 student applications for an additional fee) the papers are submitted in person.
4	The decision to issue or refuse entry clearance is made by an Entry Clearance Officer.
5	The visa or the refusal notice, together with the original supporting documents, are returned to the applicant / their representative. This is done via courier or the spoke post, depending on the type of application.
6	The applicant is also alerted by email at this stage of the result of their application and given details of the tracking number for their outbound package.

- 3.21 The work of entry clearance staff is crucial in helping the UK Border Agency address its purpose of securing the border and controlling migration for the benefit of the UK. In the financial year 2009/10, the Agency dealt with 2.49 million applications. New York was ranked 11th out of 146 posts by volume of application in 2008/09.
- 3.22 Figure 4 shows the number of applications assessed at the New York Visa section for the various categories of visa applications in the financial year 2009/10.

Figure 4: New York applications by visa category 2009/10

Endorsement Category	Applications	%
EEA Family Permits	512	1
Family Visit	7,010	14
Other Non Settlement	1,752	3
Other Visitor	19,091	37
PBS Tier 1	1,421	3
PBS Tier 2	4,568	9
PBS Tier 4	10,603	21
PBS Tier 5	1,301	3
Settlement	2,006	4
Student	292	0.5
Transit	1,909	4
Work Permit	294	0.5
Working Holiday Maker	0	
Totals	50,759	100%

Note: Information provided by UK Border Agency International Group

⁷ A visa facilitator is a representative engaged to procure a visa on an applicant's behalf, usually in exchange for a fee being paid.

- 3.23 New York was selected for inspection based on the Independent Chief Inspector's risk model approach for the selection of overseas posts, which considers performance against International Group scorecard business targets. These are weighted according to the Independent Chief Inspector's view of the relative importance of the performance indicators. The model most strongly emphasises performance in regard to the quality of decision-making. Other indicators associated with the security of the border and impacts on people are also given a higher weighting than measures linked to leadership and management. Application of the model using data for the period May 2009 – March 2010 indicated that New York was performing significantly below target against a number of the Agency's performance indicators.

Staffing

- 3.24 Figure 5 provides a breakdown of staffing numbers at the time of our inspection. It should be noted that with the exception of the Regional Manager and the Immigration Liaison Manager, all staff are locally engaged. Staffing numbers will increase by eight full-time, locally engaged staff to accommodate the increase in application volume as a result of the regional change programme.

Figure 5: Staffing numbers at New York Visa Section

Visa Section staff	
Regional Manager (based in New York)	1
Operational Hub Manager	1
Entry Clearance Managers (ECMs)	3
Senior Entry Clearance Officers (SECOs)	2
Entry Clearance Officers (ECOs)	14
Office Manager	1
Entry Clearance Assistants (ECAs)	10
Assistant / Registrar /Appeals	1
RALON Staff	
Immigration Liaison Manager	1
Immigration Liaison Officer	1
Hybrid Immigration Liaison / Entry Clearance Officer	2
Immigration Liaison Assistant	1
Immigration Liaison Assistant (Mountbatten Intern)	1
TOTAL	39

Note: Information provided by UK Border Agency International Group

Customer service

- 3.25 The New York Visa Section has held the Charter Mark award for excellence in customer service standards since 2007. When we were on site in March 2011, staff had just undergone their assessment for Customer Service Excellence accreditation, and received notification that they had been successful in their application.

Scope

- 3.26 Other Visitor visas were selected for examination because they formed the majority (37%) of visa applications in New York in the financial year 2009/10 (see Figure 4). Assessing the quality and consistency of decision-making in this category was therefore important in assessing the overall performance and effectiveness of the Visa Section. Examination of these cases also took into account the role of the Independent Chief Inspector as the Independent Monitor for Entry Clearance Refusals without the Right of Appeal.
- 3.27 Family Visitor visas were selected for examination because they were the second largest visa application category in New York (14%, see Figure 4). Together, these two categories alone made up more than half of all decisions made in the Visa Section. In addition, this is only the second time that the Family Visitor category has been specifically examined by the Inspectorate. Effective decision-making is especially important in this category due to the impact poor decisions can have on maintaining family relationships.
- 3.28 Settlement visas were selected following the Independent Chief Inspector's pre-inspection visit to the New York hub on 22-23 November 2010, where he received feedback from the post that decisions made in this visa category were particularly challenging to decide.
- 3.29 The inspection also examined:
- Progress made in relation to the recommendations made by the Inspectorate, up to and including the Abu Dhabi and Islamabad inspections;
 - The effect of hub and spoke, with a clear focus on the move of the Chicago visa operation into the New York hub;
 - The use of risk profiles in the decision-making process; and
 - Performance of the Hub against Charter Mark criteria, together with its application for Customer Service Excellence accreditation in 2011.

Methodology

- 3.30 The on-site phase of the inspection took place between 21 and 25 March 2011. A one-day pre-inspection planning meeting was held via tele-conference on 9 March 2011.
- 3.31 A range of methods were used during the inspection, including:
- File sampling;
 - Staff and stakeholder interviews;
 - Staff focus groups; and
 - Staff observation.
- 3.32 On 25 March 2011, the final day of the on-site phase of the inspection, the inspection team provided feedback on high-level emerging findings to the UK Border Agency.
- 3.33 The inspection identified 10 recommendations for improvement to operational service delivery in New York. A full summary of recommendations is provided on page six of this report.

4. Inspection findings: Operational Delivery

Decisions on the entry, stay and removal of people should be taken in accordance with the law and the principles of good administration

Decision-making

- 4.1 This section provides detailed results and analysis of the files we examined prior to the on-site phase of our inspection in New York. In total, 400 files were requested, chosen randomly from decisions made in New York between 1 September and 30 November 2010. We were pleased to find no evidence of problems in regard to file storage and retrieval at the post as we received all but one of the files requested, and this file was subsequently located and offered to us. Figure 6 sets out the visa categories examined together with numbers of cases sampled in each category. We sampled 388 out of the original 400 files as nine files proved to be out of scope, two files were duplicated and one was not sent initially as previously mentioned.

Figure 6: Numbers of files sampled in each visa category

Category	Requested	Sampled	Out of scope
Family Visitor – issue	75	72	2
Family Visitor – refusal	75	73	2
Other Visitor – issue	75	71	4
Other Visitor – refusal	75	73	0
Settlement – issue	50	49	1
Settlement – refusal	50	50	0
Total	400	388	9

- 4.2 In the sampled cases, we considered both the timeliness of the actions taken and the quality of the decisions made. Details of our findings, split according to visa category, follow.

Timeliness

- 4.3 At the time of our inspection, the UK Border Agency measured its performance against the following customer service standards:
- To complete 90% of non-Settlement visa applications in not more than 15 working days, 98% in 30 working days, and 100% in 60 working days; and
 - To complete 95% of Settlement visa applications in not more than 60 working days and 100% in not more than 120 working days.
- 4.4 In our sampling, we measured performance against these standards. Figure 7 shows that for the cases we looked at, the Agency missed its 15 and 30-day targets for Family Visit issue cases but met its 60-day target for this category. For Other Visit issue cases, it met the 60-day target, exceeded the 30-day target, but missed the 15-day target.

Figure 7: Application processing times of Family and Other Visit issue cases in New York

Targets: to complete 90 per cent of visa applications in not more than 15 working days, 98 per cent in 30 working days and 100 per cent in 60 working days

	Family Visit issues			Other Visit issues		
Total cases sampled	72			71		
Timescale	15 working days or under	30 working days or under	60 working days or under	15 working days or under	30 working days or under	60 working days or under
Percentage of cases processed by timescale	83%	97%	100%	83%	100%	100%
Number of cases by which target was missed (-), met (0) or exceeded (+)	-5	-1	0	-5	+1	0

- 4.5 Figure 8 shows that for the cases we sampled, the Agency missed its 15 and 30-day target for both Family and Other Visit refusals but met its 60-day target for both categories.

Figure 8: Application processing times of Family and Other Visit refusal cases in New York

Targets: to complete 90 per cent of visa applications in not more than 15 working days, 98 per cent in 30 working days and 100 per cent in 60 working days

	Family Visit refusals			Other Visit refusals		
Total cases sampled	73			73		
Timescale	15 working days or under	30 working days or under	60 working days or under	15 working days or under	30 working days or under	60 working days or under
Percentage of cases processed by timescale	63%	92%	100%	60%	97%	100%
Number of cases by which target was missed (-), met (0) or exceeded (+)	-20	-5	0	-22	-1	0

- 4.6 Figure 9 shows that for the cases we looked at, while the Agency met both the 60 and 120-day targets for Settlement refusal cases, it missed both targets for Settlement issue cases.

Figure 9: Application processing times of Settlement cases issued and refused in New York

Targets: to complete 95 per cent of Settlement visa applications in not more than 60 working days and 100 per cent in not more than 120 working days

	Settlement issues		Settlement refusals	
Total cases sampled	49		50	
Timescale	60 working days or under	120 working days or under	60 working days or under	120 working days or under
Percentage of cases processed by timescale	86%	98%	100%	100%
Number of cases by which target was missed (-), met (0) or exceeded (+)	-5	-1	0	0

- 4.7 In summary, the results of our sampling show that the New York Visa Section missed its targets in 65 out of the 388 cases (17%). However, UK Border Agency management information recorded that the New York Visa Section generally performs well against its service standards and meets all targets.
- 4.8 When we presented our findings to the Agency, we were informed that the New York Visa Section measures its processing times differently for USA cases. In our sampling, we measured the time from when the applicant's biometrics were taken to the day the decision was made. This is also the measure normally employed by the Agency as applicants usually attend a visa application centre to have their biometrics taken and submit their applications at the same time.
- 4.9 However, applicants in the USA attend one of the 133 Application Support Centres run by the Department of Homeland Security (DHS) to have their biometrics taken. It is then the applicant's responsibility to send their application and supporting documents to the New York Visa Section. As the Agency has no control over how long it will take the applicant to do this, it measures processing times from the day it receives the application rather than the day the applicant's biometrics are taken. Spoke applications, however, are measured from when the biometrics are taken, as the spoke posts send the applications to New York the same day.
- 4.10 Although the Agency does not start measuring time until the application is received for USA cases, it confirmed it aims to record the application on Proviso, its caseworking IT system, the same day it is received. The Agency told us it generally meets this aim, although sometimes it is not possible to do so, for example in peak summer season.
- 4.11 In view of the different methods New York uses to measure processing times, when we returned from the on-site phase of our inspection, we carried out some additional analysis of processing times of a small sample for each of the six visa categories. In this analysis we considered the date the biometrics were taken as well as the date the application was received at post. Although we noted this made some difference to processing times, we found some cases still missed the various targets. We consider it is very important that cases are registered on the Agency's caseworking IT system, Proviso, on the day they are received in post, in order to minimise any delays. This is especially significant for USA cases.

- 4.12 In order to consider a more complete picture of application processing times for the various visa categories, we also looked at average processing times. These are detailed in the tables at Figures 10 and 11 below:

Figure 10: Average processing times for Family and Other Visit issues and refusals
Targets: to complete 90 per cent of visa applications in not more than 15 working days, 98 per cent in 30 working days and 100 per cent in 60 working days

	Family Visit issues	Other Visit issues	Family Visit refusals	Other Visit refusals
	Number of working days			
Average processing time	11	9	15	14
Shortest processing time	3	1	3	4
Longest processing time	45	28	50	33

Figure 11: Average processing times for Settlement visa issues and refusals
Targets: to complete 95 per cent of Settlement visa applications in not more than 60 working days and 100 per cent in not more than 120 working days

	Settlement issues	Settlement refusals
	Number of working days	Number of working days
Average processing time	28	27
Shortest processing time	1	5
Longest processing time	153	88

- 4.13 We were pleased when our analysis showed that New York Visa Section average processing times for all visa categories examined were within target, with most of them actually well within target.
- 4.14 We also considered the average time taken for the New York Visa Section to notify applicants of the outcome of their visa application. We found no evidence of any undue delay, as average times were as follows:
- One day for Family Visitor, Other Visitor and Settlement refusals; and
 - Two days for Settlement issues.

Staff targets

- 4.15 In order to attain the customer service standards, the New York Visa Section had set benchmark targets that Entry Clearance Officers (ECOs) were expected to achieve. These targets were developed in conjunction with the local Risk and Liaison Overseas Network team (RALON), using a weighting system taking into account the variable levels of complexity and time required to process the various visa category applications. Staff and managers confirmed to us that staff input had been sought before the targets were introduced in February 2010. Targets were linked to staff performance appraisals and were consistent for all staff. They were aggregated over a five-day period so there was some in-built flexibility.

- 4.16 At the time of inspection, there were three levels of performance target as follows:
- A performance standard that was ‘acceptable, but room for improvement’ required a minimum of 22 (mixed category) decisions per day plus two refusals⁸;
 - A performance standard that was ‘full delivery – consistently strong performance’ required staff to decide 25-30 decisions plus three refusals per day; and
 - A performance standard that was ‘significantly exceeded a challenging performance agreement’ required staff to regularly surpass 30 decisions and three refusals per day.
- 4.17 We were told that anyone regularly failing to meet the minimum standard was subject to performance improvement procedures.
- 4.18 Similar targets had been implemented for Entry Clearance Assistants (ECAs), with a minimum standard of 35 pieces of work per day rising to a top-level performance of regularly surpassing 40 pieces of work daily. As an example, ‘pieces of work’ included opening post, scanning passports, and entering cases onto the IT caseworking system; essentially preparing a case in readiness for decisions to be made.
- 4.19 We found that staff were aware of and understood the targets, and how these had been determined. Managers and staff told us they thought targets were, on the whole, realistic and achievable, although acknowledged that there could be problems if staff had to spend time on other duties and activities. A further review of targets was due to take place before the end of the appraisal year. In many of our previous inspections, we have found that staff had not been consulted or involved in setting targets with a resultant lack of understanding, ownership or sense of realism. We were therefore pleased to find staff in New York had been, and continued to be, involved in target setting.
- 4.20 Staff and managers acknowledged that processing times did slip during their peak summer period when Tier 4 applications had to be prioritised, but felt that even then they largely met their targets. Managers were very conscious of targets and planned ahead to meet peak demand periods. Staff often worked weekends and evenings in peak periods and there were restrictions on other activities, such as staff taking leave and undergoing training during this time.

Quality of decisions

- 4.21 We found the quality of decision-making in New York was generally fair, with good-quality writing in refusal notices. This was much better than we have found in some other posts we have inspected, for example the UK Visa Section, Abu Dhabi and Amman. We did, however, have some concerns over certain aspects of decision quality, which are reported on below under the various visa category headings we examined.

Results of the sample of Family and Other Visitor refusals of entry clearance

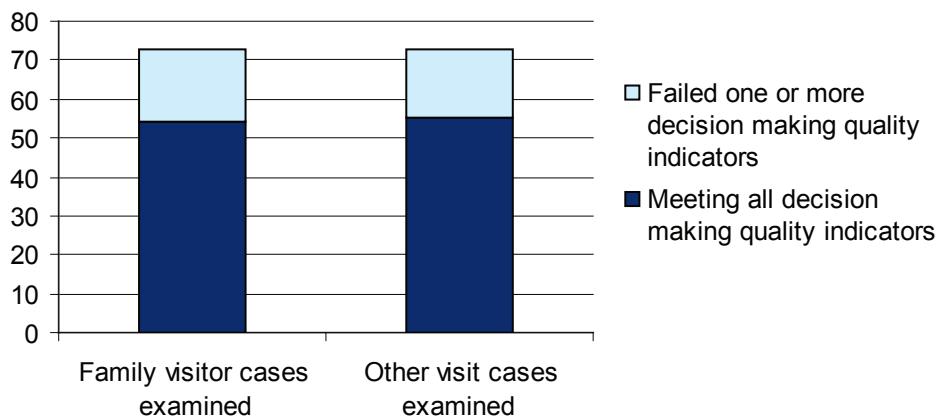
- 4.22 Refused Family and Other Visitor entry clearance cases were examined using various quality indicators, including:
- Was the decision to refuse entry clearance assessed against the correct Immigration Rules?
 - Did the Entry Clearance Officer make their decision based upon all the available evidence?
 - Was the correct information on appeal rights provided to the applicant?
 - Was the administration of the case sound?⁹

⁸ Staff do not have a quota target of cases they should refuse, refusal cases are only singled out in targets as they take longer to complete than grant cases.

⁹ Unsound administration would refer to an administrative failing so serious as to adversely affect the decision outcome; for example where delays in processing meant the reason for the application – such as attendance at a particular event – had passed, although the application was made in good time.

- 4.23 Of the 73 Family Visitor cases examined, we found 19 cases (26%) failed one or more decision-making quality indicators. Of the 73 Other Visitor cases examined, we found 18 cases (25%) failed one or more decision-making quality indicators. This is illustrated in Figure 12:

Figure 12: Family Visitor and Other Visit refusal cases assessed against indicators of decision-making quality



Immigration Rules

- 4.24 The decision to refuse entry clearance was assessed against the correct Immigration Rules in all cases we examined, in both the Family and Other Visitor visa categories.

Decision in Line with Evidence

- 4.25 For Family Visit refusal cases, the reason 17 of the 19 cases (24% of the sample) failed one or more decision-making quality indicators was because we did not find that the decision had been made in line with all available evidence. In two of the 19 cases, we questioned whether the overall outcome decision had been made correctly. In addition, in one case, supporting evidence submitted by the applicant was missing from the file so was not available for us to examine, and we could therefore not assess if the decision had been made in line with evidence.
- 4.26 Similarly for Other Visit refusal cases, the reason 13 of the 18 cases (19% of the sample) failed one or more decision-making quality indicators was because we did not find the decision had been made in line with all available evidence. We questioned whether the overall decision outcome was correct in another of the 18 cases. In addition, four of the 18 cases did not contain on file all of the supporting evidence submitted by the applicant, so we could not review this, or assess if the decision had been made in line with evidence.

- 4.27 The main reasons we found decisions had not been made in line with all evidence available were as follows:
- We found 10 Family and six Other Visit cases where the Entry Clearance Officer disregarded or misinterpreted evidence, for example with regards to maintenance or funding for the visit, to the applicant's detriment. Examples included:
 - Disregarding invitation letters from sponsors;
 - Misreading bank balances on statements; and
 - Misreading sponsor payslips and attributing them as belonging to the applicant.
 - We found eight Family and nine Other Visit cases where the Entry Clearance Officer applied additional evidential requirements, for example refusing entry clearance:
 - Because bank letters did not indicate the origin of funds;
 - Due to a lack of evidence of how and when the applicant entered the USA; and
 - Because of a failure to evidence previous travel / immigration history.
- 4.28 We discussed 14 of these cases¹⁰ that we considered to be the most significant and representative of the wider cohort of 37 cases with the Agency while we were on site. The objectives of our discussion were to:
- Highlight our concerns;
 - Seek clarification over policy or procedure;
 - Request further rationale behind the making of a decision; and
 - Express our concern over a decision.
- 4.29 We were pleased to find that the Agency agreed with our findings on five cases and agreed to revise three refusal notices and amend two refusal decisions to issue entry clearance. Three of these cases related to additional evidence requirements, one related to disregarding evidence, and the other concerned an inconsistent approach taken on a previous application.
- 4.30 We were satisfied with the explanation provided by the Agency on a further four cases, where it provided us with further information. In another case, the Agency accepted our findings regarding imposing additional evidential requirements. However, it did not provide us with a full response to another specific point made with regard to interpretation of evidence on the same case. We did, however, appear to reach a common understanding when we discussed this case further while on site.
- 4.31 We remain concerned about four cases covering two themes:
- family relationship and a corresponding full right of appeal; and
 - previous immigration history and entry into the USA.
- 4.32 We noted two cases where applications had been correctly refused, one Family Visit case and one Other Visit case, where a full right of appeal had been granted to the applicants. This was on the basis that the applicant was visiting or staying with an immediate family member. The nature of the family relationship the applicant shared with the sponsor was not specified in either of the cases. In the Family Visit case, this was part of the reason the application was refused, as the Entry Clearance Officer was not satisfied with the relationship. It was therefore unclear why a full right of appeal was granted.

¹⁰ Any of the cases discussed with the agency that resulted in us revising our initial view on decision quality indicators being met were rescored as appropriate. The summary of our findings in paragraphs 4.23 – 4.27 takes account of any rescoreing.

- 4.33 The UK Border Agency responded regarding the Other Visitor case by saying that, '*Immediate family, by definition, would usually indicate a close relative who would meet the Immigration Appeal Family Visitor Regulations.*'
- 4.34 With regard to Family Visitor cases the Agency stated that, 'The Immigration Rules do not state that applicants have to evidence the family relationship.'
- 4.35 However, we noted that the Agency's guidance states that:
- *'If refused, an applicant is entitled to a full right of appeal if they demonstrate ... the intention is to visit a qualifying family member in the UK as defined in the Immigration Appeals (Family Visitor) Regulations 2003.'*
 - *'The ECO should assess all the information provided to determine whether the main purpose of the visit is to visit a qualifying family member. The relationship stated on the VAF and / or supporting documents should be accepted unless one of the following scenarios apply:... the applicant and / or sponsor do not detail what their relationship is, either on the VAF or supporting documents.'*
- 4.36 Based on this, an applicant should not be awarded a full right of appeal unless they have clearly demonstrated the nature of the relationship they have with the person they plan to visit.
- 4.37 We do not consider the current guidance in this area as being sufficiently clear. While the guidance provides some clarity over rights of appeal, the Agency should clarify its policy on whether evidence of family relationship is or is not required, and to what level, as staff do not appear to be adopting a consistent approach in this regard. For example, we found two more Other Visitor cases where we did not agree that a full right of appeal should have been granted, one because of a failure to specify the nature of the immediate family relationship, and one where the applicant had no family relationship with the friends they planned to visit. Conversely, we found a case where a full right of appeal had not been awarded to an applicant planning to visit her daughter when there was no reason to question the relationship.

- 4.38 Our concerns regarding additional evidence requirements around applicants' previous immigration history and entry into the USA are best illustrated by way of the two case studies detailed below:

Figure 13: Case Study – Other Visitor refused application

The applicant:

- was married to a USA citizen and applied for entry clearance on 31 August 2010 to visit the UK for one month;
- provided details of her itinerary and planned trips in the UK;
- was funded by her husband, who had provided a letter confirming this and his bank statement showing \$8,000 in funds;
- was refused a visa on 28 September 2010 on the grounds that the applicant had provided no evidence of her plans, had only recently been granted permanent residency, that it was unclear what lawful status was held prior to receiving permanent residence, for not providing details of her husband's circumstances and for having insufficient ties and commitments in the USA to prompt her departure from the UK.

Chief Inspector's comments:

- There are details of her itinerary on file.
- There are details of her husband's funds and there is no requirement to show his circumstances beyond having the funds for her trip.
- Her permanent residency in the USA and her husband are evidence that her circumstances in the USA are such that she has something to go back to upon completing her visit in the UK.
- She was not required to provide evidence of her prior status.
- This case was reviewed by an ECM and the decision upheld.

UK Border Agency response:

- The ECO was not satisfied she had strong ties to the USA, even after considering the spouse's letter and his bank statement, but did not say why.
- The ECO was not satisfied with the applicant's previous USA immigration status.
- No explanation was provided on overlooking the plans of the trip provided.

Chief Inspector's further comments:

- The Chief Inspector could find no evidence as to why the applicant did not qualify under the Immigration Rules and was disappointed the UK Border Agency did not respond with a fuller explanation to justify their decision.

Figure 14: Case Study – Family refused application

The applicant:

- submitted a Family Visit visa application on 10 November 2010 with evidence of permanent residency in the United States;
- was refused entry clearance on 19 November 2010 because the Entry Clearance Officer stated that no evidence had been provided to show how and when the customer entered the United States.

Chief Inspector's comments:

- The UK Border Agency did not inform customers clearly enough that they ought to submit evidence of how and when they entered the country in which they were applying for UK entry clearance;
- The Chief Inspector noted that the guidance to customers stated that evidence of permission to be in the country of application '*must show your current immigration status. It could be a residence permit, green card or valid visa*'. The Chief Inspector noted that the guidance also indicated that previous passports ought to be submitted in order to show previous travel history. However, the Chief Inspector does not consider that customers could reasonably be expected to interpret this as evidence of immigration history.

The UK Border Agency:

- felt that it was reasonable to conclude from the guidance that a history of compliance or non-compliance with previous immigration restrictions may be taken into account when considering an application;
- conceded that it should not have used this in isolation as a reason for refusal, but should have considered the customer's circumstances as a whole;
- agreed to review the decision and issue entry clearance.

Chief Inspector's further comments:

- The Chief Inspector agrees that immigration history is a relevant factor in deciding a visa application, but that customers need to be advised more clearly that they must evidence this.

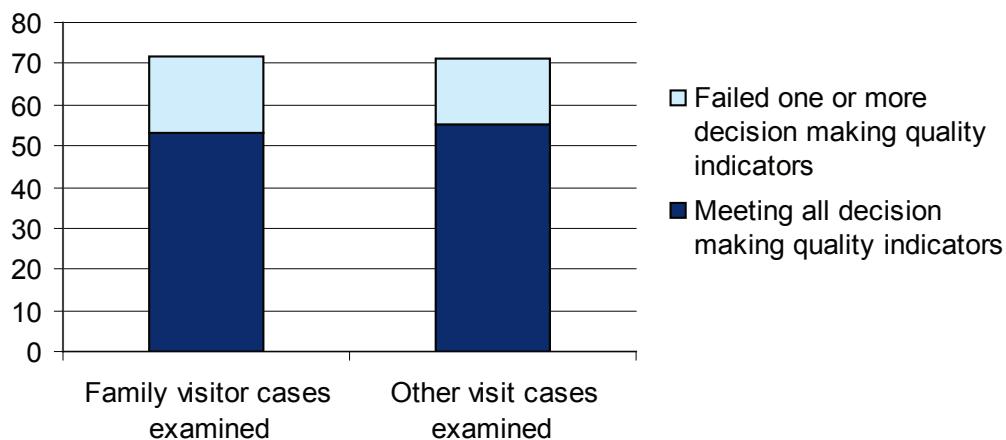
- 4.39 We found a number of cases where the reason, or one of the reasons for refusal, was that the applicant had not evidenced their legal entry into the USA, despite having a current legal right to be in the USA. We found that the guidance for applicants in this regard was not clear. It stated, '*Evidence of your permission to be in the country where you are applying... this must show your current immigration status.*' It also advised applicants to submit previous passports in order to show their previous travel history.
- 4.40 The UK Border Agency considered that this guidance made it clear that applicants ought to evidence their entry into the USA and that it was reasonable to conclude that a history of compliance (or non-compliance) with previous immigration restrictions may be taken into account when considering the application as a whole. Although it is reasonable, in our view, to consider previous immigration history, it is imperative that applicants are advised explicitly that they should provide evidence of this. If the Agency does not do this, their actions could be considered unfair to the applicant.

- 4.41 We believe that in adopting this approach the Agency has acted unfairly, because applicants are refused on grounds that they are not made aware of at the time of applying, and are not given any opportunity to submit the additional evidence required. We identified and reported on similar problems in relation to the Agency imposing additional evidence requirements in previous inspections, most recently in Amman and Istanbul.
- 4.42 We also commented earlier in this report about additional evidential requirements being applied regarding origin of funds. However, we were pleased to note that while we were on site, we were made aware that the Agency had made changes to its guidance dealing with some of these issues, for example in relation to the origin of funds.

Results of the sample of Family and Other Visitor grants of entry clearance

- 4.43 Granted Family and Other Visitor entry clearance cases were examined using various quality indicators, including:
- Was the decision to grant entry clearance assessed against the correct Immigration Rules?
 - Did the Entry Clearance Officer make their decision based upon all the available evidence?
 - Was the visa issued with the correct endorsement and for the correct period of validity?
- 4.44 Of the 72 Family Visitor cases examined, we found 19 cases (26%) failed one or more decision-making quality indicators. Of the 71 Other Visitor cases examined, we found 16 cases (23%) failed one or more decision-making quality indicators. This is illustrated in Figure 15 below:

Figure 15: Family Visitor and Other Visitor grants assessed against indicators of decision-making quality



Immigration Rules

- 4.45 The decision to grant entry clearance was assessed against the correct Immigration Rules in all cases we examined, in both the Family and Other Visitor visa categories.

Decision in line with evidence

- 4.46 For Family Visit grant cases, the reason 11 of the 19 cases failed one or more decision-making quality indicators was because we did not find that the decision had been made in line with all available evidence. In seven of the 19 cases, we questioned whether the overall outcome decision had been made correctly. In addition, in seven of the 19 cases, supporting evidence submitted by the applicant was missing from the file, so was not available for us to examine. We were therefore unable to assess whether the decision was made in line with the evidence submitted.
- 4.47 Similarly for Other Visit grant cases, the reason 11 of the 16 cases failed one or more decision-making quality indicators, was because we did not find the decision had been made in line with all available evidence. In eight of the 16 cases, we questioned whether the overall outcome decision had been made correctly. In addition, four out of the 16 cases did not contain on file all of the relevant supporting evidence submitted by the applicant, so we could not review this or assess if the decisions were made in line with evidence submitted.
- 4.48 The main problem we found in the Family and Other Visit cases, where decisions had not been made in line with all evidence available, involved a failure to collect sufficient evidence of applicants' and/or sponsors' circumstances, to justify granting entry clearance.
- 4.49 Examples of missing information included details of:
- applicants' employment, salary and / or personal funding;
 - sponsors' employment, salary or funding;
 - invitation letters from sponsors;
 - confirmation that sponsors would meet maintenance costs for applicants;
 - identity and evidence of family relationships;
 - applicants' circumstances and intention to leave the UK;
 - parental consent for a minor to travel alone or details of the friend they were staying with;
 - the whereabouts of documents sent in by applicants in support of their application; and
 - a clear rationale behind the decision to issue entry clearance in some cases.
- 4.50 We discussed 23 of the cases¹¹ that we considered to be the most significant and representative of the wider cohort of 35 cases with the Agency while we were on site. The objectives of our discussion were to:
- highlight our concerns;
 - seek clarification over policy or procedure;
 - request further rationale behind the making of a decision; and
 - express our concern over a decision.
- 4.51 The Agency agreed with our findings on four cases, three of which related to issuing a visa with apparently limited evidence on file, which was compounded by poor quality notes explaining the rationale for the decision.

¹¹ Any of the cases discussed with the agency that resulted in us revising our initial view on decision quality indicators being met were rescored as appropriate. The summary of our findings in paragraphs 4.44 – 4.49 takes account of any rescoreing.

- 4.52 The other case involved a minor travelling alone, where we found there was a lack of evidence of parental consent to travel or that appropriate care and accommodation arrangements were in place for the child in the UK. The Agency pointed out that the child was 17 and had lived at boarding school for two years, but did agree that this did not negate the parental consent requirement or the duty of care placed on the Entry Clearance Officer. We were surprised the Agency did not make further enquiries to satisfy itself that the child had returned safely from her trip to the UK after we raised our concerns in this case. The Agency's duty to safeguard children is discussed further, later in this report.
- 4.53 Having had the benefit of further clarification from the Agency, we agreed to revise our view in 10 cases, where we had previously queried consistency of evidence, correct overall decision outcome or a disregard of positive or negative evidence. However we maintained our view on five of these cases with regard to poor quality notes on the Agency's caseworking IT system.
- 4.54 The Agency did not accept our findings in a further eight cases we discussed with them. Seven of these cases all shared a common theme where the Agency had made a decision based on limited evidence, but had made an 'on-balance' decision. Examples include decisions where there was little or no evidence of applicants' or sponsors' personal funds, employment, or plans for staying in or leaving the UK. These issues are best illustrated by way of examples in the two case studies below.

Figure 16: Case Study – Family Visit grant application

The applicant:

- applied for entry clearance to visit her cousin on 1 November 2010;
- provided evidence of her and her spouse's circumstances;
- provided no evidence of her family in the UK or their identity;
- was issued entry clearance on 4 November 2010.

Chief Inspector's comments:

- The case notes gave no justification for issuing an entry clearance without evidence of the sponsor.
- The supporting documents guidance for applicants says that for family visits applicants should:
 - submit a supporting letter from the family member in the UK that they intend to visit
 - supply evidence of their family member's immigration status in the UK.
- The applicant failed to do both.

The UK Border Agency:

- Stated that there was no reason to doubt the veracity of the applicant's statements or claimed intentions.
- It will not always be necessary for an ECO to see all the documentation detailed in the supporting documentation guidance if they are satisfied that the applicant meets the requirements of the Immigration Rules.

Chief Inspector's further comments:

- The Chief Inspector notes that if an applicant states their purpose is a family visit they should evidence this fact by supplying the information set out by the Agency in its guidance.

Figure 17: Case Study – Other Visit grant application

The applicant:

- applied for entry clearance on 1 November 2010 in order to marry his partner in the UK;
- submitted a copy of his sponsor's British passport and a sponsorship declaration;
- was issued a visa on 3 November 2010.

Chief Inspector's comments:

- The UK Border Agency's caseworking notes indicated that it had also seen other evidence of the sponsor's circumstances and evidence of the wedding booking at the registry, but this was not made available to the Chief Inspector.
- There was no evidence of the customer's circumstances or of his intention to leave the UK – as required by the Immigration Rules – to justify issuing him a visa.

The UK Border Agency:

- chose not to respond to the Chief Inspector's specific question.
- stated that, *'It will not always be necessary for an Entry Clearance Officer 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.'*
- chose not to take any further action.

Chief Inspector's further comments:

- The Chief Inspector saw no evidence of how the customer had met the requirements of the Immigration Rules, nor saw any written reasoning in the caseworking notes as to how the UK Border Agency had arrived at its conclusion.

- 4.55 The two main problems in both of these case studies echo our findings in previous inspections, most recently Amman, where we found decisions had been made without sufficient documentary information, coupled with poor quality notes being entered onto the Agency's caseworking IT system. This made it difficult, if not impossible in some cases, to establish a clear rationale behind the decision made.
- 4.56 The Agency stated that, *'Whilst the category-specific supporting document guidance helps applicants in selecting the documents that an ECO might find helpful to see with applications, non-PBS applications are not decided on the basis of the production and verification of prescribed documents.'* The amended guidance states that, *'The submission of all or any of these documents does not guarantee that your application will be successful.'* The onus is on the applicant to satisfy an ECO that they meet the requirements of the Immigration Rules and decisions are made on *'the balance of probabilities – the legal standard.'*
- 4.57 We accept that there may be cases where although the documentary evidence is limited, the application overall is considered to merit the granting of entry clearance. However, we consider it is imperative in those cases that a clear rationale is noted on the Agency's caseworking IT system, justifying that decision and the reason why it was decided to grant entry clearance without full knowledge of the applicant's circumstances.

4.58 This is important in order that the Agency can:

- engender accountability in Entry Clearance Officers and ensure ownership for the decisions they make;
- demonstrate it is making decisions that are consistent, transparent and fair, based on all relevant factors;
- maintain an audit trail for all decisions, to support internal and external audit;
- reduce the likelihood of corrupt practice.

4.59 This links in with the problem we found in relation to a lack of supporting documents retained on files. The Agency needs to adopt a consistent approach to retaining relevant documents on file that are pertinent to the decision, in order to facilitate quality checking of decisions and to ensure an adequate audit trail exists.

4.60 We raised one final case with the Agency as we considered it presented a bad example of customer service to the applicant. Details to follow in the case study on page 29.

Figure 18: Case Study – Family Visit grant application

The applicant:

- submitted a Family Visitor visa application from Mexico on 3 November 2010 with good evidence of his and his sponsor's circumstances;
- was issued entry clearance on 1 December 2010, which was despatched from New York on 2 December 2010;
- did not receive his passport until 23 December 2010 and subsequently missed spending Christmas with his sponsor and the birth of their child.

Chief Inspector's comments:

- The customer's sponsor wrote to the UK Border Agency on 22 December 2010 seeking urgent assistance in establishing the whereabouts of the customer's passport; she stated that following the email from the UK Border Agency on 1 December advising that a visa had been issued and the customer could collect his passport from the British Embassy in Mexico City within 2-5 days, the customer travelled to the Embassy on 13 December to collect his passport and fly to London that evening. However, the customer's passport had not arrived by that time, so the sponsor contacted the Embassy and was advised that it should arrive by 20 December; the sponsor, therefore, changed the customer's flight to 22 December (incurring cost).
- The UK Border Agency emailed the sponsor on 23 December advising that there had been a shipping delay but it was in contact with the contracted courier company to resolve the matter.
- The Independent Chief Inspector noted that there were no further notes on file explaining whether the matter was resolved and what actions the UK Border Agency took to rectify the customer service failings in this case.
- The UK Border Agency did not adequately compensate the customer for its customer service failings.

The UK Border Agency:

- advised the Chief Inspector that i) the customer's package had been lost in transit by UPS and it was not aware of this until contacted by the sponsor on 22 December; ii) it tracked the package and found it had been delivered to the British Embassy in Mexico on 22 December and that the applicant was then contacted and collected his passport the following day.
- said that a full explanation and verbal apology was provided by UK Border Agency staff in Mexico to the customer and that the customer was content with this;
- advised the Chief Inspector that despite the consequences of the customer service failings in this case, a refund of the visa application fee was not justified.

Chief Inspector's further comments:

- The Chief Inspector found no written evidence of an apology and considers that the UK Border Agency's current refund policy is unfair to customers who have been subject to serious customer service failings by the Agency.

4.61 We comment further on the Agency's refund policy later in this report.

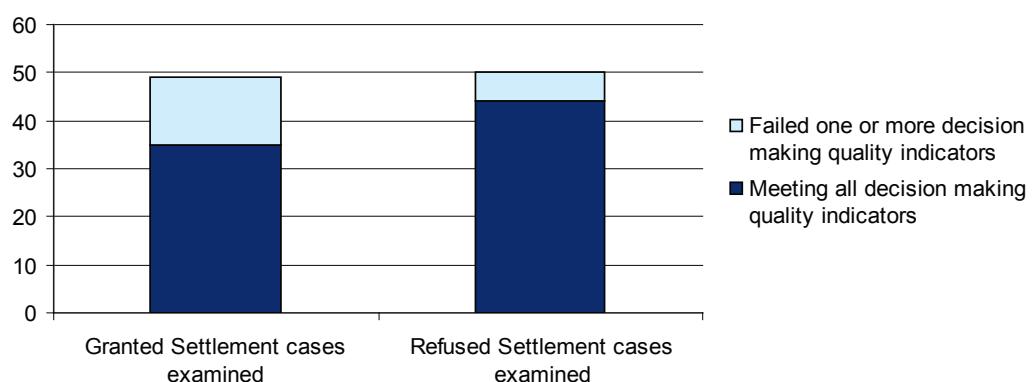
Results of the sample of Settlement visa refusals and grants of entry clearance

4.62 Granted and refused Settlement Visa entry clearance cases were examined using various quality indicators, including:

- Was the decision to refuse or grant entry clearance assessed against the correct Immigration Rules?
- Did the Entry Clearance Officer make their decision based upon all the available evidence?
- Was the correct information on appeal rights provided to the applicant?
- Was the administration of the case sound?
- Was the visa issued with the correct endorsement and for the correct period of validity?

4.63 Of the 49 Settlement visa grant cases examined, we found 14 cases (29%) failed one or more decision-making quality indicators. Of the 50 Settlement visa refusal cases examined, we found six cases (12%) failed one or more decision-making quality indicators. This is illustrated in Figure 19 below.

Figure 19: Settlement visa grants and refusals assessed against indicators of decision-making quality



Immigration Rules

4.64 The decision to grant or refuse entry clearance was assessed against the correct Immigration Rules in all cases we examined in the Settlement visa category.

Other quality indicators

4.65 In our sample of Settlement visa grant cases, we found three cases were not decided in line with all available evidence. This called into question whether the correct outcome decisions were made. We also found 11 cases where supporting evidence submitted by the applicant was missing from the file. This meant we were unable to assess whether the decision had been made correctly.

- 4.66 In our sample of Settlement visa refusal cases, we found three cases were not decided in line with all available evidence. However, we agreed the overall decision outcome was correct in all three cases. We also found a further three cases where supporting evidence submitted by the applicant was missing from the file and we were therefore unable to establish if the correct decisions had been made.
- 4.67 We discussed 11 of the cases¹² that we considered to be the most significant and representative of the wider cohort of 20 cases with the Agency while we were on site. The objectives of our discussion were to:
- highlight our concerns;
 - seek clarification over policy or procedure;
 - request further rationale behind the making of a decision; and
 - express our concern over a decision.
- 4.68 Having had the benefit of further clarification from the Agency, we agreed to revise our view in three visa grant cases and one refusal case where we had previously queried if the decision had been made in accordance with all evidence available or the overall decision outcome was correct. However, we maintained our view on the refusal case and two of the visa issue cases with regard to poor quality notes on the Agency's caseworking IT system, or evidence of checks being carried out. We were concerned about the quality of notes and the resultant failure to provide a clear audit trail, which is particularly important in enabling the Agency to demonstrate why visas were issued to applicants.
- 4.69 We were pleased to see that the Agency agreed with our findings on one refusal case where we considered the refusal notice did not cover all relevant grounds for refusal. The Agency conceded our point and agreed to issue a revised refusal notice.
- 4.70 The Agency also agreed with our comments on a refusal case where a query / complaint from the applicant had not been handled as well as it could have been.
- 4.71 The Agency did not agree with our findings on the remaining five cases. In one grant case where there was limited evidence on file, it acknowledged one of our points regarding misinterpretation of evidence, but did not consider this to be a major consideration in this case. With regard to the documents on file, the Agency told us these were not necessarily retained and copies were not routinely taken, in order to conserve resources. While we understand there is a need to conserve resources, it is important that a balance is obtained between doing so and ensuring there is an audit trail justifying why decisions have been made.
- 4.72 We were concerned to note that this is the fourth inspection report where we have made a recommendation in respect of the need for the Agency to retain relevant supporting documents on file. We were disappointed to still find problems in this area despite the Agency accepting our previous recommendations in our Guangzhou, Amman and Istanbul inspection reports.
- 4.73 We noted, however, that the Agency issued further guidance to staff in February 2011 reiterating the need to retain documents relevant to the decision. This guidance replaced previous guidance issued in November 2009 on the same subject and makes it clear that if it is not possible to retain these documents, for example due to storage problems, then staff should clearly reference the documents in issue notes or refusal notices. However, the Agency needs to do more to assure itself that this guidance is being followed, because evidence collected during our inspections continually illustrates that this guidance is not being complied with.

¹² Any of the cases discussed with the agency that resulted in us revising our initial view on decision quality indicators being met were rescored as appropriate. The summary of our findings in paragraphs 4.63 – 4.66 takes account of any rescored.

- 4.74 In a refusal case, while we agreed the decision to refuse was correct, we did not agree with one of the grounds for refusal cited in the refusal notice. New York had interpreted the requirement for the applicant to have accommodation available for their ‘exclusive use’ in a way that was inconsistent with what we have seen in other visa posts. Other posts interpreted the requirement for ‘exclusive use’ to have been met when the applicant has had exclusive use of a room in a dwelling but may have been sharing communal areas of the dwelling, such as the kitchen and bathroom, with other members of the family, for example their parents.
- 4.75 In this case, the applicant planned to rent a room but would share the kitchen and living room with both the sponsor and the landlord of the property. The New York Visa Section concluded that since the applicant was to share space with someone other than the sponsor, this did not qualify as occupying the property exclusively. The Agency’s guidance currently states that, *If the accommodation is not owned by the couple (or one of them), the Rules require that there be adequate accommodation that is for their exclusive use. This need not be as elaborate as a self-contained flat. It is acceptable for a couple to live in an existing household, e.g. that of a parent, uncle, aunt, sibling or friend, as long as they have at least a bedroom for their exclusive use.*
- 4.76 When we raised this with the post, they stated there was a need for consistent interpretation but thought this was something that would need to be clarified by the Agency’s central policy team. We believe the guidance was clear and the applicant met the requirement in this case. However, the Agency needs to satisfy itself that the guidance is being applied consistently.
- 4.77 We found a further two refusal cases had been correctly refused initially, but then the decisions had been overturned by an Entry Clearance Manager (ECM) when the applicants submitted grounds for appeal. It was not clear to us why these decisions had been overturned. The details of one of these cases are reproduced in the case study on page 33.

Figure 20: Case Study – Settlement visa refusal application

The applicant:

- applied for entry clearance on 29 October 2010 in order to join her partner with a view to marriage and settlement in the UK;
- met her sponsor on the Internet in April 2009 and travelled to the UK in January 2010;
- undertook an Islamic marriage ceremony in the UK in February 2010;
- was refused entry clearance correctly on 18 November 2010 because i) no evidence had been submitted of contact or communication; ii) there was no evidence of any plans to legalise the marriage under UK law; iii) the sponsor was unemployed and the couple intended to rely on support from the customer's mother in Mexico; iv) there was no evidence of the mother's ability to support the couple except an attestation by her to that effect;
- submitted an appeal on 7 December 2010 with the following evidence: i) the sponsor had since obtained a job and submitted one payslip; and ii) the customer submitted evidence of her personal funds;
- was issued entry clearance on 5 January 2011 after an Entry Clearance Manager overturned the original refusal decision.

Chief Inspector's comments:

- The Chief Inspector found that there was insufficient evidence for the Entry Clearance Manager to justify overturning the original refusal.
- The sponsor was in receipt of housing benefits and had only just obtained a job in a restaurant.
- No checks were undertaken by the UK Border Agency into the sponsor's new employment.
- The credibility of this Settlement application was very weak.

The UK Border Agency:

- chose not to address the Chief Inspector's specific concerns, but stated that the Entry Clearance Manager was satisfied that the customer had addressed the reasons for refusal with her appeal.
- repeated that it does not always need to see all the documentation detailed in the guidance if it is satisfied that the requirements of the Immigration Rules have been met.
- chose not to take any action in this case.

Chief Inspector's further comments:

- The Chief Inspector has concerns about the lack of transparency in the UK Border Agency's inconsistent approach to evidential requirements, as we have encountered other cases where applicants have submitted similar evidence but their applications have been refused.

- 4.78 These two case studies provide yet further examples of where a failure to provide a clear rationale for deciding or overturning decisions on a case in the Agency's caseworking IT system caused problems. We did not necessarily agree with the decision taken to overturn the second Settlement refusal decision when grounds for appeal were submitted. However, we could at least understand why this decision had been taken when the full circumstances were explained to us. If full details of the reasons behind the decision reversal had been documented in the first place, it is likely we would not have raised this case with the Agency.
- 4.79 Another example of a case where the Agency did not accept our findings is detailed in the case study below:

Figure 21: Case Study – Settlement visa grant application

The applicant:

- applied for entry clearance to join his spouse on 9 August 2010;
- had overstayed in the UK after entering as a student in 2005;
- submitted evidence of his spouse's employment in the form of an unsigned contract with no salary indicated;
- submitted a bank statement from his spouse for a period of two days showing them to be overdrawn;
- submitted a number of character references including one purporting to be from a 'Detective Constable Inspector' – this rank does not exist;
- was issued entry clearance on 1 November 2010.

Chief Inspector's comments:

- There was no evidence of any checks being made on the sponsor and their employment as required by the Agency in its guidance to staff, and no notes had been recorded setting out the rationale for not conducting these checks.
- There was no evidence of any checks being made to satisfy the ECO that there were no aggravating circumstances during the time the applicant was in the UK illegally.
- There was no evidence that the spouse had sufficient funds to support their partner.

UK Border Agency response:

- Since no aggravating circumstances were apparent, Paragraph 320(11) was not appropriate.
- It was noted that the sponsor held a full time job offer.
- It was not necessary to check each individual document.
- No further action was taken.
- The Border Agency declined the opportunity to further review this case.

Chief Inspector's further comments:

- The Chief Inspector is very concerned that no checks were done in this case and that the UK Border Agency had declined to review this case further. There is also no reasoning in the written case notes as to why no extra checks were made. We discuss our concerns regarding the lack of sponsor checks being carried out later in this report.

4.80 However, we were pleased to find an example of a Settlement grant case where the Agency had demonstrated good customer service. The details follow in the case study below.

Figure 22: Case Study – Settlement visa grant application

The applicant:

- applied for a marriage visa but was due to marry in the USA before travelling to the UK with their new spouse;
- did not qualify for a marriage visa at the time they applied.

The UK Border Agency:

- Contacted the applicant and explained the situation.
- Agreed to defer the application until after the wedding and then on submission of the marriage certificate and a letter from their spouse would process the application as a spouse visa.

Chief Inspector's comments:

- The applicant had applied for the wrong visa but had made a genuine mistake.
- The UK Border Agency provided good customer service in this case.

General findings for the overall file sample

4.81 We found the quality of visa vignettes was good. Out of 192 cases sampled, across all three visa categories, we found 100% of Settlement and Other Visit cases granted were correct, and only two (3%) Family Visit cases contained errors. One vignette failed to state the correct endorsement and another failed to state the correct period of the visa.

4.82 Overall, we found the quality of refusal notices was good. They were generally well written, easy to understand, and tended to be personalised and avoided the use of standard paragraphs. However we did find a few problems, for example:

- two Family Visit and one Other Visit cases did not communicate refusal grounds clearly;
- two Other Visit cases did not state the correct period and purpose of the visa;
- one Family Visit and five Other Visit cases did not contain the correct information on appeal rights; and
- one Other Visit and three Settlement visa cases were presented poorly as they contained for example, spelling, grammar or punctuation errors.

4.83 We were pleased to find no issues with regard to case administration, as all cases reviewed had been administered soundly.

Detailed checks

4.84 In our sampling, we considered whether verification checks had been carried out to assess the validity of supporting documents in relation to applicants and sponsors. Out of 289 Family and Other Visit cases sampled, we only found five cases where we considered check(s) should have been carried out but had not been. However, Settlement visa cases gave us cause for concern as we found checks should have been carried out in 44 out of 49 grant cases (90%) and three refusal cases (6%), but these had not been done.

- 4.85 We found that a significant number of these cases should have had additional checks carried out on the sponsors, as per the Agency's guidance to staff issued on 6 April 2010. This stipulates that Settlement applications should routinely have '*additional checks performed*'. The Agency introduced this guidance as a direct result of our report and recommendations following our inspection of the UK Visa Section.
- 4.86 When we raised this issue in relation to one particular case, the New York Visa Section referred to additional guidance on sponsor checks that was issued by the Agency on 27 April 2010, which stated:
- 'We acknowledge that certain limitations may affect the ability of staff at post to perform the suggested verification checks included in the guidance e.g. time difference to UK for telephone verification, limited access to Omnibase (UK passport database), CID (Home Office records) etc.'*
- 'It is therefore accepted that posts must apply risk assessment principles to determine the appropriate checks performed in individual applications. Nonetheless the guidance is clearly instructing staff that additional verification checks on UK sponsors should, unless the risk is considered to be sufficiently low, be routinely performed.'*
- 4.87 In view of the above guidance, we were told that the ECO had not completed the additional sponsor check on this Settlement application as they were satisfied the application was considered low risk.
- 4.88 While we accept that some of the 44 cases may have been considered low risk, it seems unlikely that all of them were. Certainly the case study we highlighted in Figure 21 was not, in our view, a low risk case, but checks were not carried out by the Agency. Regardless of whether cases are considered to be low risk or not, if checks are not being performed in accordance with guidance, then the reason for this should be logged on the Agency's caseworking IT system in order to ensure transparency and consistency of decision-making as well as an audit trail.

Quality checking

- 4.89 We found that the New York Visa Section was operating quality-checking mechanisms in accordance with UK Border Agency guidance. Staff and managers confirmed that Entry Clearance Managers (ECMs) regularly carried out checks on a random basis for all Entry Clearance Officers. ECMs were expected to carry out checks of:
- 10% of visa issue decisions;
 - 25% of settlement refusal decisions;
 - 25% of limited appeal right refusal decisions;
 - 100% of Paragraph 320 refusal decisions; and
 - 100% of cases where grounds for appeal are submitted.
- 4.90 Each of the ECMs we spoke to confirmed how seriously they took this part of their role. While we noted slightly different approaches among managers to the recording of statistics and distributing them and giving feedback to staff, we found that quality checking of decisions was considered to be an important part of managers' roles, and appropriate mechanisms were operated accordingly. Staff confirmed they received regular feedback on their performance and were made aware of particularly good or bad decisions they had made. The results of our sampling indicated that generally, ECM reviews were undertaken well.

Staff training, development and morale

- 4.91 We found that staff at Entry Clearance Officer (ECO) and Entry Clearance Manager levels had received core training, provided in the UK. In addition to this, the New York Visa Section had devised an 'ECO reference kit' to supplement the core training and to provide useful information and guidance that was bespoke to applications received in the USA. Staff we spoke to confirmed they felt their training to have been useful, satisfactory and worthwhile. A number of staff told us that they felt valued, having been given the opportunity to attend training in the UK.
- 4.92 We found, however, that Entry Clearance Assistant (ECA) training was less formal, structured and consistent. There were no core training programmes available for ECAs, so most of their training was provided by shadowing other ECAs on the job. Staff feared that this could lead to inconsistent approaches being taken. We believe that this should be addressed by the introduction of more formalised, consistent training for ECAs.
- 4.93 New York Visa section held weekly 'hub meetings', where updates and changes to policy and guidance were disseminated to staff and discussed. In addition, the ECM with the lead on policy sent regular updates to staff; for example, simplified, user-friendly versions of new policy guidance to make it easier for staff to absorb. ECO 'tips of the week' were also sent to staff, as well as Appeals 'determinations of the week'. Staff welcomed these initiatives, confirming they helped them keep up to date with frequent changes.
- 4.94 Staff and managers confirmed that additional training, such as effective writing and customer service training, had recently been provided and had been well received. We will report on mandatory training later in the report.
- 4.95 The New York Visa Section had adopted a form of succession planning through developing experienced and high-performing ECAs by sending them on the core ECO training. The intention behind this initiative was to enable New York to build up a pool of experienced ECAs who could be temporarily promoted to act as ECOs, providing cover in peak summer periods.
- 4.96 This and other initiatives operated by the New York Visa Section provided staff with opportunities for career development; for example, sending staff to spoke posts to carry out audit visits. However, some staff queried how transparent the selection process was for career development opportunities. Managers confirmed that selection criteria included performance, commitment, and whether staff would be good ambassadors for the post. Managers also confirmed that a review of recruitment procedures in the last few months had resulted in the process being made much more transparent; for example, with competencies being used in job specifications and advertisements.
- 4.97 We found there were mixed views among staff and managers regarding levels of morale in the New York Visa Section. For example, while some staff thought that communication was very good, others felt that improvements were needed. Managers confirmed that steps were being taken to address any issues and make such improvements. We noted that communication initiatives such as the weekly hub meetings, regular town hall meetings and 'breakfast blender' meetings gave staff considerable opportunity to provide feedback and receive updates. A number of staff told us that they welcomed these opportunities and felt comfortable that they could offer suggestions for improvements. Furthermore, we noted there were opportunities available to reward staff, such as the 'most valuable player' award, voted for on a quarterly basis by staff.
- 4.98 We also noted very positive feedback regarding the New York operation from spoke posts. We held teleconferences with staff and ambassadors / deputy heads of mission at spoke posts, all of whom were very complimentary about the service they received from New York. We also observed one of the monthly spoke teleconferences, where staff were provided with important news and updates about forthcoming changes, and were able to discuss any problems or concerns. Staff confirmed that they found these meetings very useful.

We recommend that the UK Border Agency:

- Provides applicants with clear information and guidance in advance of their application, about the requirements they need to meet when submitting their application.
- Ensures that when applicants have followed published guidance, but Entry Clearance Officers require further information to make a decision, applicants are given an opportunity to provide this.
- Ensures that it records a clear rationale for entry clearance decisions and adequate case notes generally, on its IT caseworking system, and adopts a consistent approach to the retention of supporting documents on file, in order to maintain a clear audit trail.
- Complies with its own guidance in relation to performing additional sponsor verification checks on a routine basis, unless there are clear grounds for not doing so, with any exceptions recorded appropriately on its caseworking IT system.

Customs and immigration offences should be prevented, detected, investigated and, where appropriate, prosecuted.

Paragraph 320 of the Immigration Rules

4.99 The results of our file sampling demonstrated that staff in New York Visa Section were using Paragraphs 320 (7) and (11) in their assessment of visa applications. Figure 22 below provides an explanation of Paragraph 320 and its sub paragraphs.

Figure 23: Paragraph 320 of the Immigration Rules

- Paragraph 320(7a) is one of the general grounds for refusal and is used when a forged document has been submitted, false representations made on the application or material facts have not been disclosed – in these cases, refusal of entry clearance will follow.
- 320(7b) is used when there has been a previous breach of immigration law or the use of deception in an entry clearance application, and depending on the circumstances will result in the refusal of any future entry clearance applications for a specified time, up to a maximum of 10 years.
- 320(11) is a discretionary power to refuse an application for frustrating the intentions of the Immigration Rules. This applies where the applicant has been in breach of UK immigration or other law and / or received services or support to which they were not entitled. For this paragraph to apply there must have been aggravating circumstances. Examples of aggravating circumstances include absconding, engaging in a sham marriage, or using an assumed identity to illegally obtain state benefits.

4.100 We found evidence in 14 of the cases we sampled of staff applying paragraphs 320 (7a, 7b and 11) where appropriate and in accordance with UK Border Agency's policy guidance. Entry Clearance Managers (ECMs) confirmed that they checked all such cases in accordance with the Agency's guidelines, and this was corroborated by staff. A number of Entry Clearance Officers told us that there were some inconsistencies in the way in which different ECMs told them how and when to use paragraph 320, and how strictly it should be applied. However, we considered that the files we saw were generally of a satisfactory quality. We were also provided with evidence to substantiate that staff had received training in applying Paragraph 320.

Good working relationship between RALON and the New York Visa Section

4.101 We received very positive feedback from staff and managers working in the fields of both entry clearance and RALON (Risk and Liaison Overseas Network), which stated that they very much saw having the RALON team in post as a real advantage.

- 4.102 RALON provided support and assistance to the New York Visa Section on a range of checks that they could perform and have produced guidance on specific issues such as document verification and forgeries, all of which were positively received by ECOs. We were provided with an example where as a direct result of the RALON training, a new ECO identified a falsified bio-data page on a passport, which RALON were able to confirm as fraudulent. This resulted in a refusal of entry clearance that was upheld at appeal. The passport was also referred to USA authorities for them to consider taking further action.
- 4.103 RALON also worked closely with New York Visa Section managers and staff, developing a process to allocate weightings to different types of visa application, taking into account factors such as risk and complexity of the case. This was then used to set the staff performance standards / targets. RALON were also involved in reviewing those weightings in 2011 and building upon the process; for example, contrasting complexity of cases by their origin.
- 4.104 Around 12 months before the on-site phase of our inspection, the New York Visa Section implemented the role of hybrid officers, who performed a dual role of Entry Clearance Officer (ECO) and Immigration Liaison Officer (ILO), carrying out a mixture of entry clearance and intelligence work. The split between duties was intended to be approximately 60% ILO and 40% ECO. Staff confirmed, however, that in reality it had actually worked out more like 65-70% ECO. The officers told us they enjoyed the mix of work, were managed well, and did not feel any conflict of interest or have a sense of being caught between the two roles. The hybrid officer roles had worked well for RALON and had been received positively in the Visa Section too.
- 4.105 These hybrid roles exemplified the synergy between RALON and the New York Visa Section as, although a significant part of RALON's time was spent on entry clearance referrals and checks, the corollary of this is that the ECO referrals were a rich source of intelligence for RALON.
- 4.106 When ECOs made a referral to RALON, this had to be sent using a pro forma. There were mixed views about the use of this and how accessible this process made the team to ECOs. Some felt the process made things fairer, more efficient and provided a uniform procedure. Others felt there was sometimes a barrier between RALON and ECOs and that not every ECO had to use the pro forma. The process was designed to be formal and to provide an audit trail. There were no service-level agreements or targets in place with regard to expected turnaround times, however, and this is something the Agency may wish to consider.
- 4.107 RALON had carried out a lot of work on assessing risk and running exercises for the post. For example we found a case in our sampling where the applicant had been interviewed and it was not clear to us why this had been done. RALON confirmed that this case had fitted the profile of an exercise they carried out on students attending a medical school in the Caribbean, where they had detected several risk factors and were liaising with the NHS in the UK. We were provided with a report of their findings and the risk profile disseminated to ECOs.

Detection work

- 4.108 Since the merging of detection and immigration work following the creation of the UK Border Agency, RALON had become increasingly involved in detection work. Intelligence was shared with USA and Canadian authorities and RALON liaised with key agencies throughout the region and participated in anti-fraud meetings.
- 4.109 Staff who were new to the RALON team had been trained in both immigration and detection. However, managers acknowledged that there was a development need to provide cross-training for existing staff. They planned to provide this training for all staff later in the year, so that they could increasingly carry out work related to both areas.

- 4.110 RALON had worked with the USA Department of Homeland Security (DHS) and the Serious Organised Crime Agency in the UK in collating intelligence in respect of the trafficking of narcotics. Information on confirmed seizures had been incorporated into the risk matrix recently developed by RALON, more details of which are provided in the section on risk profiles.

Liaison with the USA Department of Homeland Security

- 4.111 As part of the Memorandum of Understanding that the Agency has with DHS for having applicants' biometrics captured as part of their visa application, any applicant applying in the USA is vetted against the DHS national fingerprint database. RALON, in New York, serves as the central point of contact for the collation and dissemination of intelligence relating to biometric matches. Since it was implemented, this process has identified applicants who have criminal records in the USA. RALON provided us with an example of one case where information from the biometric capture process was passed to the USA authorities, which resulted in the arrest of an individual.

Risk profiles

- 4.112 Although RALON teams had produced risk profiles for some time, they had recently introduced a risk index matrix. This had been developed centrally to ensure greater consistency and provide a common process and format for evidence-based risk indicators across visa services worldwide. New York had been selected to roll this out on a trial basis, and this was implemented a few weeks before we were on site.
- 4.113 The new matrix was developed from a database where all known risk factors and indicators were input to give guidance to ECOs when assessing applications. Some of the information was general and some was more specific; for example relating to a specific nationality or location. It also prompted the template to provide suggested actions staff should take when they encounter certain risk indicators. The matrix was to be updated monthly. At the time of our inspection, as the matrix was new, there had been no formal evaluation but initial feedback from staff was positive.
- 4.114 RALON was very clear that the matrix was not a decision-making tool, and that in no way was it meant to replace the expertise of an ECO. Instead it was designed to highlight areas of concerns that an ECO should consider. This was borne out when we spoke to ECOs who were also clear that the matrix was only meant to be used as a prompt to remind them of things they should consider. We were pleased to find no evidence of risk profiles being used inappropriately in our file sampling – a problem we encountered in our Amman inspection.
- 4.115 In addition, ECAs at the spoke posts completed risk-assessment sheets developed by RALON that were sent with spoke visa applications. These provided details of the checks completed and any particular risks or information resulting from local knowledge. ECOs confirmed that they found these useful, particularly when New York first started handling application from spokes.

Settlement

- 4.116 We have already reported that our file sampling showed that a large number of Settlement cases had no record of the additional checks being carried out on sponsors and their employment as required in OPI 202. Staff told us that such checks were not always carried out following guidance from RALON. An exercise was carried out on Settlement cases showing that USA applications were low risk. We were provided with guidance RALON had issued to staff confirming that where cases seemed credible and other evidence corroborated employment e.g. payslips and bank statements concurred, staff could elect not to make the employment checks but this should be recorded.
- 4.117 The RALON guidance clearly stated that decisions not to perform checks must be recorded. Staff also seemed aware of the need to do this when we spoke to them. However, the results of our sampling would strongly suggest that staff were not following this guidance.

- 4.118 It is particularly important that Settlement applications are decided correctly, as if an application is granted, then certain rights are automatically conferred on the applicant. Clearly there are potential implications for the UK if applicants are awarded these rights incorrectly.

Feedback loops

- 4.119 The Immigration Liaison Manager (ILM) received details from the UK of any cases where applicants, who had been issued visas by the New York Visa Section, were refused entry on arrival at a UK port or claimed asylum in the UK. The ILM stated that all such cases were reviewed and that if any problems were identified in the initial decision to grant entry clearance (e.g. risk factors that should have been picked up from the original application), they were fed back to the ECMs to discuss with the ECO responsible. Other managers reported that this worked well to improve decision-making and learn lessons overall that could be incorporated into the risk profiles. To put this feedback system into context, for 2010 / 2011 (as of 1 April 2011), 14 cases where passengers had been refused at a UK port, and nine persons seeking asylum, were found to have been issued visas by the New York Visa Section. Of these, one port refusal and four asylum cases were identified as being of potential concern regarding the quality of the decision made, and were fed back to the ECM to discuss with the ECOs responsible.

Complaints procedures should be in accordance with the recognised principles of complaints handling.

- 4.120 Generally, we found that staff were informed about complaints processes and procedures. There was clear Agency guidance available as staff could access Complaints Handling Overseas and in the UK directly from the Entry Clearance guide on the FCO website. In addition, the New York Visa Section had developed its own Americas Regional Complaints Procedures, a set of guidelines clarifying how the New York Visa Section should handle complaints. This was a concise document that clearly highlighted specific roles and responsibilities for complaints handling. This was used in a presentation given to staff to remind them of complaints, definitions and processes they must follow. New York also had appointed a member of staff to act as a 'complaints champion'.
- 4.121 Details for customers regarding how they could submit complaints were provided on both the New York Visa Section website and the website of WorldBridge Services, the Agency's commercial partner that provides front-end visa services, such as mobile biometric clinics and a telephone helpline.
- 4.122 The New York Visa Section had two different ways of dealing with complaints, depending on their type and origin. There was a 'visa complaints inbox', which generally received enquiries of a minor nature. Generally these did not constitute actual complaints and were handled by one of the Senior Entry Clearance Officers (SECOs). This was a role implemented in New York, which involved 50% of time spent on ECO duties deciding visa applications, and 50% of time managing ECAs and dealing with other supervisory activities, such as monitoring and dealing with enquiries received through this complaints inbox.
- 4.123 Examples of the type of query received in this inbox would be an enquiry regarding the whereabouts of an applicant's passport, a request for a tracking number or an update on their application. These queries were routinely handled by the SECO. However, if the SECO was in any doubt about whether an enquiry constituted a complaint, they referred it to an ECM for guidance.
- 4.124 The New York Visa Section's guidance defined a complaint as, *'Any expression of dissatisfaction about the services provided by or for the UK Border Agency and / or about the professional conduct of UK Border Agency staff, including contractors.'* Examples of complaints include: lost documents, racial prejudice, and delays and excessive processing times. There is a target to deal with complaints in 20 days.

- 4.125 Complaints arrived in New York via the ‘regional complaints inbox’, where they were logged on the date they were received by the Nominated Responsible Officer (NRO) and they were distributed to the relevant ECM for action – generally the ECM who line-managed the ECO who handled the case would deal with the complaint. The ECM had to draft an appropriate response to the customer within 10 days and this was then sent to the Hub Manager to sign off and issue within a further 10 days.
- 4.126 The complaints correspondence we examined had been personalised to the complainant, did not seem to use standard paragraphs, and was of a good standard. Managers confirmed that breaking down the 20-day target into the two shorter deadlines enabled them to meet their targets more easily. This appeared to be an area of good practice that the Agency may wish to consider rolling out to other posts.
- 4.127 Although we found a clear process in place to handle complaints, including the appointment of a Nominated Responsible Officer (NRO) to oversee the process, we could not always see a clear audit trail of the end-to-end process and the whole chain of events in complaints cases we examined. We found there was a need for improvements in the overall standard of record keeping for complaints. We found that complaints correspondence was managed using Outlook, an email programme, which limited storage time for correspondence and was not linked to the Agency’s caseworking IT system. We found an example in our sampling where an apology had been made to a customer, but this was not recorded.
- 4.128 While we found that senior managers had access to complaints on high-profile cases, and to sign off complaint responses, the complaints champion was the only person to access the regional complaints inbox to allocate complaints to the relevant ECM. We found that this caused difficulties when the complaints champion was out of the office and considered that this should be expanded. Archiving complaints correspondence could also be improved to facilitate easier searching of records and an improved audit trail.
- 4.129 Senior managers and ambassadorial or consular staff we spoke to appeared satisfied with the way complaints were handled in New York. They confirmed that they rarely had to get involved and would only do so in high-profile cases when required.
- 4.130 We noted that a complaints log was completed in New York and sent to the International Group Customer Service Unit on a quarterly basis. The information was analysed and monitored for trends and patterns, which were noted and disseminated to the posts.
- 4.131 Since January 2011, the New York Visa Section had introduced a system where, when a complaint was upheld, the customer was asked to complete a survey. At the time of our inspection, nine requests had been sent to customers and only three responses had been received. Clearly, analysis of such a small number of results was limited, but all three customers confirmed they had received a response within 20 working days and were treated fairly and sensitively. One customer was not satisfied that their concerns had been addressed and did not feel that their expectations had been managed well, but we were not able to ascertain why this was the case.
- 4.132 During the on-site phase of this inspection, we sampled the regional inbox for complaints and examined 24 cases, all of which were correctly identified as complaints. Of these 24 cases we found the reasons for the complaints were categorised as follows:
- Quality: 2
 - Communication: 7
 - Wrong information: 3
 - Access: 2
 - Lost documents: 3

- Delays: 6
- Misconduct: 1

4.133 Of the 24 cases, we found that the appropriate procedures were followed and the enquiry was dealt with in an appropriate manner in 20 cases.

4.134 Of the four cases not dealt with in a satisfactory manner:

- Although there appeared to be draft responses to in two cases, there was no evidence of the response being sent.
- One case took 10 weeks to reach New York from Chicago.
- We consider that one complaint should have been upheld.

4.135 The Agency's current refund policy, which was posted on both the WorldBridge and Visa Services websites, states that:

'Your visa application will be refunded only if the application is withdrawn in writing prior to any processing taking place or if your biometric information has not been taken.'

'Refunds will not be given if your application is refused or if a long-term visit visa is granted for less than the period applied for.'

4.136 We made a recommendation following our inspection of the Rome Visa Section¹³ that, '*The UKBA should review its refund policy in connection with cases where customer service failures are significant.*' The Agency accepted the need for a streamlined refund policy and agreed to review the procedure in this area by the end of 2009. The latest update we have received from the Agency in relation to this recommendation stated that, '*The refund policy is kept under periodic review as part of business as usual arrangements.*' It was not, however, clear what, if any, changes the Agency has made to its refund policy since we made this recommendation. Staff in New York told us that refunds were only issued if there were exceptional circumstances.

4.137 There were only two cases out of the 24 complaints sampled during the on-site inspection of New York relating to refunds, one of which was upheld. We had no issues with either response. However as we have already reported (please see Figure 18), our sampling highlighted another case where the Agency's refund policy did not seem fair to customers who have experienced serious customer service failings.

We recommend that the UK Border Agency:

- Improves its administration of regional complaints, ensuring that:
 - access to the regional complaints inbox, facilitating the daily allocation of complaints to Entry Clearance Managers, is extended beyond the complaints champion;
 - all complaints correspondence is archived in a more structured fashion, and is linked to application records on the Agency's caseworking IT system, facilitating a clearer audit trail.
- Amends its refund policy to ensure that cases with significant customer service failures are addressed appropriately.

¹³ http://icinspector.independent.gov.uk/wp-content/uploads/2010/03/inspection_report_rome.pdf

5. Inspection Findings: Safeguarding Individuals

All people should be treated with respect and without discrimination except where the law permits difference of treatment.

Decision-making

- 5.1 Our file sampling provided no evidence that applicants of different nationalities were being singled out and treated differently by staff when making decisions. This was reinforced by our findings from the focus groups we held, where staff made it clear to us that they made decisions based entirely on the Immigration Rules and took no other factors into account. It was reassuring to find this was the case, as we have previously encountered problems in this area in other inspections.
- 5.2 Staff enjoyed the variety and diversity of different nationalities they encountered in applications they processed. They confirmed that although they were all aware of the recent Ministerial authorisation¹⁴ relating to different nationalities, none felt that it would have any impact on how they carried out their work.
- 5.3 The ECM leading on policy confirmed they had issued guidance to all staff when the Ministerial authorisation was introduced and this was corroborated by staff we spoke to.
- 5.4 Risk profiles produced by the RALON team were available to assist staff in decision-making but it was made clear that they were just a guide and decisions should be made entirely on the facts of the case.
- 5.5 We found that staff were well informed about diversity issues. Some staff had prepared and given presentations to the rest of the office about related issues, such as Human Rights and Race Relations. These were well received by staff and were considered to be a good way to learn by those who had prepared the presentations, because it actively involved them in the subject.
- 5.6 All staff had an objective on diversity included in their annual appraisal and managers made a point of seeking feedback from applicants on their decision-making and general treatment.
- 5.7 We found that staff had a strong customer service ethos and believed they often delivered above and beyond the levels of service provided elsewhere. We have already reported that the New York Visa Section had recently been awarded the Customer Service Excellence standard accreditation. We also found that 20 staff had undertaken customer focus training as of March 2011.

Diversity within the New York Visa Section

- 5.8 Staff told us there were no issues in the New York Visa Section regarding diversity. It was seen as a very diverse place to work, and this was considered to be a good thing. Staff confirmed that they felt valued and respected. This was supported by the results of the UK Border Agency staff survey. Staff in New York felt that they:

¹⁴ A new Ministerial authorisation for nationality-based differentiation – covering entry clearance, border control and removals – came into force on 10 February 2011 under the Equality Act 2010. The new authorisation allows International Group to differentiate on the basis of nationality in the entry clearance/visa process.

- were treated with respect by the people they work with (90% positive and 13% higher than the Agency overall);
 - were valued for the work they do (68% positive and 22% higher than the Agency overall); and
 - were respected by the UK Border Agency for their individual differences (77% positive and 15% higher than the Agency overall).
- 5.9 We found mixed evidence when we asked staff about the Agency's mandatory e-learning course on equality and diversity. Some staff did not recall having completed such a course. Managers were asked about this and said that everyone did the course but it is not shown separately on the training log. When we queried this, we were subsequently provided with a list of names of attendees, which had apparently been retained separately by Human Resources.
- 5.10 Some of the staff we spoke to made comments about perceptions of favouritism in the office but no one thought that people were discriminated against or not treated with respect. Managers refuted any allegations of favouritism but confirmed that they had recently taken steps to improve transparency in their recruitment processes to help eliminate any such perceptions.
- 5.11 The regularly held staff 'breakfast blender' meetings were, in general, viewed positively as a way of keeping staff informed and ensuring they felt involved. Some staff did feel that they might benefit from a smaller team meeting with just the SECOs, since the larger size of the group with the whole of the Visa Section attending the meeting could discourage people from speaking up and lead to them sitting in silence.
- 5.12 Staff also confirmed the existence of the quarterly 'most valued player' award based on votes by all staff, and other systems in place to recognise the contributions people made to the office, such as the Agency's reward and recognition system.

We recommend that the UK Border Agency:

- ensures that all staff complete the Agency's mandatory e-learning training on equality and diversity and the appropriate records of their having completed the training are documented in the post's training log.

Functions should be carried out having regard to the need to safeguard and promote the welfare of children.

- 5.13 We found clear evidence to show that the New York Visa Section takes seriously its obligations to consider the need to safeguard and promote the welfare of children.
- 5.14 We found that all staff had undertaken the Agency's mandatory e-learning course on 'Keeping Children Safe'. In addition, a 'Safeguarding Children – Our duties at Post' presentation prepared by an ECO, was given at a staff 'breakfast blender' meeting in March. This aimed to remind all staff of their duty of care and obligations in the spirit of Section 55 of the Borders, Citizenship and Immigration Act 2009.
- 5.15 Staff confirmed that they were very clear that extra checks needed to be carried out on applications made for unaccompanied children. We found that staff were well informed and confident in the actions they should undertake in this regard, and they confirmed that they regularly sought the advice of the RALON team if required.
- 5.16 We have already reported on the clear referral process in place between entry clearance staff and RALON. We were provided with an example where a Tier 4 application for a minor seeking to attend a private school was initially refused due to a lack of evidence of funds. Evidence was subsequently produced so the case would have met the points thresholds, thus entry clearance should have been granted. However, the ECO still had concerns that something was not right with the application and referred it to RALON. This resulted in liaison with the Children's Services Commission and the relevant UK local authority and a resultant satisfactory outcome.

5.17 We have, however, already reported on one case from our file sampling where we felt the requisite checks on an unaccompanied minor's application had not been carried out. Although the Agency provided additional information that the child was 17 and had been living away from home at school for two years, it did agree that these factors did not negate the need for the Agency to fulfil its duty of care obligations to the child.

Personal data should be treated and stored securely in accordance with the relevant legislation and regulations.

5.18 We found that this was a real strength in the New York Visa Section, and was treated with the utmost seriousness due to the large volumes of personal data handled by staff. This was particularly evidenced by the lack of problems identified with regard to file storage and retrieval when all 400 files we requested to sample were found. Our previous inspections have shown that this is not the case in all posts.

5.19 There were robust data protection policies and procedures in place, including the 'Local Data Protection Act (DPA) breach policy' and 'Data handling Standard Operating Procedures' (SOPs).

5.20 The Local DPA breach policy sets out procedures that should be followed, including how to identify and report a breach of security. It also sets out clearly the consequences for staff who breached the policy. This was agreed in consultation with the regional Human Resources team to ensure that it was fully compliant with employment law and policy.

5.21 The SOPS were developed in conjunction with RALON and the Agency's Information Management group and had since been recommended to the FCO as examples of best practice. These were signed by all staff every six months, ensuring that they fully understood their obligations regarding the handling of personal information. For example, all emails had to be sent with at least a 'classified' level of security.

5.22 The policy was supported by managers carrying out regular spot checks, and staff were notified if they had committed any breaches. There was a scale of warnings in place that could lead to disciplinary action and the implementation of performance improvement plans.

5.23 We found that staff were very conscious of the need to follow data protection procedures when handling documents. Managers had implemented a count of the number of days the post had been free of data breaches and this was captured prominently on a whiteboard in the Visa Section for all to see.

5.24 Examples of good practices in New York were as follows:

- Shredding took place daily and everything was securely stored.
- No 'restricted' documents were left out and a 'clear desk' policy was in place.
- Visa application files (VAFs) were locked away securely each day.
- Papers were kept in envelopes/folders and an ECA checked their contents before shipping.
- Cleaners could not access locked rooms.

5.25 Managers and staff confirmed that there had been no major issues with regard to lost documents, although this did happen occasionally when documents may have been retained on files, but were returned when discovered. Sometimes applicants asked for documents to be returned that had been retained because it had not been obvious that the applicant wanted them back or because they were originals rather than copies. However, staff always returned them as requested by the applicant.

5.26 We found that the majority of staff (92%) had completed the Agency's mandatory 'Protecting Information Level 1' e-learning course. This was supported by reference to the post's training log.

- 5.27 We found there was some concern among staff about the strictness of the DPA policies in New York, as they were considered to engender some fear and nervousness. However, all managers were clear that they made no concession for the robustness of the policy and its enforcement, as they took their obligations in this regard very seriously.
- 5.28 We have already reported that as part of the visa application process, UK Border Agency had implemented an agreement whereby DHS captured biometric identification data of all applicants physically located in the USA. This data was then transmitted electronically to the Agency within 12 hours. The DHS may also process other personal data in respect of UK Border Agency applicants on the Agency's behalf.
- 5.29 The relevant Memorandum of Understanding (MoU) governing this arrangement stated that, '*i) DHS will have no access to and no use of the biometric or any other data collected, other than for the purposes of transmitting it to the UKBA; and ii) will only retain the information collected for the period of time necessary to ensure successful transmission to the UKBA.*' Full details of the measures in place to ensure this were in the MoU.
- 5.30 When questioned about the levels of assurance the Agency had regarding DHS deleting the Agency's biometric data from its systems, we found that managers recognised that they could never be absolutely certain this was being done. However they were relatively confident that DHS did what it should do, as whenever the Agency had approached DHS for information on a case, they never had the data stored on their system. This suggested that they were deleting the data as per the MoU. Managers also confirmed that a privacy impact assessment was undertaken at the time the arrangement with DHS was set up, and the IT system was designed to prevent DHS from retaining the information collected.

6. Inspection Findings: Continuous Improvement

The implementation of policies should be continuously monitored and evaluated to assess the impact on service users and associated costs.

Customer service

- 6.1 We were pleased to find there was a commonly held understanding among staff and managers, of all levels, in New York of the importance of providing good customer service. We found staff consistently told us of the pride they took in providing service that exceeded customers' expectations.
- 6.2 The New York Visa Section had a good record in attaining government standards in customer service, having won and twice retained the Charter Mark award. When the government launched a new Customer Service Excellence (CSE) standard to replace Charter Mark, managers in New York chose to allow their Charter Mark accreditation to lapse so they could apply for the new award. New York was the first international post in the UK Border Agency to apply for CSE accreditation. In March 2011, the week before the on-site phase of our inspection, the post was formally assessed and succeeded in being awarded CSE accreditation.
- 6.3 In preparation for the CSE accreditation application, the Agency set up a CSE project team to champion CSE. The team was headed by an Entry Clearance Manager and also included both Entry Clearance Officers and Assistants. In addition, other staff were actively involved in the CSE accreditation process, and many had received training on customer service.
- 6.4 A major part of the team's preparations for CSE accreditation involved them implementing an online customer survey to ascertain what their customers thought of the service they had received when applying for a visa. The questionnaires were sent by email to 10,000 applicants during the summer of 2010, and 1,371 responses were received.
- 6.5 Overall the results of the survey were positive, for example, in answer to the questions:
- '*Once your application was received and in process with us, were you sent sufficient updates on its status / progress?*', 76.8% of respondents said updates were sufficient or more than sufficient; and
 - '*Once you received the decision on your application and your passport / documents were returned to you, were you satisfied with the service you received from us?*', 87.3% of respondents said they were satisfied or very satisfied.
- 6.6 The survey results did identify some areas for improvement however, for example, 26.3% of respondents said that they found it 'difficult' or 'very difficult' when asked the question, '*How easy was it for you to identify what documents you needed to submit in support of your application?*'
- 6.7 The New York Visa Section also issued a customer survey to its Premium Service applicants but at the time of our inspection, this was still ongoing and only 31 responses had been received.
- 6.8 In response to customer feedback, the CSE team had implemented a number of projects aimed at improving customer service. These included making the waiting area in the Visa Section more customer friendly, for example by:

- ensuring that up-to-date posters from the UK Border Agency, other government departments and UK universities were on show; and
 - increasing privacy in applicant interview booths by providing window screens.
- 6.9 Staff and managers in New York considered that they provided applicants with very good service. We found several examples of good practice in New York to substantiate their views. For example, for each application received, an email was automatically sent to the applicant acknowledging its safe receipt.
- 6.10 Our sampling showed that applicants were emailed at each stage of the application process with updates of the progress of their application. As well as the actual outcome of their application, these included details of any likely delays, courier tracking numbers so they could track the return of their documents and a link for the customer survey. A clear audit trail of correspondence was provided, as these emails were automatically linked to the Agency's IT casework system. We found this to be an example of best practice in customer service provision that the Agency should consider adopting more widely across each of its Visa Sections.
- 6.11 We also found that staff made effective use of good quality standard letters. These were sent to applicants who, for example, had failed to submit biometric data, photographs, or the correct documentation.
- 6.12 We found there was a perception that applicants were not always happy with the service provided by the Agency's commercial partner, WorldBridge Services. Applicants had apparently complained about the costs of making calls to the telephone helpline and the level of information and help they received when they called. The New York Visa Section had only limited awareness of applicants' complaints in this area, however, as the Agency's commercial partner handled these complaints and the Agency did not have oversight of these or the responses provided.
- 6.13 In order to assess the scale of any problems with the telephone helpline, in summer 2010, the UK Border Agency implemented a Service Improvement Project. This involved sending UK Border Agency staff to observe the call centre operation for a period of three months, after which time they reported their findings and made recommendations for improvement. Staff and managers told us that early indications showed an improvement in customer service but additional exercises were due to take place later in 2011 to further evaluate progress.
- 6.14 Managers and staff in New York had worked hard and made considerable efforts to attain CSE accreditation, and should be congratulated on their achievement. They were clearly committed to providing high levels of customer care and planned that the CSE team would continue to champion CSE to ensure that standards remained high.

Strategic leads for Entry Clearance Managers

- 6.15 We have already reported that one of the ECMs had been given the strategic lead, and therefore responsibility for customer service and the CSE accreditation application. We found that each of the ECMs had been allocated lead responsibilities for different policy areas. These included responsibility for appeals, policy guidance, and the project management of the transfer of work from the Los Angeles hub into New York. This will be reported on in more detail later.
- 6.16 The ECMs felt that having lead responsibility for different areas worked well and allowed them to develop expertise in a particular area that would then benefit the whole Visa Section. Staff also told us that they found it useful as they knew who to go to for help and advice and that this also encouraged consistency.

Appeals

- 6.17 We found that the New York Visa Section complied with the UK Border Agency's Entry Clearance Guidance in relation to appeals, by ensuring that all appeal applications were reviewed by an ECM prior to any cases proceeding to appeal.
- 6.18 Managers confirmed that appeals were taken very seriously in New York and this was evidenced by the recruitment in summer 2010 of an appeals clerk, a dedicated resource for the administration of all appeal cases. In addition, as we have already reported, one of the ECMS had been allocated specific responsibility for taking the lead on appeals.
- 6.19 All appeals received were logged in an appeals database. They were then referred to the ECO who made the original decision so that they could provide the reviewing ECM with any additional information necessary. The ECM then considered if the original decision to refuse an application was robust and correct and therefore whether the case should proceed to appeal or be overturned.
- 6.20 In 2010, the UK Border Agency implemented a target for posts to have no more than 25% of all appeals to be allowed. At the time of our inspection, for the 2010/11 financial year to the end of February 2011, we found that New York's performance against this target was 28% of all appeals being allowed. This was an improvement on the previous year's performance when 35% of appeals were allowed and meant that the Visa Section had only just missed its target by 3% of cases.
- 6.21 Appeal allowal rates are important to the Agency as the cost of cases proceeding to appeal is significant. For example, the Agency estimated that it spends between £200 and £500 on each entry clearance case that proceeds to appeal. In New York alone for the 2010/2011financial year up to the end of February 2011, 1,179 appeals had been received, with a potential cost to the Agency of between £235,800 and £589,500. Looking at the Agency as a whole, we found that with 86,122 Entry Clearance appeals received globally in 2010/2011, potential costs of processing these ranged between around £17 million and £43 million.
- 6.22 It is not only the Agency that incurs costs in processing appeals, as Her Majesty's Courts Tribunals Service (HMCTS) also incurs significant costs hearing the appeals. For example, figures provided in a recent consultation paper showed that the predicted costs for 2010/2011 to hear Family Visit cases ranged from £317 and £586, depending on whether it was heard orally or decided on papers alone. Similarly, costs to hear Settlement cases ranged between £507 and £808, depending on the type of hearing.
- 6.23 The combined costs to the Agency and HMCTS for processing appeal cases are significant, so it is imperative that the Agency ensures its staff make correct and robust decisions.
- 6.24 The introduction of the ECM review stage in the process prevented a significant number of cases in New York from proceeding to appeal when the original decisions were overturned. For 2010/2011 up to the end of February 2011, 35% of Settlement and 63% of Family Visit case refusals were overturned by an ECM at review stage.
- 6.25 Clearly cases where the decision to refuse an application cannot be defended should be overturned to save on both the time and costs of an appeal. However, we were somewhat concerned that the percentage of cases where the original decision was overturned was so high and we found no analysis had been carried out to determine if there were any reasons for this, or if the decisions being made were of sufficiently high quality.
- 6.26 Managers told us that they believe the reason a number of cases are overturned at appeal review stage is due to fresh evidence being submitted by the applicant. While we accept that this could well be a contributory factor towards the high overturn rate, this had not been substantiated by analysis at the time of our inspection. We were pleased to find in our discussions with managers that they confirmed that, although they had not carried out analysis on cases overturned at the ECM review stage, they accepted this was an area they should focus on in future and confirmed they would do so.

- 6.27 The New York Visa Section had, however, undertaken some analysis of appeal determinations from June 2010 to February 2011. The focus of the analysis was to confirm common themes and reasons behind winning and losing cases at appeal. For example, consideration had been given to different success rates, depending on a number of factors, including if the case was:
- heard orally or on paper only;
 - represented in court by a Presenting Officer or not;
 - a Family Visit or Settlement application; and
 - a spoke or USA domestic application.
- 6.28 The intention of the appeals analysis was to learn lessons from the common themes identified in cases the Agency was more likely to lose at appeal, and improve decision quality. Efforts had been made to share best practice across the post and further within the Americas region. An example of this was the circulation of targeted appeal determinations to ECOs, including holding a ‘determination of the week’ session at team meetings where the ECO presented their case to the whole team.
- 6.29 We found only limited evidence of the analysis focusing on the quality of decision-making in order to identify any trends of common errors or training needs. Managers confirmed that the appeals analysis was a ‘work in progress’ and there was much more they wanted to do to take it forward. For example, we were told there were plans to hold training sessions on the different categories of visa and to circulate key themes for the next financial year.

Providing feedback on policy guidance

- 6.30 As we have already reported, one of the ECMs in New York had been allocated specific responsibility for taking the lead on policy guidance. One of their regular duties was to summarise details of any policy changes, making sure they were clear and easy to understand, then disseminating them to all staff.
- 6.31 We were pleased to find examples where the New York post had been proactive in feeding back details of problems with policy guidance and influencing the Agency’s policy team to make changes. One example of this was when the guidance for students applying under the Points Based System was amended to accept parents’ bank statements as evidence of maintenance, as these were extensively used by most USA students.
- 6.32 Another example involved New York influencing a change to the recent guidance on English language requirements. Following a challenge by the New York Visa Section on the necessity to require USA applicants to complete an Annex to state how they meet the English language requirement, the Agency’s policy team agreed that the Annex may be waived for those applicants.

Restructure of the Americas region

- 6.33 We have already reported that, at the time of our inspection, New York had already transferred work previously handled by the Chicago Visa Section, which closed in 2010. This formed part of a wider, more significant restructuring exercise in the region to reduce costs and deliver significant savings over the next four years. The change programme also supported key elements of the UK Border Agency’s International Group Target Operating Model as follows:
- Consolidation of work into larger hubs, and fuller integration of Risk and Partnership work; and
 - Budget reduction through increased use of ‘user pays’, mobile enrolment facilities, and premium and priority services offering more value for money.
- 6.34 As well as closing the Chicago post, we found the Agency was also planning to close its Los Angeles post from May 2011 and its Ottawa post from October 2011, hubbing their work into New York. This would reduce the number of decision-making posts in the region from seven to five.

6.35 This decision was partly in response to a requirement to make cuts in budgets across government, but was also to strengthen the operation and to reduce the risks to the Agency by concentrating this work in New York. Other benefits identified by the Agency included a reduction in transit times, and therefore processing times, for applications as a result of implementing local hubs. Managers believed that they would be able to maintain current customer service standards and hoped to improve on them when new IT systems are introduced; for example, remote printing of visas. In addition, they were confident that the new structure would facilitate significant cost savings.

We recommend that the UK Border Agency:

- Implements across the Agency, as an example of good practice, the automated email system used in New York to update applicants on the progress at each stage of their application.
- Extends its analysis of appeal determinations to include cases reviewed and overturned by Entry Clearance Managers, ensuring a focus on the quality of decisions helps identify trends of common errors and training needs.

Risks to the efficiency and effectiveness of the Agency should be identified, monitored and mitigated.

- 6.36 We found very limited awareness among staff regarding the UK Border Agency's Americas region risk register, or how they could contribute to it. Most staff we spoke to had not heard of a risk register and did not know what one was. Many staff confused the risk register with the risk profiles they used to aid them when deciding visa applications. However, most staff said that they could and would speak to a manager if they wanted to raise anything of concern. Some of the managers we spoke to also had very limited knowledge or awareness of the regional risk register.
- 6.37 Senior managers acknowledged that they needed to make improvements in this area and accepted that staff were likely to have limited, if any, awareness. We were told that the risk register had recently been reviewed and was now 'live' following a period where it had stagnated somewhat. Managers confirmed that there was currently no mechanism to disseminate the risk register to staff or to seek their views on it. However, we were pleased to find there was a commitment to revitalise the risk register as a 'useful document' to be revisited regularly. Managers intended that it would be reviewed every six weeks, and confirmed that they would work on ensuring that staff were involved in this process.
- 6.38 When we reviewed the regional risk register we found that the risks, risk appetite and mitigating actions appeared appropriate and considered.
- 6.39 Given the large scale of the New York Visa Section's hub operation, we were pleased to find that managers appeared to be aware of the risk to the business that might be posed should anything affect New York's ability to process applications. We were advised that should such a situation arise, New York had contingency measures that it could implement to reroute applications to the UK, Kingston, Rio de Janeiro or Bogota.
- 6.40 We have already reported on the significant restructuring change programme being implemented in the Americas region. We were pleased to find that this had been set up as a formal programme with an appropriate programme and project infrastructure in place, including project-specific risk registers.

We recommend that the UK Border Agency:

- Raises staff awareness of the risk register, making it clear how they can contribute to it, in order to ensure that managers are alerted to potential, emerging or changing risks as early as possible.

7. Assessment of Progress Made Against Recommendations From Previous International Inspections

- 7.1 As part of this inspection, we wanted to assess the progress made by the New York Visa Section in relation to our previous international inspection recommendations.¹⁵
- 7.2 Managers and staff in New York told us that they had taken a great interest in the recommendations we had made as a result of our previous inspections, and they had made real efforts to ensure that they implemented as many of them as possible.
- 7.3 In summary, we were pleased to find that the New York Visa Section had made good progress in implementing some of our recommendations. Certainly, some of the problems we found in other posts did not materialise in New York. However, we found there was still a need for ongoing improvement in other areas.
- 7.4 Figures 23 to 28 below provide full details of:
- all recommendations made in our reports up to Abu Dhabi and Islamabad;
 - New York's self-assessment of progress made; and
 - our assessment of their progress.

Figure 24: Recommendations made in the Rome inspection

Recommendation that UKBA:	Accepted by UKBA	Applicable to New York	New York's self-assessment	Our findings
1. Manages processing times more effectively to ensure it meets stated customer service targets.	Yes	Yes	This was specific to an issue identified in Rome.	Although our sampling identified some cases being processed outside targets, we found that average processing times for all visa categories were within target.
2. Puts in place effective contingency arrangements so that performance is not adversely affected by staff shortages.	Yes	Yes	Linked to recommendation 1, this was specific to an issue identified in Rome.	We found evidence of staff working weekends and restrictions on leave and training in peak periods to mitigate problems in this area.

¹⁵ Previous international inspections include: Rome, Abuja, Kuala Lumpur, Chennai, UK Visa Section, Abu Dhabi and Islamabad. All reports can be found on the Chief Inspector's website:
<http://icinspector.independent.gov.uk/inspections/inspection-reports/>

3. Takes action to advise customers when its processing times significantly miss its customer service targets.	Yes	Yes	Linked to	Applicants are kept informed and there is a link on the website to current case processing times, but we noted some concerns regarding how user-friendly the website is.
4. Removes conflicting information about supporting documents so that customers are clear about what they need to provide.	Yes	Yes	Supporting document guidance has been published on ukvisas.gov.uk The WorldBridge site links to category-specific guidance on ukvisas.gov.uk	Our inspection confirmed this recommendation had been implemented. In fact we noted that the guidance had been revised twice since the beginning of this inspection, providing evidence of ongoing improvements.
5. Regularly reviews the issues raised on the commercial partner's website to ensure customer enquiries and complaints are: <ul style="list-style-type: none"> • Categorised appropriately; • Handled in accordance with UK Border Agency policy; • Monitored so that customer feedback is analysed and used to improve the service it provides. 	Yes	Yes	Unclear. The UKBA does not yet appear to have addressed this recommendation explicitly. We found a similar issue in Amman as UKBA was not adequately monitoring the commercial partner's responses to enquiries and complaints.	We found no evidence of New York Visa Section having any oversight of its commercial partner's handling of correspondence and complaints.

Figure 25: Recommendations made in the Abuja inspection

Recommendation	Accepted by UKBA	Applicable to New York	Progress made	On-site assessment of progress
1. Reviews the daily targets for consideration of applications.	Yes	Yes	NYVS indicates that they have set daily targets by undertaking a case-weightings exercise.	We found that staff were aware of the performance standards (targets). A further review of targets was planned based on a points-based system (of case complexity) in consultation with RALON
2. Uses the Entry Clearance Manager Review Guidance Tools to quality assure issues and refusals of entry clearance.	Yes	Yes	NYVS states that ECMs have implemented Agency guidance pertaining to ECM reviews.	We did not ask specific questions around whether ECMs used this specific guidance to undertake their reviews. However, we found no evidence to give concern in this area.
3. Monitors refusal rates and provides more feedback to Entry Clearance Officers to improve consistency of decision-making.	Yes	Yes	NYVS has provided evidence of monthly reporting of ECO productivity and refusal rates.	We found some evidence that ECMs do monitor ECO productivity and refusal rates, and did not pursue this area further as it was not identified as a significant issue as in Abuja.
4. Reviews and clarifies information on provision of supporting documentation so customers are aware of what they need to provide.	Yes	Yes	Category-specific guidance on supporting documents is available to customers on ukvisas.gov.uk or via the WorldBridge site.	Confirmed – see recommendation 4 (Rome) for more details.

5. Introduces a quality assurance process for correspondence handling.	Yes	Yes	NYVS has submitted evidence re its approach to handling correspondence forwarded on from WorldBridge as well as complaints.	We assessed the complaints handling process and found the overall quality of responses adequate, but had some concerns about the transparency of records and measurement of performance against 20-day target. It was unclear what measures are in place for quality assuring the general correspondence dealt with by SECOs. No evidence of oversight of WorldBridge's handling of correspondence.
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Figure 26: Recommendations made in the Kuala Lumpur inspection

Recommendation	Accepted by UKBA	Applicable to New York	Progress made	On-site assessment of progress
1. Standardises document checklists at all overseas posts.	Yes	Yes	Category-specific supporting documents guidance published.	Confirmed – see above
2. Introduces formal procedures, targets and monitoring for the handling of telephone calls to assess service standards.	Yes	Yes	Last update from UKBA CEO advises this is on hold due to lack of funding. However, evidence from NYVS indicates that they are aware that the service provided by WorldBridge has not been satisfactory, with complaints centring on call costs, incorrect information, no information about application progress, and language issues with call centre operators (main language is Portuguese due to being based in Rio de Janeiro).	Managers confirmed that the telephone service was inadequate. Some members of staff were sent to the call centre based in Rio to review the standard of service. A service improvement project was ongoing following recommendations made in a review report.
3. Puts in place processes at post to analyse complaints to identify trends with a view to improve customer service.	Yes	Yes	Evidence received from NYVS re its quarterly analysis and reporting of complaints.	See above.

Figure 27: Recommendations made in the Chennai inspection

Recommendation	Accepted by UKBA	Applicable to New York	Progress made	On-site assessment of progress
1. Improves staff guidance on the application of rule 320 (7A) to ensure it is only used when appropriate to do so.	Yes	Yes	NYVS has offered to make available staff training records to the inspection team.	Not a cause for concern in NY.
2. Ensures that effective communication and consultation structures are put in place to consider and take into account the views of all staff.	Yes	Yes	NYVS submitted evidence of communications with staff.	We found several examples of regular communication channels, for example weekly town hall meetings and 'blender' sessions. Some staff said that they do not feel comfortable speaking up in a big 'town hall' meeting and that smaller team meetings might be more useful to engage in a proper exchange.
3. Standardises document checklists at all overseas Visa Sections and incorporates them into its commercial partner's websites.	Yes	Yes	Supporting document guidance has been published on ukvisas.gov.uk The WorldBridge site links to category-specific guidance on ukvisas.gov.uk	See above.

Figure 28: Recommendations made in the UK Visa Section inspection

Recommendation	Accepted by UKBA	Applicable to New York	Progress made	On-site assessment of progress
1. Ensures Settlement decisions made in the UK Visa Section are subject to effective scrutiny, supported by risk profiles and regular verification checks to drive and sustain improvements in decision-making.	Yes	Yes	Whilst specific to UKVS, the NYVS states that all staff are aware of the guidance concerning extra checks on Settlement applications.	We found no evidence of checks being conducted in the majority of Settlement cases. An instruction from RALON was provided to us on site showing that clearance was obtained from UKBA policy team to apply checks on a risk basis. Our report details our views that where checks are waived there should be a clear audit trail as to why.
3. Ensures communications are in place to manage and coordinate business processes effectively across all locations.	Yes	Yes	Whilst specific to particular concerns we had about the working relationship between Abu Dhabi, Islamabad and UKVS, this is relevant to the NYVS's working relationships with its spokes. NYVS has advised in its evidence that monthly telcons are held with spokes.	We found good communications with spokes and regional HQ for example, spoke tele-conferences, face-to-face and telephone Regional Management Team meetings, and annual spoke audit visits.

<p>4. Manages customer correspondence and complaints efficiency in order to:</p> <p>Provide detailed responses where necessary in a timely manner</p> <p>Identify improvement opportunities</p> <p>Improve the overall levels of service provided.</p>	Yes	Yes	<p>Specific problem in UKVS, but in scope for NY inspection.</p> <p>NYVS states that they do this.</p>	See above.
<p>5. Sets a reasonable target for issuing entry clearance when a refusal is overturned by an Entry Clearance Manager upon receipt of an appeal.</p>	<p>Not yet – official response was that the UKBA wished to consider this recommendation in more detail before accepting.</p> <p>Update expected in next update from UKBA CEO (June 2011).</p>	Yes	<p>NYVS state that their '<i>appeals clerk contacts applicants regarding allowed appeals upon immediate receipt, to ensure the 10-day target is met</i>'.</p>	<p>The appeals database records each stage in the life of an appeal case. We found no concerns in this area.</p>

Figure 29: Recommendations made in the Abu Dhabi and Islamabad inspection

Recommendation	Accepted by UKBA	Applicable to New York	Progress made	On-site assessment of progress
1. Strategically assesses whether the existing focus on the achievement of numerical targets is impacting negatively against decision-making quality.	Yes	Yes	NYVS indicates that they have set daily targets by undertaking a case-weighting exercise.	Generally targets were felt to be achievable when there were no other distractions or other work, or by working evenings/weekends. However, they were considered tight, especially during peak summer period. Given our findings on decision quality, the issue – whilst not as stark as at other posts – perhaps remains.
2. Take immediate action to ensure it is operating in accordance with its duty under the Race Relations Act 1976 as amended by the Race Relations (Amendment Act) 2000.	UKBA noted this recommendation and agreed to review this area of policy.	Yes	NYVS states that staff are reminded regularly about the UK's obligations under this Act.	Staff seemed very conscious of the need to treat applicants fairly and in line with the immigration rules and guidance. We had no particular concerns regarding discrimination.
3. Ensures guidance issued to customers sets out clearly the supporting documentation they need to provide in support of their applications.	Yes	Yes	Covered above.	See above.

<p>4. Sets out clear roles and responsibilities for correspondence and complaint handling and communicates these to key stakeholders and customers; and:</p> <ul style="list-style-type: none"> - Identifies complaints correctly; - Trains staff appropriately and provide clear guidance – with examples – on what constitutes ‘an expression of dissatisfaction’; - Responds to customers appropriately; - Carries out effective quality assurance procedures to ensure complaint procedures are being complied with; and - Implements the service standards set out in its Customer Strategy. 	Yes	Yes	<p>NYVS states that its ECMs remind staff regularly about what constitute a complaint and that the complaints handling guidance has been circulated.</p>	See above.
<p>5. Implements a formal review to determine the main reasons for allowed appeals and uses this analysis to drive improvements in decision-making quality.</p>	Yes	Yes	<p>NYVS states that since June 2010 they have conducted a comprehensive analysis of appeal decisions received. They also disseminate to staff a ‘determination of the week’.</p>	<p>Appeals analysis was described by staff as ‘a work in progress’, and while a good start, could be improved by identifying any trends/issues with decision-making quality.</p>

Appendix 1: Inspection Criteria

The criteria for this inspection were:

Operational Delivery

1. Decisions on the entry, stay and removal of people should be taken in accordance with the law and the principles of good administration.
2. Customs and immigration offences should be prevented, detected, investigated and, where appropriate, prosecuted.
3. Complaints procedures should be in accordance with the recognised principles of complaint handling.

Safeguarding Individuals

4. All people should be treated with respect and without discrimination, except where the law permits difference of treatment.
7. Functions should be carried out having regard to the need to safeguard and promote the welfare of children.
8. Personal data should be treated and stored securely in accordance with the relevant legislation and regulations.

Continuous Improvement

9. The implementation of policies should be continuously monitored and evaluated to assess the impact on service users and associated costs.
10. Risks to the efficiency and effectiveness of the Agency should be identified, monitored and mitigated.

Appendix 2: List of Stakeholders

**During the inspection, we contacted and consulted with a wide variety of stakeholders.
The stakeholders are as follows:**

- Consular/Corporate Services, St Lucia
- Her Majesty's Ambassador, Barbados and East Caribbean
- Consul General, New York
- Deputy Head of Mission, Trinidad and Tobago
- Her Majesty's Ambassador, Peru
- Department of Homeland Security (DHS)
- DHS Application Support Center, New York
- Head of Mission, Belize
- Head of Mission, Argentina
- Head of Mission, Venezuela
- Head of Mission, Guyana
- Head of Mission, Guatemala
- Head of Mission, Bolivia
- Head of Mission, Mexico
- Head of Mission, Uruguay
- Head of Mission, Panama
- Head of Mission, Ecuador
- Head of Mission, Chile
- Head of Mission, Dominican Republic

Appendix 3:

Glossary

Term	Description
A	
Agency	Refers to the UK Border Agency.
Application Support Centre (ASC)	Visa applicants attend one of 126 ASCs for the biometric enrolment stage of their application process. The ASCs are run by the Department for Homeland Security.
Audit trail	Chronological list of events.
B	
Biometrics	All customers are now routinely required to provide ten digit finger scans and a digital photograph when applying for a United Kingdom visa. There are some minor exceptions to this rule, e.g. Heads of State and children aged under five.
Border and Immigration Agency (BIA)	The name of the Agency responsible for immigration functions prior to creation of the UK Border Agency.
C	
Chief Executive Officer	Senior civil servant at the head of the UK Border Agency.
Complaint	Defined by the UK Border Agency as, ' <i>any expression of dissatisfaction about the services provided by or for the UK Border Agency and/or about the professional conduct of UK Border Agency staff including contractors.</i> '
Customer	Defined by the UK Border Agency as ' <i>anyone who uses the services of the Agency, including people seeking to enter the United Kingdom, people in detention and MPs.</i> '
Customer Service Excellence	The government's customer service standard, replaced the Charter Mark initiative.
D	
Data Protection Act 1998 (DPA)	The Data Protection Act requires anyone who handles personal information to comply with a number of important principles. It also gives individuals rights over their personal information.
Department of Homeland Security (DHS)	Responsible for running the Application Support Centres.
Director	Senior UK Border Agency manager, typically responsible for a directorate, region or operational business area.

E

e-Learning Course	Computer based training course.
Entry Clearance	<p>A person requires leave to enter the United Kingdom if they are neither a British nor 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. Entry clearance takes the form of a visa (for visa nationals) or an entry certificate (for non-visa nationals).</p> <p>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 United Kingdom Government decides which countries' citizens are, or are not, visa nationals. Non-visa nationals also require entry clearance if they seek to enter the United Kingdom for purposes other than to visit and/or for longer than six months.</p> <p>More detailed information about Entry Clearance can be found on the UK Border Agency website: http://ukba.homeoffice.gov.uk/</p> <p>The Immigration Rules say that a customer making an application for an entry clearance as a visitor must be outside the United Kingdom and Islands at the time of their application and must apply to a Visa Section designated by the Secretary of State to accept applications for entry clearance for that purpose and from that category of applicant.</p>
Entry Clearance Assistant	Supports the visa application process.
Entry Clearance Manager	Manages the visa application process.
Entry Clearance Officer	Decides visa applications.
European Economic Area (EEA)	<p>The European Economic Area (EEA) was established on 1 January 1994 following an agreement between the member states of the European Free Trade Association (EFTA) and the European Community, later the European Union (EU).</p> <p>All European Economic Area (EEA) nationals enjoy free movement rights in the EEA. This means that they are not subject to the Immigration Rules and may come to the United Kingdom and reside here in accordance with the 2006 Regulations. They do not require permission from the UK Border Agency to enter or remain, nor do they require a document confirming their free movement status.</p>

European Economic Area (EEA) Family Permits	<p>All European Economic Area (EEA) nationals enjoy free movement rights in the EEA. This means that they are not subject to the immigration rules and may come to the United Kingdom and reside here in accordance with the 2006 Regulations.</p> <p>They do not require permission from the UK Border Agency to enter or remain, nor do they require a document confirming their free movement status. An EEA family permit is a form of entry clearance issued to the non-EEA national family members of an EEA national who is in, or intends to come to, the United Kingdom in order to exercise a Treaty right.</p>
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F

Foreign and Commonwealth Office (FCO)	Government department responsible for promoting British interests overseas and supporting British citizens and businesses around the world.
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H

Home Office	The Home Office is the lead government department for immigration and passports, drugs policy, crime, counter-terrorism and police.
Hub and spoke	<p>Prior to 2007, virtually all British diplomatic missions had a Visa Section. Each worked largely independently, handling all aspects of visa processing, including taking decisions on site.</p> <p>Hub and spoke was introduced to move away from the traditional model that was based on the physical presence at the Visa Section. The consideration of an application does not need to happen in the same place as it is collected.</p> <p>Applications can be moved from the collection point – the spoke – to the processing point – the hub. This separation between the collection network and the decision-making network aims to improve quality and consistency of decision-making, efficiency and flexibility. Work can be moved to staff rather than the other way round.</p>
Human Resources (HR)	UK Border Agency Human Resources Directorate.

I

Immigration Group	The directorate within the UK Border Agency that is responsible for asylum, enforcement and compliance, and nationality.
Immigration Liaison Assistant (ILA)	UK Border Agency job title.
Immigration Liaison and Intelligence Directorate (ILID)	UK Border Agency directorate responsible for coordinating the work of the Risk and Liaison Overseas Network (RALON).
Immigration Liaison Manager (ILM)	UK Border Agency job title that encompasses posts previously known as Airline Liaison Officers (ALOs) and Risk Assessment Managers (RAM).
Immigration Liaison Officer (ILO)	UK Border Agency job title.

Independent Chief Inspector of the UK Border Agency	The role of the Independent Chief Inspector of the UK Border Agency was established by the UK Borders Act 2007 to examine the efficiency and effectiveness of the UK Border Agency. The Chief Inspector is independent of the UK Border Agency and reports directly to the Home Secretary.
Independent Monitor and Legislation	<p>The legislation that established the role of the Independent Monitor for Entry Clearance Refusals without the Right of Appeal, was set out in Section 23 of the Immigration and Asylum Act 1999 and amended by paragraph 27 of schedule 7 of the Nationality, Immigration & Asylum Act 2002 and Statutory Instrument 2008/310 regarding the points-based system (from April 2008).</p> <p>Section 23 of the Immigration and Asylum Act 1999, as amended by section 4(2) of the Immigration, Asylum and Nationality Act 2006, stipulates:</p> <ul style="list-style-type: none"> • 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, as a result of section 88A of the Nationality, Immigration & Asylum Act 2002 (c.41)(entry clearance: non-family visitors and students), an appeal under section 82(1) of that Act may be brought only on the grounds referred to in section 84(1)(b) and (c) of that Act (racial discrimination and human rights). • The Secretary of State may not appoint a member of his staff. • The Secretary of State must lay a copy of any report made to him under subsection (3) before each House of Parliament. <p>Although the legislation and the Independent Monitor's formal title refer to 'no right of appeal', all customers have limited rights of appeal on human rights and race relations grounds. Parliament decides which categories of visa customers should not have full rights of appeal; the UK Border Agency's role is to implement the laws set by Parliament as interpreted by government policies.</p> <p>John Vine, the Chief Inspector of the UK Border Agency was appointed to this role by the Home Secretary on 26 April 2009, effectively bringing this work within his remit.</p>
International Group	The overseas arm of the UK Border Agency, responsible for running visa operations in 135 countries. Formerly known as UK Visas.
L Locally Engaged Staff	Staff recruited directly by the British Embassy or High Commission in the country where they are employed.

M	
Ministerial Authorisation	A new Ministerial authorisation for nationality-based differentiation – covering entry clearance, border control and removals – came into force on 10 February 2011 under the Equality Act 2010. The new authorisation allows International Group to differentiate on the basis of nationality in the entry clearance/visa process.
N	
Nominated Responsible Officer (NRO)	Main point of contact within each business area. Responsible for ensuring that complaints are dealt with in a timely fashion and that responses are full and accurate.
Non-Visa Nationals	A national or citizen of any country that is not listed on the UK Border Agency website (Appendix 1 of the Immigration Rules). A non-visa national does not need a visa to come to the United Kingdom for less than six months, unless it is a requirement of the immigration category under which they are entering. A non-visa national coming to the United Kingdom for more than six months will need a visa.
O	
Omnibase	UK passport database.
Other Visitor	Visitor cases that only attract limited appeal rights.
P	
Paragraph 320 (7a) – Deception Rules	From 29 February 2008, under Paragraph 320 (7A) of the immigration rules, a customer 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 customer's knowledge.
Points-Based System (PBS)	<p>On 29 February 2008, a new immigration system was launched to ensure that only those with the right skills or the right contribution can come to the United Kingdom to work or study. The points-based system was designed to enable the UK Border Agency to control migration more effectively, tackle abuse and identify the most talented workers. The system:</p> <ul style="list-style-type: none"> · Combines more than 80 previous work and study routes to the United Kingdom into five tiers; and · Awards points according to workers' skills, to reflect their aptitude, experience and age and also the demand for those skills in any given sector. <p>Employers and education providers play a crucial part in making sure that the points-based system is not abused. They must apply for a licence to sponsor migrants and bring them into the United Kingdom; and meet a number of duties while they are sponsoring migrants.</p>
Post	See Visa Section.

Proviso	The database used by overseas Visa Sections as the audit trail of entry clearance applications. It records all details of an entry clearance application from the date of application through to the decision and any post decision correspondence.
R	
Race Relations Act 1976	An Act of Parliament established to prevent discrimination on the grounds of race.
Race Relations (Amendment) Act 2000	The Race Relations (Amendment) Act 2000 was an Act to extend further the application of the Race Relations Act 1976 to the Police and other public authorities; to amend the exemption under that Act for acts done for the purpose of safeguarding national security; and for connected purposes. Section 19D sets out exceptions from section 19B for certain acts in immigration and nationality cases. Section 19B does not make it unlawful for a relevant person to discriminate against another person on grounds of nationality or ethnic or national origins in carrying out immigration and nationality functions.
Regional Director	Senior manager responsible for one of the six Immigration Group regions.
Risk and Liaison Overseas Network (RALON)	An amalgamation of the former Airline Liaison Officer Network and Overseas Risk Assessment Unit Network. RALON has responsibility for identifying threats to the UK border, preventing inadequately documented passengers from reaching UK shores, providing risk assessment to the UK Border Agency visa issuing regime and supporting criminal investigations against individuals and organisations which cause harm to the UK.
Risk Profile	An outline that determines the relative potential harm (to the UK of a visa applicant / travelling passenger) based on characteristics of an individual when compared to existing evidence of adverse activity either in the UK or overseas.
S	
Senior Entry Clearance Officer (SECO)	Decides visa applications and also manages Entry Clearance Assistants.
Settlement	Application to come to the UK on a permanent basis, most commonly as the spouse or other dependent of a British Citizen or a UK resident.
U	
UK Visas	Ran visa operations at overseas locations. One of the legacy organisations that made up the UK Border Agency and is now known as International Group.
United Kingdom and Islands	The United Kingdom is made up of England, Scotland, Wales and Northern Ireland. The Channel Islands and the Isle of Man are not part of the United Kingdom. The geographical term 'British Isles' covers the United Kingdom, all of Ireland, the Channel Islands and the Isle of Man.
United Kingdom Border Agency (UKBA)	Executive Agency of the Home Office responsible for border control, enforcing immigration and customs regulations.

United Nations High Commissioner for Refugees	The United Nations High Commissioner for Refugees has a mandate to lead and coordinate international action to protect refugees and resolve refugee problems.
V	
Visa Nationals	<p>Visa nationals are those who require a visa for every entry to the United Kingdom. A visa national is a national of a country listed on the UK Border Agency website (Appendix 1 of the Immigration Rules). Some visa nationals may pass through the United Kingdom on the way to another country without a visa, but in some circumstances they will require a direct airside visa or visitor in transit visa. Visa nationals must obtain entry clearance before travelling to the United Kingdom unless they are:</p> <ul style="list-style-type: none"> • Returning residents; • Those who have been given permission to stay in the United Kingdom and, after temporarily leaving the United Kingdom, return within the duration of that permission to stay; • School children resident in a European Union member state who are on an organised school trip from a general education school and accompanied by a teacher.
Visa Section	UK Border Agency office that manages UK visa operation services. UK Border Agency Visa Sections are located in a variety of locations around the world.

Appendix 4:

Acknowledgements

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