



House of Commons  
Committee of Public Accounts

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**Foreign and  
Commonwealth Office:  
Visa entry to the  
United Kingdom: the  
entry clearance  
operation**

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**Seventh Report of  
Session 2004–05**

*Report, together with formal minutes,  
oral and written evidence*

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## The Committee of Public Accounts

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## Summary

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Entry clearance, normally in the form of a visa, is required for over 100 nationalities prior to travel to the United Kingdom, whatever the purpose of their journey. In addition, people of all nationalities who intend to enter for certain purposes, including to settle or to marry, must also obtain entry clearance.

Responsibility for entry clearance is allocated between the Foreign and Commonwealth Office (FCO) and Home Office. UKvisas is the joint FCO/Home Office body responsible for managing the entry clearance operation and implementing immigration controls at visa-issuing posts overseas. In 2002–03 UKvisas dealt with 1.94 million visa applications at 162 Embassies, High Commissions and Consulates worldwide.

On the basis of a Report by the Comptroller and Auditor General,<sup>1</sup> we examined the work of UKvisas in managing the entry clearance operation at visa-issuing posts overseas. Demand for visas has increased by over 33% in the past five years, placing increased pressure on the entry clearance operation. UKvisas has responded by making significant efforts to streamline its procedures for processing entry clearance applications. But there is a tension between achieving a more efficient process and allowing sufficient time to apply robust checks, and at times, staff felt that efficiency took precedence over the application of effective controls. UKvisas is developing a number of ways to improve its emphasis on control, through better risk assessment and through tackling specific abuses such as bogus students. But the lack of feedback on the subsequent actions of visa holders after entry to the United Kingdom makes it impossible for UKvisas to evaluate whether it is achieving its objectives.

We also explored the operation of the European Community Association Agreements (ECAA) in Bulgaria and Romania, where allegations were made that applications were being granted despite the concerns of entry clearance staff. A difference of opinion between Home Office and UKvisas staff in the standards which should be applied to such applications was not satisfactorily resolved. This failure to resolve the dispute, together with ineffective communication and a lack of monitoring, resulted in over 7,000 people entering the United Kingdom under the scheme, of which entry clearance staff estimated that they would have issued visas to fewer than 10% of them.

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1 C&AG's Report, *Visa entry to the United Kingdom – the entry clearance operation* (HC 367, Session 2003–04)

## Conclusions and recommendations

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- 1. UKvisas has made significant progress in streamlining the processing of visa applications, but there needs to be more robust quality control by managers of the quality of decisions.** In particular, more use could be made of peer review and consistency checks, and this should be reflected in guidance to staff.
- 2. UKvisas should examine whether more time is required for rigorous scrutiny of applications.** UKvisas' benchmark is that, on average, every officer should process a visa application every 11 minutes. Some applications can be dealt with quickly but an average of 11 minutes seems scarcely sufficient to review the application details and supporting documentation, let alone to carry out additional checks to verify the authenticity of the documentation.
- 3. Using risk assessments to target resources where they will have most effect should become the rule rather than the exception.** Risk assessment units have currently been established in only a small number of key posts, although UKvisas is extending the number of these units. Risk assessments need more and better intelligence information for assessing applications. Databases maintained locally and in the United Kingdom should contain complete and up-to-date information on suspect or criminal activity, and details of previous visa applications.
- 4. 50% of appeals by applicants intending to visit family members in the United Kingdom have led to the original decision being overturned in the appellant's favour.** Indicators which UKvisas could use to provide more information for monitoring purposes on the quality of decisions include analyses of refusal rates, appeal outcomes and the number of decisions which are overturned following management review. Such analyses could highlight differences between posts and categories of application, and trends across years, in the consistency and quality of decision-making.
- 5. There is currently no systematic check on whether visa holders comply with the conditions of their visa once they are in the United Kingdom.** So UKvisas is not able to evaluate whether it is achieving its objectives in entry clearance. The Home Office's 'e-Borders' programme is intended to provide the facility to electronically track everyone entering and leaving the country. The Home Office and UKvisas should use this information to provide systematic feedback to entry clearance staff on when visa holders leave the United Kingdom.
- 6. Meanwhile UKvisas, together with the Home Office, should carry out more tracking exercises to establish whether visa holders comply with the terms of the visa.** In addition to tracking exercises for particular categories, the Home Office and UKvisas should use statistically based sample checking to provide an overall estimate of the number of people who are not complying with the terms of their visa.
- 7. 100 out of 400 colleges cited by 'students' in visa applications have been found to be bogus.** The Home Office is only now compiling a list of approved colleges. It also needs to establish a programme of checks on whether students actually attend the approved colleges after entry into the United Kingdom.

8. **UKvisas should identify and disseminate good practice methods of accepting and processing applications to encourage more systematic improvements in efficiency.** It should review working processes in each country, and promote models for wider adoption in guidance to staff.
9. **UKvisas should predict future demand for visas, identifying where the risks and constraints lie, to assist it in deploying resources to meet demand.** A modest capital budget, allocated to UKvisas for small scale improvements, would enable it to tackle accommodation problems which are causing bottlenecks at visa sections.
10. **The Home Office should not have dismissed objections from visa staff in Bulgaria and Romania to granting visas on the basis of standardised business plans, of which the applicants had no knowledge.** The Home Office should have obtained legal advice on whether its interpretation of legal precedents was correct. It now needs to focus on removing individuals who have not set up a valid business.
11. **As a joint Home Office/FCO body, UKvisas should facilitate better communication between its parent departments, including face-to-face communication.**
12. **Disciplinary procedures are under way in respect of staff who challenged shortcomings in the administration of the European Community Association Agreements scheme.** We note that no action has been taken to discipline those who ignored or tolerated those deficiencies.
13. **The Departments should establish proper procedures for reporting concerns to the appropriate internal authority,** particularly where there is more than one Government department concerned. These procedures should be clarified and disseminated to staff. Departments should also ensure that all staff are aware of the correct channels for making disclosures under the Public Interest Disclosure Act.



# 1 Making timely and appropriate decisions

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## Effectiveness and speed of processing applications

1. UKvisas has a dual aim of welcoming legitimate travellers and preventing the entry of those who do not qualify under immigration rules. It must ensure that controls over entry are effective, whilst at the same time promoting an efficient and high quality service to genuine applicants who wish to travel to the United Kingdom. UKvisas has made significant efforts to streamline its entry clearance procedures in many posts to provide a better and faster service to applicants.<sup>2</sup> But UKvisas also recognises the importance of reaching the right decisions so as to manage immigration effectively and combat terrorism, and is increasing its emphasis on this area.<sup>3</sup>

2. UKvisas uses a range of approaches to apply proper controls, including a review of the documentation provided, supplementary telephone checks to confirm the authenticity of documentation, use of a security database, and the use of risk assessment units at posts to focus on forgery and intelligence issues.<sup>4</sup> But there is a tension between the need to consider fully the veracity of the application and meeting daily processing targets and benchmarks.<sup>5</sup> These targets and benchmarks focus on the rate of processing applications. UKvisas believes that the introduction of streamlining measures should enable staff to process 8000 straightforward applications per year, which equates to 40 per day or an average of 11 minutes per application, although this benchmark is subject to local circumstances.<sup>6</sup>

3. The need to focus on both efficiency and effectiveness in making decisions is not currently reflected in UKvisas' performance measurement framework. The performance of posts is measured primarily against the current public service agreement targets, three out of four of which focus on the speed of processing applications (**Figure 1**).<sup>7</sup> Staff at visa issuing posts believed that meeting these processing targets took precedence over the application of effective controls. During peak periods, they did not have adequate time to consider thoroughly applications which raised doubts or put together a robust case for their conclusions, though they remained confident that they were making the correct decisions in the majority of cases. UKvisas needs to monitor the effectiveness of controls and the quality of decision-making in its performance measurement framework. There is no single measure of accuracy, though there are some indicators which may provide partial information on the effectiveness of control and quality of decision-making, such as refusal rates and appeal outcomes.

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2 C&AG's Report, paras 9 (executive summary), 1.9

3 Q 2

4 Q 4

5 C&AG's Report, paras 15 (executive summary), 2.8–2.9

6 *ibid*, paras 15 (executive summary), 2.8; Q 3

7 C&AG's Report, paras 15 (executive summary), 2.10

Figure 1: The Public Service Agreement Targets

Turnaround time
<ul style="list-style-type: none"> <li>• 90% of non-settlement applications not requiring interview to be decided within 24 hours</li> <li>• 90% of interviews for non-settlement applications to take place within 10 working days</li> <li>• Posts to interview applications for settlement within target times in 90 of the 100 largest visa-issuing posts (target of 12 weeks for all but 4 posts)</li> </ul>
Effectiveness
<ul style="list-style-type: none"> <li>• The number of visa holders whose leave to enter the United Kingdom is cancelled on arrival is not to exceed 0.04% of the number of visas granted</li> </ul>

Source: UKvisas

4. The use of risk assessment to identify the high risk applications which require more attention can allow straightforward applications to be handled quickly while leaving more time for staff to carry out additional checks on more questionable applications.<sup>8</sup> UKvisas has set up risk assessment units run by dedicated full time officers in key posts and, in other posts, entry clearance officers spend part of their time on risk assessment and intelligence work. But more could be done to collect and disseminate intelligence information to inform risk assessments, including local intelligence regarding known criminals as well as intelligence collected in the United Kingdom.<sup>9</sup>

5. Decision-making involves an assessment of an applicant's future intentions, and is based on the balance of probabilities that the applicant will comply with the terms of the visa. In 2002–03, UKvisas made nearly two million decisions on visa applicants' eligibility for entry into the United Kingdom, within a context of increasing demand and more emphasis on strengthening immigration control at visa sections overseas.<sup>10</sup> UKvisas believed that staff were well trained, but were operating under pressure, and some mistakes would inevitably be made, given the number of applications.<sup>11</sup>

8 Qq 3–4

9 C&AG's Report, paras 12 (executive summary), 2.11; Qq 144–146, 168

10 C&AG's Report, para 2.2

11 Q 44

## Compliance with visa terms

6. Intelligence information and feedback on the actions of visa holders after entry to the United Kingdom is valuable to entry clearance staff. It provides relevant details on individual cases and helps officers to identify trends in applications. It also provides useful information on the quality of decision-making and on the attention given to both efficiency and effectiveness. The strengthening of immigration controls makes intelligence information and feedback more important in developing sound risk assessment techniques to target those applications which carry higher risks of the applicant contravening immigration controls.

7. There is, however, only very limited information available on the actions of individuals after they enter the United Kingdom. Establishing the true extent of illegal immigration is challenging as such people attempt to remain hidden and fall outside official statistics. The Home Office has been trying to address problems of illegal immigration by increasing the enforcement effort, working closely with police and carrying out checks with employers.<sup>12</sup> Checks on people leaving the country were reduced from 1994 and abolished completely in 1997, so there is now no reliable and systematic method of collecting comprehensive information on whether visa holders are leaving the country in accordance with the terms of the visa.<sup>13</sup> In addition, in October 2000, the ability of immigration officials at ports to challenge the entry of visa holders was restricted. Consequently, fewer checks are now carried out on applicants on arrival which means that UKvisas' entry clearance officers receive less feedback on their decisions.<sup>14</sup> This lack of information on the subsequent actions of visa holders makes it impossible to evaluate whether the objectives of entry clearance are being achieved.

8. In the absence of systematic information on visa abuse, UKvisas has put other measures in place to provide some information, including checks on visa issuing and closer co-operation with the Immigration and Nationality Directorate of the Home Office to assess trends.<sup>15</sup> UKvisas, together with the intelligence section of the Immigration and Nationality Directorate, has also conducted some tracking exercises which seek to establish the subsequent actions of a sample of visa holders after entry to the United Kingdom.<sup>16</sup> The results of these exercises raise some concerns over the number of visa holders who cannot subsequently be traced.

9. In the longer term, the e-Borders programme offers the potential for tighter controls over entry to the United Kingdom and the collection of better information on potential abuse of the visa system. The e-Borders programme is an approach by several government departments to a modernised integrated border control system which aims to provide faster passenger processing and a means of sharing relevant border information across government. The programme includes plans to electronically track every person crossing United Kingdom borders, and to carry out checks on airline passengers prior to travel.

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12 Q 17

13 Q 7

14 Q 6

15 Q 6

16 C&AG's Report, paras 18 (executive summary), 2.12

Improvements to information technology will enable departments to share relevant information across government and to carry out a range of security checks on travellers before they depart from their country of origin. Such improvements should also allow better use of electronic information to trace the actions of visa holders.<sup>17</sup>

## **Student applications illustrate the importance of robust checks and feedback**

10. In 2002–03, 128,000 people were granted leave to enter to study in the United Kingdom.<sup>18</sup> It is Government policy to encourage and facilitate students to come to the United Kingdom.<sup>19</sup> But UKvisas also needs to ensure that it can detect applications from bogus students. Feedback exercises have highlighted possible abuses of student visas; for example, a study carried out in Accra found that 37% of students granted a visa could not subsequently be traced.<sup>20</sup>

11. There are a number of checks undertaken when student applications are submitted. These include checks on the availability of funds and suitable accommodation, and checks that the student has been accepted on a valid course at a genuine institution.<sup>21</sup> The unregulated nature of private sector education creates difficulties for entry clearance officers in checking that each institution is genuine. The Home Office addressed this issue earlier this year by carrying out checks at a number of colleges where there were suspicions were raised that they may not be genuine.<sup>22</sup> 100 of 400 colleges visited were found to be bogus, and a number of the colleges still require further investigation, raising serious concerns about the number of previously undetected bogus student applications.<sup>23</sup>

12. The Home Office is addressing the problem of bogus colleges by compiling a register of genuine colleges and institutions for use in the United Kingdom and overseas. When the list is completed, entry clearance officers will only accept applications from those applying to study at colleges on the list.<sup>24</sup> The Home Office expects that a full list will be completed by the end of 2004.<sup>25</sup> There may be scope for local authorities to play a role in compiling and monitoring this list.<sup>26</sup>

13. Ensuring that academic institutions are genuine only addresses part of the problem. Checks on whether students actually attend the colleges after entry to the United Kingdom are also important. UKvisas works with the Home Office to examine evidence and investigate trends, but the feedback on the actions of student visa holders after entry is limited as the Home Office does not have the capacity to check each individual case.<sup>27</sup> The

17 C&AG's Report, para 22 (executive summary); Qq 7, 17

18 C&AG's Report, Figure 2

19 Q 20

20 C&AG's Report, paras 18 (executive summary), 2.12

21 Q 69

22 Q 74

23 Q 79

24 Qq 7, 75

25 Qq 77–79

26 Qq 76, 79

27 Qq 72–74

Home Office is now consulting with the education sector and others about placing an obligation on institutions to report students who do not regularly attend their stated courses.<sup>28</sup> Such a requirement would provide important information for entry clearance officers when assessing applications.

14. Academic institutions have raised concerns regarding the quality of service provided to students at entry clearance posts overseas. These concerns centre on the information which students require in making their application, queues at posts resulting in delays for applicants, and mistakes with the endorsements or length of validity of the visa.<sup>29</sup> The latter are significant as they lead to students being required to pay a minimum fee of £155 to obtain a visa extension after arrival in the United Kingdom. UKvisas accepts that there has been inconsistency in the documentation required to support student applications, and that mistakes have been made in the length of validity of visas.<sup>30</sup> But there are a number of complexities encountered by entry clearance staff processing student applications, including, for example, a lack of clarity about the exact dates of courses. In addition, visas with shorter validity are deliberately issued in cases when attendance at the second part of a course is contingent on passing the first part. UKvisas and the Home Office have now made arrangements to rectify any errors free of charge.<sup>31</sup>

### Increasing demand for visas

15. Overall demand for visas has increased by 33% over the past five years, although some individual posts have experienced much higher levels of increase (**Figure 2**).<sup>32</sup> UKvisas has coped with increasing demand by increasing its resources, improving its information technology and by seeking to streamline its application process.<sup>33</sup> These measures are achieving improvements in both efficiency and the quality of service provided at many posts overseas. But there is still significant variation between posts in the adoption of streamlining initiatives, and UKvisas could take a more proactive role in encouraging the wider adoption of good practices at individual posts.<sup>34</sup> There is still scope for further improvements in efficiency to cope with the increasing demand, which could be achieved by improved staff training, better working processes and making more effective use of information technology.<sup>35</sup>

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28 Q 75

29 Ev 18–21; C&AG's Report, paras 3.5, 3.10

30 Q 20

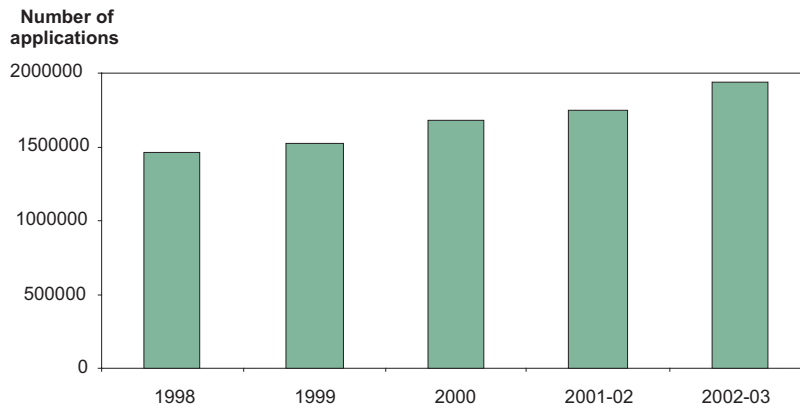
31 Q 20

32 C&AG's Report, paras 5 (executive summary), 1.2

33 *ibid*, Figure 10 and para 3.6

34 *ibid*, paras 1.11–1.15

35 Q 5

**Figure 2: The rising number of visa applications**

Note: In 2001 UKvisas' management information changed from a calendar year to a financial year basis.

Source: UKvisas

16. There are a number of constraints which impact on the efficiency of service provided by UKvisas and can place a limit the number of applications which can be processed. These constraints include the number and quality of staff available to cope with seasonal fluctuation in demand, visa section accommodation and the impact of security issues.<sup>36</sup> Over one third of posts surveyed by the National Audit Office reported difficulties in obtaining the required seasonal relief staff, and almost half of posts considered that their accommodation was unsuitable for their needs.<sup>37</sup> Accommodation is particularly problematic in posts such as Lagos, which have experienced rapid increases in demand and require larger accommodation. But visa section accommodation requirements must compete with wider FCO estate priorities and against a limited capital budget for improvements. Security constraints can also restrict the ways in which visa applications are handled in posts such as Islamabad and Istanbul.<sup>38</sup>

17. An exercise carried out by UKvisas in October 2003 revealed that already as many as 35 posts could not consistently cope with daily demand for visas, and demand is expected to increase in future years.<sup>39</sup> UKvisas has already responded to changes in immigration policy which have impacted on the operational requirements for visa sections overseas, but increasing emphasis on strengthening immigration controls and the collection of biometric data could lead to additional significant increases in pressure in the future. UKvisas is seeking to exploit a number of options to cope with increasing numbers of applicants in the short term, such as the streamlining initiatives referred to in paragraph 15. But more work is needed to think imaginatively about meeting demand in the longer term. UKvisas believes that proposals such as the e-Borders programme offer a real chance to simplify and change the visa issuing process.<sup>40</sup> In the meantime other actions might include assessing potential future demand and identifying the drivers of demand, to allow UKvisas to fully consider the implications for future service delivery.

36 Q 23

37 C&AG's Report, paras 1.18–1.19

38 Q 23

39 C&AG's Report, paras 22 (executive summary), 3.7, 3.18

40 Q 5

## 2 The operation of the European Community Association Agreements in Bulgaria and Romania

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18. The European Community Association Agreements (ECAA) provide for nationals of countries which are shortly to negotiate entry to the European Union to establish themselves in business in European Economic Area<sup>41</sup> countries such as the United Kingdom. Applicants from Bulgaria and Romania must also obtain visas to enter the country. In processing applications from these two countries, entry clearance staff referred applications to the Home Office, who then decided whether applicants qualified under the Agreements. The decision was communicated back to the entry clearance officer who issued the required visa.

19. There was a difference of opinion between the Home Office and entry clearance staff at posts regarding the correct standards and criteria to apply when assessing applications. This difference was based around the interpretation of European law under the Agreements. Home Office staff believed that they were not able to make it any more onerous for Bulgarian or Romanian nationals to set up a business in the United Kingdom than for British nationals.<sup>42</sup> Since there are few requirements for establishing a business in the United Kingdom, they believed the entry criteria to be low. Entry clearance staff, on the other hand, were more conscious of the entry clearance standards applying to other types of applications and how these were reflected in the Immigration Rules.

### The number entering under the Agreements

20. The Home Office reported that just over 7,000 people, of which 6,800 were from Bulgaria or Romania, had entered the country under the scheme in the past two years.<sup>43</sup> Entry clearance staff believed they would have issued visas to fewer than 10% of applicants that did actually receive them, had their understanding of the immigration rules been applied.<sup>44</sup> Examples of applications approved against the advice of entry clearance staff included applicants who had no knowledge of their business plan, no skills in their chosen field, poor English language ability or who had previously entered the United Kingdom illegally.<sup>45</sup> An additional 17,800, including 7,400 Bulgarians and Romanians, also made applications to the Home Office to switch to the scheme after entry into the United Kingdom.

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41 The European Economic Area comprises the following countries: Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Republic of Ireland, Slovakia, Slovenia, Spain, Sweden and United Kingdom.

42 C&AG's Report, Appendix 7; Q 10

43 Q 61

44 C&AG's Report, para 2.37; Q 9

45 C&AG's Report, Appendix 7; Qq 11, 95

21. An internal investigation by the Home Office, published in June 2004, found that the Home Office had applied an unduly restricted view of the scope for refusing applications.<sup>46</sup> Legal advice taken as part of the internal inquiry concluded that a higher standard could have been applied to these applications, but the Home Office was too willing to accept that applications could not be refused.<sup>47</sup>

22. Many of those admitted to the United Kingdom probably did not qualify for entry under the correct interpretation of the Agreements. The internal inquiry estimated that only 150 applicants had already been given permanent leave to remain in the United Kingdom.<sup>48</sup> The remainder will need to apply for further leave to remain or may choose to leave the country when their current visa expires, which will allow the Home Office the opportunity to give careful consideration to these cases.<sup>49</sup> But the system of being given time-limited visas with a need to apply for extensions is ineffective without adequate controls to ensure that people who do not apply have actually left the country. There is no incentive for people who have not established a valid business to make themselves known to authorities, and there is a risk that such individuals will remain illegally in the United Kingdom. The only certain way to ensure that applicants were legitimate would be to trace each individual.

23. The Home Office internal inquiry did investigate the subsequent actions of a sample of ECAA applicants, to provide some evidence on whether those entering under the Agreements were complying with the terms of the visa.<sup>50</sup> Although too small to draw definitive conclusions, the sample found that entrants under the Agreements were more likely to be in paid employment than to have had recourse to public funds and benefits.<sup>51</sup> Such follow-up work is not routinely carried out to determine the actions of entrants under the Agreements once in the United Kingdom. The internal inquiry team recommended that enforcement resources be devoted to tracking a sample of ECAA applicants, on a risk basis, to establish whether applicants were complying with the immigration rules for the scheme.<sup>52</sup> The Home Office is implementing this recommendation.<sup>53</sup>

## Communication regarding the scheme

24. Although there was regular communication regarding the scheme, with entry clearance staff raising their concerns with the Home Office, UKvisas and visiting officials, this lack of shared understanding on the standard to be applied was not satisfactorily resolved.<sup>54</sup> Correspondence and communication on the issue included numerous letters and e-mails as well as two visits from Home Office and UKvisas central policy section staff to Bulgaria. But the departments involved did not act in a joined up manner to grasp the fundamental

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46 Qq 9–10

47 Q 10

48 *Inquiry into handling of ECAA applications from Bulgaria and Romania by Mr Ken Sutton*, para 1.15

49 Q 165

50 *Inquiry into handling of ECAA applications from Bulgaria and Romania by Mr Ken Sutton*, para 1.27

51 Q167; Ev 22

52 *Inquiry into handling of ECAA applications from Bulgaria and Romania by Mr Ken Sutton*, para 3.74

53 Ev 22

54 Q 12

problems with the scheme. FCO officials who had responsibility for implementing the scheme accepted the interpretation of the policy adopted by the Home Office and instructed UKvisas to act accordingly.<sup>55</sup> UKvisas, as a joint Home Office and FCO body, needed to be closely engaged with discussions on the issue.<sup>56</sup> But it did not actively seek to resolve the dispute, as the responsibility lay with the FCO official who had initially raised the issue directly with Home Office.<sup>57</sup> None of the staff involved sought any additional legal advice to clarify the position, which meant that the fundamental disagreement in interpretation remained.<sup>58</sup> Thus the Home Office's understanding of the legal position was not seriously challenged by the FCO or UKvisas at a sufficiently senior level, despite the continuing concerns of entry clearance staff and strong case evidence of the doubtful status of applicants entering the United Kingdom under the scheme.<sup>59</sup>

25. Problems with the operation of the Agreements were not recognised and raised at a sufficiently high level. The Foreign and Commonwealth Office Accounting Officer only became aware of the problems in March 2004, despite the issues being raised with senior staff in UKvisas as early as 2002.<sup>60</sup> The Accounting Officer regretted not having been informed of the problems when it was evident that two different interpretations of the legal position existed, as he would have become involved in resolving the difference between departments at this point.<sup>61</sup> The FCO, UKvisas and the Home Office have now taken steps to achieve a more joined-up approach to communications. Improvements include setting up joint committees at ministerial and senior official level to encourage more face-to-face communication on key issues.<sup>62</sup>

## Monitoring of the scheme

26. ECAA applications in Bulgaria and Romania increased significantly in the past three years (**Figure 3**), placing pressure on posts to cope with the increases in demand.<sup>63</sup> Officials in London were not aware of the scale of increases in the number of applications received at posts although UKvisas and the Home Office both accepted that these should have been noticed.<sup>64</sup> Applications under the ECAA arrangements form only a very small percentage of the total number of 1.94 million visa applications in 2002–03.<sup>65</sup> But such significant increases, had they been recognised, could have acted as a warning of potential misuse of the scheme, particularly in conjunction with the concerns raised by entry clearance staff. Both UKvisas and the Home Office are taking action to improve their monitoring and

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55 Qq 60, 123

56 Q 119

57 Q 148

58 Qq 56, 60

59 Qq 53–54, 58, 122–123

60 Qq 13–15, 97–102, 113–117

61 Q 54

62 Qq 25–26, 60

63 C&AG's Report, Appendix 7

64 Qq 124–137

65 Q 137

information technology systems, which should result in the ability to perform more co-ordinated and proactive monitoring of visa applications.<sup>66</sup>

**Figure 3: Increasing numbers of ECAA applications**

<b>Financial year</b>	<b>Applications received at Sofia</b>	<b>Applications received at Bucharest</b>
2001–02	23	40
2002–03	409	107
2003–04	6,659	1,375

*Source: Home Office and UKvisas' internal statistics (not subject to management validation)*

### The case of the “whistleblower”

27. The difference in view between UKvisas and Home Office staff was first brought to public attention when the Consul in Romania disclosed papers to David Davis MP. Mr Cameron is now facing disciplinary procedures as a result of the allegations he made regarding the operation of the Agreements in Bulgaria and Romania.<sup>67</sup> Similarly, Mr Moxon at the Immigration and Nationality Directorate is also facing disciplinary action after he made separate allegations regarding the scheme.<sup>68</sup> The National Audit Office Report and findings of the internal Home Office inquiry both indicate that Mr Cameron’s allegations were largely correct.<sup>69</sup> Mr Cameron was instrumental in bringing important systems failures to light.<sup>70</sup> He had for some time tried to draw attention to his concerns with the scheme within UKvisas, the FCO and the Home Office, before taking a route of disclosure which constituted a breach in procedures.<sup>71</sup> There was an apparent lack of clarity regarding the appropriate routes for reporting such matters, both to senior officials internally, and externally, particularly with more than one government department involved. On the other hand, no disciplinary action has yet been taken against those who failed to act when staff at entry clearance posts expressed their concerns, despite the significant effects of the failure to resolve the problems.

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66 Qq 126, 130–132, 142

67 Qq 156–157

68 Qq 158–159

69 C&AG’s Report Appendix 7; Qq 153–155

70 Q 16

71 Q 16

# Formal minutes

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**Monday 7 February 2005**

Members present:

Mr Edward Leigh, in the Chair

Mr Richard Allan	Jim Sheridan
Mr Richard Bacon	Mr Siôn Simon
Mrs Angela Browning	Mr Gerry Steinberg
Mr Ian Davidson	Mr Alan Williams
Mr Brian Jenkins	

The Committee deliberated.

Draft Report (Foreign and Commonwealth Office: Visa entry to the United Kingdom: the entry clearance operation), proposed by the Chairman, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 27 read and agreed to.

Conclusions and recommendations read and agreed to.

Summary read and agreed to.

*Resolved*, That the Report be the Seventh Report of the Committee to the House.

*Ordered*, That the Chairman do make the Report to the House.

*Ordered*, That the provisions of Standing Order No. 134 (Select Committees (Reports)) be applied to the Report.

[Adjourned until Wednesday 9 February at 3.30pm]

## Witnesses

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**Monday 21 June 2004**

*Page*

**Sir Michael Jay KCMG**, Foreign and Commonwealth Office, **Mr Robin Barnett OBE**, UKvisas, and **Mr Bill Jeffrey**, Home Office

Ev 1

## List of written evidence

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Universities UK

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## List of Reports from the Committee of Public Accounts Session 2004–05

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Seventh Report	Foreign and Commonwealth Office: Visa entry to the United Kingdom: the entry clearance operation	HC 312

The reference number of the Treasury Minute to each Report will be printed in brackets after the HC printing number



# Oral evidence

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## Taken before the Committee of Public Accounts

on Monday 21 June 2004

Members present:

Mr Edward Leigh, Chairman

Mr Richard Bacon  
Mrs Angela Browning  
Jon Cruddas  
Mr Brian Jenkins

Jim Sheridan  
Mr Gerry Steinberg  
Mr Alan Williams

**Sir John Bourn KCB**, Comptroller and Auditor General, National Audit Office, further examined.

**Mr Rob Molan**, Second Treasury Officer of Accounts, HM Treasury, further examined.

### REPORT BY THE COMPTROLLER AND AUDITOR GENERAL:

#### Visa Entry to the UK: The Entry Clearance Operation (HC 367)

*Witnesses:* **Sir Michael Jay KCMG**, Permanent Under-Secretary of State, Foreign and Commonwealth Office, and Accounting Officer of UKvisas; **Mr Robin Barnett OBE**, Director, UKvisas; and **Mr Bill Jeffrey**, Director General, Immigration and Nationality Directorate, Home Office, examined.

**Q1 Chairman:** Good afternoon and welcome to the Committee of Public Accounts, where today we are looking at the subject of visa entry to the United Kingdom. We are delighted to be joined by Sir Michael Jay, who, of course, is the Permanent Under-Secretary of State and Accounting Officer for the Foreign and Commonwealth Office. I think it is your first visit to the Committee of Public Accounts.

**Sir Michael Jay:** It is, Chairman.

**Q2 Chairman:** I hope it will be very enjoyable for you. We welcome Mr Robin Barnett, who is Director of UKvisas, and Mr Bill Jeffrey, who is Director General of the Immigration and Nationality Directorate of the Home Office. I do not know whether it is your first visit or not, but thank you for coming this afternoon. Sir Michael, could I please ask you a general question to start with? The reference for this is contained in the Comptroller General & Auditor's Report paragraph 1.6-1.10, pages 13-15. Without having to plough through all those paragraphs, I can put it to you very simply: I accept that your new system is more efficient; that comes out quite clearly from the Report, but does it mean that you are not giving enough time to scrutinise applications?

**Sir Michael Jay:** I do not think it does, Chairman. I think at the heart of the visa operation is finding the right balance between service delivery and control. Neither is more important than the other. They are both essential, and there is no alternative to doing both. That is the short answer to the question. Strong control is essential on immigration and on counter-terrorism grounds, and I think UKvisas are putting some important new measures in place to achieve that. Maintaining a good service to visa applicants is crucial as well, not least because if the service declines, the pressure on staff rises; they

spend more time dealing with complaints, they become stressed, and the decisions tend to get worse rather than better. It is in that context that the sorts of measures which are being introduced, such as outsourcing, streamlining, getting rid of queues, help ensure a good service to our customers and a better balanced visa operation all round.

**Q3 Chairman:** That sounds fine as far as it goes. What I am going to be putting to you over the next few minutes is that all the pressure on your officers out in the field is to achieve this efficiency and streamlining, avoiding queues and the rest of it. Let us look, for example, at paragraph 2.8 on page 22: "UKvisas has established a benchmark that entry clearance officers should process 8,000 applications per year." That is 40 applications a day, Sir Michael, which equates to one every 11 minutes. Do you really think that, on average, you can properly consider an application for a visa in just 11 minutes?

**Sir Michael Jay:** I think it entirely depends on how straightforward the visa application is, Chairman. The 40 cases that you mention is a productivity guideline, which refers to 40 straightforward applications per ECO per day, and I think that is a reasonable guideline, but of course, that is always subject to local circumstances. I have to say that in the 60 or so visa sections that I have visited over the last couple of years or so, I have often sat beside ECOs and seen them process straightforward visa applications sometimes in a matter of seconds. I have also seen them have real difficulties over the complicated cases. What we need to try to do is to sort out the procedure so the straightforward ones can be handled straightforwardly, and leave time for the more complicated ones, including those that should not be granted, to be handled properly.

**Q4 Chairman:** That is obviously true, but what information can you give us as to the procedures you have to actually sort out these more difficult applications from the easier ones? What sort of evaluation is going on?

**Sir Michael Jay:** Could I ask Mr Barnett to answer that one, Chairman?

**Mr Barnett:** Chairman, we begin the visa application process by getting locally engaged staff to do basic checks. So even in the most straightforward of cases, initial information and checks will have been carried out and the ECOs will be able to check the information that is before them. Secondly, we are doing a great deal in the area of well managed risk assessment. In high-risk posts we have begun to introduce new risk assessment units with full-time UK-based officers in charge of them. In many posts we have already been operating a risk assessment system based around ECOs spending some of their time leading a risk assessment effort, therefore what we are doing when we select straightforward from non-straightforward applications is operating on a risk assessment and intelligence-led basis.

**Q5 Chairman:** Mr Barnett, I wanted to ask you to look at page 11, paragraph 1.2, where you will see the overall demand: "UKvisas received 1.94 million visa applications in 2002–03, which represents an increase of 33% over five years." I just wonder whether this increase in demand—which is not your fault in any shape or form; we all accept that your staff are under tremendous pressure and do a very good job, and we congratulate them on a very difficult job they do—is overwhelming your resources?

**Sir Michael Jay:** Could I take that? I do think the question of demand in the longer term is one of the key issues, clearly, for UKvisas, and they are doing quite a lot of thinking about the longer term. There is a lot more that needs to be done. I do not think that there is a risk of the service being completely overwhelmed, but I do think it is important to look ahead quite imaginatively at different ways of doing this. There are proposals such as the e-Borders programme, which is referred to in the Report, which does offer a real chance to change quite radically the shape of visa issuing in the future and cope with a rising upward trend. Meanwhile, there are ways of increasing productivity, better processes, better training of our entry clearance staff, making better and more effective use of IT, alternative methods of helping hard-pressed posts trying to look at applications being handled by hubs overseas, not always in individual countries, in which we can hope to meet at least some of the increased demand. But I do think that these are issues which we and Ministers are going to have to look at hard.

**Q6 Chairman:** What is absolutely essential is that you have adequate evaluation and feedback of what is going on. Can you please turn to page 28 and look at paragraph 2.33? You will see there that there is virtually no evaluation of these people who are given visas once they get into this country. "The Home Office does not collect this information." How can

your entry clearance officers be confident that they are making the right decisions when apparently there is no feedback which is sent back to them?

**Mr Barnett:** It is true that since October 2000, when visas became leave to enter, there are fewer checks carried out on arrival, but what we have sought to do is to put in place a series of alternative measures. As the Report points out, we carry out follow-up exercises, we carry out checks on visa issuing, and we work very closely with IND to monitor what is happening to assess trends. The solution to monitoring and control is not solely a specific control target.

**Q7 Chairman:** Rather than deal with trends, why not just check when people leave the country? That is how most people understand what a visa is about. Your passport is stamped when you come in and it is stamped when you go out, and then you have a rough idea of what is happening. Can I please put one example to you, Sir Michael, a case example in Accra? If you look at page 23, paragraph 2.12, you will see one example there. "For example, a tracking exercise carried out in Accra found that 37% of a sample of students who had been issued with a visa could not subsequently be traced." I put it to you that that is quite possibly, although only a single tracking exercise, something which may go on in other areas with other groups of students but, as we simply do not know what is happening to these people—most of them seem to vanish once they get into this country—there is no proper evaluation and we do not know what is going on, do we?

**Sir Michael Jay:** As far as students are concerned, it will be easier to track students when we have a proper registration scheme, which is due to be in place shortly.

**Mr Jeffrey:** It is certainly the case, Chairman, that we no longer check people's departure from the country, as was done a number of years ago. There was an embarkation check system, which was overwhelmed by numbers and was essentially paper-based and did not enable us in the early Nineties to make these sorts of connections and establish whether people had left the country or not. These checks were withdrawn gradually, initially in 1994 at ferry ports and small airports, and then completely in 1997. I think, short of the kind of electronic system that the e-Borders programme will bring us, there is no point in doing this partially.

**Q8 Chairman:** It is better to do something partially than not at all, I would have thought.

**Mr Jeffrey:** It is certainly the case that, as we work up to the e-Borders programme, we will be looking at whether there are some routes that we can pilot the approach on, but the intention is certainly in the next few years—

**Q9 Chairman:** Mr Jeffrey, now that you have taken the floor, perhaps we can deal with the scam that was going on in Romania and Bulgaria. If you look at page 29, paragraph 2.37, you will see it deals with that. 26,500 applicants were granted entry to the United Kingdom. Entry clearance officers out in the

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 Foreign and Commonwealth Office, UKvisas, and the Home Office
 

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field in Romania and Bulgaria estimated that they would have approved only 10% of these. So it is not surprising that morale is poor in Mr Barnett's operation if you are overturning nine out of 10 of his decisions.

**Mr Jeffrey:** You will be aware, Chairman, that Mr Ken Sutton has done an investigation of that sequence of events.<sup>1</sup> What essentially happened was that over a period we operated on an unduly restricted view of the scope for refusing applications of that sort. It is worth remembering that the agreements are unusual in that they confer entitlements on people from accession countries to be allowed to establish themselves here on the same basis as a British citizen.

**Q10 Chairman:** I thought you might say that because that, of course, is in the Report, that you, the Home Office, considered that they could not treat Bulgarian or Romanian nationals differently from United Kingdom nationals. I think Mr Sutton said that actually that is not entirely true, is it? You could have done a different process if you had wanted to, could you not?

**Mr Jeffrey:** I was going to come on to say that, and to say very clearly that there were mistakes made over this and it is a serious failure that we do take seriously. What Mr Sutton found was that, on the basis of legal advice that he took in the course of his investigation, it would have been possible to have adopted a more robust approach to deciding these cases than was in fact taken. That is not to say that the nine out of 10 cases that entry clearance officers would have wished to refuse would be refused under the new approach, but it certainly means that we were too ready in the past to accept that these applications were essentially unrefusable because of the nature of the agreement.

**Q11 Chairman:** The reference is in Appendix 7, page 50: "Applications were approved against the advice of entry clearance staff. Some applicants had no appropriate skills in their chosen business. Applicants had no idea of what was in their business plan. Many applicants could speak little or no English. Some applicants were accepted who had previously entered the United Kingdom illegally" etc. These are the people you were letting in against the advice of your entry clearance officers.

**Mr Jeffrey:** I agree, and I very much regret that that was happening. On the other hand, it has to be said that the view of the law which is now being taken, and which we will very quickly translate into guidance so that we can re-start the system in Bulgaria and Romania, is one that still does not say that simply because someone does not speak very good English or someone has not formulated a business plan, they can be refused on that ground alone. We will be guiding our staff in future, as we should have been doing all along—and I entirely accept this—

**Q12 Chairman:** The obvious question is why did it take you so long to address this lack of understanding between the officers working for Mr Barnett's organisation and the officials working for your organisation? This is supposed to be joined-up government, is it not?

**Mr Jeffrey:** It is, and I think it is more joined up in the sense that we work very closely with UKvisas now and have done for some time, but it took longer to address than it should have done. I readily accept that.

**Q13 Chairman:** Sir Michael, lastly, when were you aware of Mr Cameron's concerns? Were you aware of them before he made them public?

**Sir Michael Jay:** I was first aware of his concerns, as far as I have been able to ascertain from the papers and as far as my own memory recalls, when I was told on 19 March this year that a member of our embassy in Bucharest—

**Q14 Chairman:** When did it become public? Remind me of the date.

**Mr Jeffrey:** I think Mr Davis published his email on the 29th.

**Q15 Chairman:** So you were aware on the 19th?

**Sir Michael Jay:** The 19th was the day on which we became aware that a member of the embassy in Bucharest had told a member of staff that he had been in touch with Mr Davis and at that stage we became aware that this issue would arise.

**Q16 Chairman:** Do you accept that this NAO Report, together with Mr Sutton's report, confirms in broad terms what Mr Cameron was alleging?

**Sir Michael Jay:** I think what the Report shows is that the embassy in Bucharest and Mr Cameron, and indeed the embassy in Sofia, had been telling the Home Office for some time, drawing their attention to the fact that entry was being granted under the scheme to people who the embassy themselves would have refused. The Home Office's response to that was that they believed in good faith that they had very little if no room for manoeuvre under the terms of the ECAA and therefore they could not respond to the embassy's concerns. That was the basis. What Ken Sutton's report has shown is that the rules would, in fact, admit a more robust interpretation, which would allow normal entry clearance considerations to be taken into account. I do think that Mr Cameron brought the difference between the embassy and the Home Office out into the open. What I would like to do is to reiterate what Bill Jeffrey has said about the extent to which the Foreign Office and the Home Office and UKvisas both before but also since this matter came to light have changed and strengthened our procedures, I believe in some important fashions, and I think it now extremely unlikely that an issue of this kind would continue for so long without it being brought to the attention of senior management and Ministers. It is certainly our intention to ensure that that is the case.

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<sup>1</sup> *Inquiry into handling of ECAA applications from Bulgaria and Romania*, Ken Sutton, 17 June 2004

**Q17 Jim Sheridan:** Can I follow up the issue of lack of traceability when people come into the country on a visa? You may recall the 21 cockle pickers who died on the beaches at Morecambe. Basically, there was some concern that no-one knew who these people were, where they came from and who was responsible for them. Do you have any advice on how this could be put right for the future?

**Sir Michael Jay:** It is a matter for the Home Office.

**Mr Jeffrey:** As I was saying in response to the Chairman's question earlier, I think the best way in which we can deal with this is to have the kind of electronic system that the e-Borders programme would offer for recording movements in and out of the country, and we will then know who has overstayed their legitimate visa. What is much harder to deal with are people—and the cockle pickers may have been among them—who enter the country illegally. There are fewer of these than there used to be, because we are working hard at the channel ports, but our best means of doing that is by deploying enforcement effort, by working very closely with the police, by making visits to places of employment where we think we may find illegal workers, for example, and we are building on that.

**Q18 Jim Sheridan:** You indicated just now that there are fewer illegal immigrants than there used to be. Do you have any evidence to substantiate that?

**Mr Jeffrey:** We certainly believe that there are fewer clandestine, illegal migrants coming across the Channel. There was a time in the latter part of 2002 when very large numbers were coming through the Tunnel, or smuggling themselves across the Channel. We have now effectively exported this, working with French officials on the French side, we have more detection equipment, and as a consequence, it is one of the things that has contributed to the very substantial reduction in asylum claims. There are now fewer people being detected in the Dover area, for example, as having come across the Channel clandestinely. One can never be certain, but we do feel that we are making a difference.

**Q19 Jim Sheridan:** I understand them coming through the Dover entrance, but there are other entry points throughout the whole of the UK.

**Mr Jeffrey:** We are trying to close them down. There are other ports where there is a possibility of displacement, and we are trying to anticipate that displacement by applying staff to routes where it is taking place.

**Q20 Jim Sheridan:** I would like to turn to the evidence given by Universities UK.<sup>2</sup> It seems to indicate that certain students in particular are discriminated against in terms of applying for visas when they are asked for evidence or documents that are not under the Immigration Rules like tenancy agreements, etc. Why are students, so-called, treated differently to anyone else?

**Sir Michael Jay:** There certainly should be no discrimination against students. Indeed, it is an extremely important part of the visa operation that we should encourage and facilitate students to come here, because it is very much in their interests and our interests that they should.

**Mr Barnett:** I think the reality in the student situation is, first of all, that we get it wrong sometimes. It is certainly true that sometimes an ECO will ask for more documents than are strictly necessary. However, it is also true that in the case of students there are particular complexities. One of the things Universities UK was particularly concerned about is that we do not always issue a visa for the full length of the course, but the fact is that, for example, where ECOs are aware that your admission to a full course is contingent on passing an initial exam after, say, six months, ECOs I think reasonably conclude that they should give an initial visa for a period of six months. I think the other important improvement is that we have now put in place arrangements whereby, if there is an error by an ECO, this can be rectified free of charge, which I think was the most important criticism that Universities UK had.

**Q21 Jim Sheridan:** There was some £91 million raised last year from visa applications. Do you have a figure for this year?

**Sir Michael Jay:** I am told it is £100 million plus.

**Q22 Jim Sheridan:** That is despite the vast increase in visa applications? That is an increase of £9 million.

**Mr Barnett:** I have just been told that the figure for 2003–04 has come out at £110.7 million.

**Q23 Jim Sheridan:** The Report mentions the constraints that the outposts or the visa applications centres are experiencing. What are the constraints? Is it accommodation? Can you give us a flavour for exactly what these constraints are?

**Sir Michael Jay:** I can mention some of them. There are constraints in a number of countries where there are great fluctuations in visa applications at different times of the year, which means we have to try to match the resources in the visa sections to those fluctuations. That is never easy to do given the need for us sometimes to get visas ourselves for our visa people to work overseas, for example. There are also constraints on accommodation in some parts of the world. We do not have the capital that is necessary to ensure that we can house in the circumstances we would like all visa operations. That can sometimes also lead to queues forming. We cannot always get entry clearance officers with the right kind of background or the right kind of training when we need them. There are a number of management constraints which sometimes affect us.

**Mr Barnett:** Another important issue is that of security. In places like Pakistan, more recently in north Africa, we have found ourselves in a position where we have had very short notice to either close posts or restrict the ways in which we handle applications, which inevitably makes life very difficult. A very specific example is Istanbul, where

<sup>2</sup> Ev 18–21

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 Foreign and Commonwealth Office, UKvisas, and the Home Office
 

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the visa team is doing a fantastic job issuing 75% of the visas it did before in a small number of rooms in the Hilton Hotel. We do our best to overcome constraints but they can be very real.

**Q24 Jim Sheridan:** In terms of the relationship between the staff of the entry clearance officers and the Home Office or the FCO, is there some tension there between one making a decision and one having a different view?

**Sir Michael Jay:** The visa sections themselves are staffed by entry clearance managers and entry clearance officers who may be from the Home Office or may be from the Foreign Office, and a number of them will also be recruited locally. Normally, a visa section will include, let us say, a Foreign Office entry clearance manager, some Foreign Office and some Home Office entry clearance officers, and local staff who will be supporting them. Certainly, in my experience, there is very little tension on the spot between the two. There are sometimes slight differences in terms of service, which can cause people to wonder why they are not getting a bit of an allowance here or there, but on the whole, I have been impressed by the good morale and the unity of our operations overseas.

**Q25 Jim Sheridan:** In terms of the Chairman's point about joined-up government, and it is only from experience of taking through this Gangmasters Bill, there is a distinct lack of joined-up government, ie departments do not talk to each other.

**Sir Michael Jay:** I am clear, and I know that my fellow Permanent Secretary, John Gieve, is very clear that we need to ensure that the Foreign Office and the Home Office work extremely closely together on these and indeed on other issues in which the Foreign Office and the Home Office have common interests, and there are very many of them. Ministers, I know, are very much of that view as well. What we have done in the last few weeks or so is to strengthen the Government's arrangements between the Home Office and the Foreign Office. There will be a Foreign Office Minister on the IND supervisory board.

**Q26 Jim Sheridan:** With the greatest of respect, it is not the Ministers that I have difficulty with; it is the officials. Are the officials talking to each other?

**Sir Michael Jay:** Yes. There is a ministerial group now which has Foreign Office, Home Office and DCA on it. There are official groups underneath that which also have Foreign Office and Home Office people on them. UKvisas of course, which Robin Barnett heads, is a joint Foreign Office-Home Office unit. His deputy, which is a new post, Mandy Campbell, is from the Home Office intelligence branch, and she is working therefore very much jointly with Home Office, Foreign Office and head of UKvisas. I accept that the ECAA case shows that the co-ordination between the two was not what it should have been. I do believe that at the top, both at ministerial and senior official level, the Home Office and the Foreign Office are determined to work

closely together on these and other issues, and we are putting the procedures in place to ensure that that happens.

**Q27 Mr Steinberg:** Would you look at page 25, figure 15? Mr Jeffrey, is it a coincidence that where the Home Office is involved in processing applications, and where they are involved in issuing work permits, the refusal rate is very low?

**Mr Jeffrey:** It certainly, I would say, reflects the nature of the applications. It may be that these are people who have already been granted a work permit by Work Permits UK in the United Kingdom and there is a refusal there which is quite significant.

**Q28 Mr Steinberg:** Would it be fair to say that your standards are much lower than the Foreign Office in terms of approving an application?

**Mr Jeffrey:** I do not think it would be fair to say that. It depends on the nature of the application. That is the straightforward answer to that. Certainly, in the case of work permits, it is a complicated process because the work permit is issued to the employer by Work Permits UK, which is part of the Home Office. The person then goes to seek entry clearance at the post overseas, and the entry clearance officer considers the case at that point. That may provide part of the explanation for the fact that the refusal rates in this category are lower than for others.

**Q29 Mr Steinberg:** Did Ministers dictate policy in terms of how entry clearance should take place for work permits and visas in eastern Europe?

**Mr Jeffrey:** The whole operation takes place under the policy set by Ministers, clearly, and by Parliament under the Immigration Rules. If what you are asking, Mr Steinberg, is was the detail of how these ECAA cases were being dealt with that were the subject of the Chairman's earlier question directed by Ministers, the answer is no, it was not.

**Q30 Mr Steinberg:** What you are saying is that officials were taking the decisions without Ministers knowing? You must be saying that.

**Mr Jeffrey:** What I am saying is that the policy in the Immigration Rules covering applications for admission under the ECAA, the European Communities Accession Agreement, is ministerial policy. It was Ministers who signed up to the agreements, and it was Ministers who took through Parliament the relevant Immigration Rules. The particular issue that the Chairman was asking me about earlier, which was the way in which practice developed, was not put to Ministers, and it transpires following Mr Sutton's report that we could have been applying a more robust standard in relation to these cases.

**Q31 Mr Steinberg:** I am getting confused. So are you saying that although the policy was laid down by Ministers, they were not supervising that policy and therefore did not know what was going on, and Home Office officials were making the decisions contrary to what the Foreign Office was saying?

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 Foreign and Commonwealth Office, UKvisas, and the Home Office
 

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**Mr Jeffrey:** I am saying that in the particular case that the Chairman was asking me about earlier, which has been the subject of much recent publicity, namely the ECAA applications in Bulgaria and Romania, the specific issue which was the subject of Mr Sutton's recent inquiry, namely how were we dealing with these cases, what was the nature of the disagreement between the clearance officers and our staff in IND, Ministers were not aware of that dispute, nor of the detailed interpretation of the law that our staff were applying.

**Q32 Mr Steinberg:** When it first broke, if I remember correctly—tell me if I am wrong—it was a Home Office official who originally blew the gaff, was it not, a Home Office official in Sheffield, and he was suspended? Is that right?

**Mr Jeffrey:** It is a slightly different issue, but there was certainly a Home Office official in Sheffield who published information about the way in which similar cases were being decided.

**Q33 Mr Steinberg:** Ministers said at that particular time that they knew nothing about it.

**Mr Jeffrey:** The then Minister said correctly that some guidance which had been developed in the earlier part of this year and late last year for dealing with these cases and for clearing a backlog had been developed without her knowledge, and that was the case.

**Q34 Mr Steinberg:** In other words, if that is the case, it was officials who were interpreting the rules and carrying out the policy, as it happens wrongly?

**Mr Jeffrey:** In the case that we were discussing earlier involving ECAA applications, and this is what I am talking about, that is correct and, as I was saying earlier, it is extremely regrettable.

**Q35 Mr Steinberg:** Mr Cameron, the next whistle blower, actually refuted this, did he not? He said, if I remember rightly, that Ministers did know about it, did he not? So Cameron was lying all along the line. If Cameron said that Ministers knew about it, then Cameron was telling lies, if Mr Jeffrey says that Ministers did not know about it. Who do we believe? I do not think it is a very difficult question.

**Sir Michael Jay:** Mr Cameron and indeed the embassy as a whole had for some time been drawing the Home Office's attention to the fact—

**Q36 Mr Steinberg:** A Minister resigned, was forced out—whether rightly or wrongly I have no idea; all I am doing is going by what I have read in the newspapers and heard people say. If that Minister has been forced out on the lies of a so-called whistle blower, that is totally unfair. On the other hand, if Cameron was right, then Ministers did know about it. Who was telling the truth?

**Mr Jeffrey:** I have just checked Mr Cameron's email to Mr David Davis, which Mr Davis released to the public on 29 March.

**Q37 Mr Steinberg:** Why did Cameron not write to you?

**Mr Jeffrey:** As far as I can see, in the email that Mr Cameron sent to Mr Davis he did not allege that Ministers were aware of this.

**Q38 Mr Steinberg:** So where did the rumour come from that Ministers knew about it?

**Mr Jeffrey:** It is certainly the case that, in very general terms, the then Minister had the issue drawn to her attention by Mr Bob Ainsworth when he visited these posts, but I cannot help, Mr Steinberg, to understand beyond that why it has been suggested by others that Ministers—

**Q39 Mr Steinberg:** So when did Ministers actually know what was going on?

**Mr Jeffrey:** In the Home Office, the details of Mr Cameron's allegations first became known to Ministers, and indeed to senior officials as well, at the point when Mr Davis published them on 29 March.

**Q40 Mr Steinberg:** What you are saying is that Ministers did not know before then what was going on?

**Mr Jeffrey:** Ministers were aware in very general terms from the fact that Mr Ainsworth picked up some of these issues when he was in eastern Europe, but the detailed allegations that Mr Cameron made were—

**Q41 Mr Steinberg:** Come on! Now you are saying that Mr Ainsworth picked up these details when he was in eastern Europe. When was he in eastern Europe?

**Sir Michael Jay:** This was in February 2003. He visited Bulgaria and Romania.

**Q42 Mr Steinberg:** You are saying he picked it up then?

**Sir Michael Jay:** The concerns were raised with him then, and on his return he minuted to Beverley Hughes, so at that stage those two Ministers were aware of the issue.

**Q43 Mr Steinberg:** When was that?

**Sir Michael Jay:** That was in February, March and April 2003.

**Q44 Mr Steinberg:** One of the things that worries me about the whole system is how haphazard it is, Sir Michael. I believe that lots and lots of cases are unfair. I do not personally get many cases in Durham, because we do not have a large immigrant community, but the cases that I do get are sometimes very heart-breaking, and sometimes I wonder who is making the decisions wherever it is, in India, for example. I have doctors working at my local hospital—and the hospital would not function if it were not for the fact that they are here—who may have children that their parents have never seen, and their mothers, perhaps in their Seventies, are refused admission to this country to come and see their grandchildren. To me, that is heartless and unfair, and considering that you make mistakes in 50% of

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cases anyway, according to the Report, or 50% of appeals find decisions to be wrong, it makes me wonder how fair the system is in the first place.

**Sir Michael Jay:** I would not accept that the system is haphazard, Mr Steinberg. The NAO Report on the whole is rather complimentary about UKvisas operations, and I personally believe is rightly complimentary about them. It is also, if I may say so, a very helpful Report to us generally. I think the figures show that 90% of straightforward visa applications are processed within 24 hours, which shows that there is an efficient system at work here. But we have to remember two things: firstly, there are now upward of 2 million visa applications a year around the world. The people who are processing these are, I believe, professional, on the whole well trained, but they are operating often under great stress, a lot of pressure, and inevitably, given the number of applications that there are, there are going to be some mistakes. Some of the mistakes will be heart-rending mistakes; we have all been rung up and been approached by people who have had genuine mistakes made in heart-rending circumstances, but the aim of UKvisas is to keep those to an absolute minimum, and the appeal system is there to ensure that when there has been a mistake, it is rectified as soon as possible. What I do not accept is that the system is haphazard, nor indeed, the earlier point made that morale is low. Actually, morale in the visa service as a whole is pretty high. If I can just quote one statistic from the Report, the fact that it showed that 80% of customers are satisfied with the service provided is a very encouraging and morale-boosting statistic for the service.

**Mr Steinberg:** If you look at page 27, figure 19, in 14% of cases that are turned down, the decision is not even in accordance with Immigration Rules, so they are actually making decisions that are illegal. So I do not know how you can say what you have said.

**Chairman:** Take that as a comment.

**Q45 Mrs Browning:** I would like to ask some questions about the ECAA, and my questions are really directed to Sir Michael and Mr Jeffrey. Is it the case in both of your ministries that when Ministers minute each other across departments, there is a circulation list within your ministries of those who would also see that correspondence?

**Sir Michael Jay:** That would normally be the case, yes.

**Q46 Mrs Browning:** Would that include the Permanent Secretary?

**Sir Michael Jay:** It would depend on the circumstances. It often would, but not always.

**Q47 Mrs Browning:** Would it include other Ministers?

**Sir Michael Jay:** It often would but not always. It would depend on the case.

**Q48 Mrs Browning:** Do you know whether that was the case in the case of the minute from Mr Ainsworth to Ms Hughes?

**Sir Michael Jay:** That was an internal Home Office minute.

**Q49 Mrs Browning:** But it would have been circulated as internal minutes are within the Department.

**Mr Jeffrey:** Yes, that is correct.

**Q50 Mrs Browning:** Would it have been circulated to the Permanent Secretary in the Home Office?

**Mr Jeffrey:** I do not know offhand whether it was or not.

**Q51 Mrs Browning:** Would you have thought something of that nature would have been circulated both to officials and other Ministers?

**Mr Jeffrey:** Yes, it was.

**Q52 Mrs Browning:** Normally, what happens within ministries, is it not, is that when Ministers correspond with each other in this way, it is circulated internally and Ministers and other senior officials sign it off with initials on the side, so it is not just between those two people?

**Sir Michael Jay:** The first part of that is right, Mrs Browning. Certainly a minute would normally be circulated to Ministers and senior officials. The second part, I am afraid, is not necessarily right because the sheer volume and weight of paper that is circulated means that we do not have the chance to read all the papers that are copied to us. If, for example, I am travelling, if I am out of the office, my office will decide, rightly, that it needs to cut down the number of papers for me to see on my return, and I will not therefore see every paper that is copied to me. That is just a fact of our lives these days.

**Q53 Mrs Browning:** But we do know from, for example, Mr Ainsworth's visit that this was a matter that was clearly understood between your two Departments that there was a problem and there was a difference of view between your two Departments in terms of the legal interpretation as to how these applications would be handled. Is that correct?

**Sir Michael Jay:** Yes.

**Q54 Mrs Browning:** When we look at the NAO Report on page 29, it says at the end of paragraph 2.37 "Communication was incomplete or ineffective in resolving difficulties." What did your two Departments do to resolve this legal difficulty?

**Sir Michael Jay:** Let me answer that question, if I may, because what happened was clearly not entirely satisfactory. Perhaps I can answer it in a slightly different way. There is a point when I think, in retrospect, that I would like to have been involved in this issue. There was a time, which is detailed certainly in Mr Sutton's report, when John Ramsden, who was the head of the Foreign Office Department concerned, wrote to the Home Office drawing attention to the concerns of the entry clearance officers about the practices as they saw them, and there was a reply which came back which said that the Home Office interpretation of the law was such that they did not feel they had any

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alternative except to process the applications in the way that they had been doing. That in a sense was confirming a difference of view between our two Departments. With hindsight, I would like to have been involved in that myself at that stage, talked to John Gieve, and we would have tried between us to have resolved what was clearly a serious difference between our two Departments. I think it is in order to ensure that this sort of thing does not happen in the future that we have set in place the new arrangements so that when there is a difference of this sort, it is brought to the attention of senior officials and Ministers straight away.

**Q55 Mrs Browning:** Ministers already knew. We know that because we know that in 2003 Mr Ainsworth's visit precipitated correspondence, so Ministers were aware.

**Sir Michael Jay:** In the Home Office, yes.

**Q56 Mrs Browning:** Did nobody in either the Home Office or the Foreign Office seek to take further advice from somebody to arbitrate in this legal difference of opinion? Did anybody in either Department seek the advice of the law officers?

**Mr Jeffrey:** No, they did not, is the answer to that question.

**Q57 Mrs Browning:** Why was that?

**Mr Jeffrey:** I think it was seen in the Home Office at the time as being, as Ken Sutton's report brings out, almost close to self-evident that the view that was being taken was the correct one.

**Q58 Mrs Browning:** I am sorry to interrupt you. They were sure of their views, but you had a dispute with another Department. You were receiving in the Home Office presumably business plans that were pro formas, and on the basis of that, you were quite sure that in the Home Office view you were right and therefore you were overturning nine out of 10 cases that were sent to you by the embassies.

**Mr Jeffrey:** The difficulty is that the dispute was resolved, but it was resolved in favour of what was the Home Office view at the time.

**Q59 Mrs Browning:** Tell me who resolved it.

**Mr Jeffrey:** If I take the example of the correspondence with John Ramsden and IND, Sir John received a reply from an IND official which reflected the conventional wisdom about what the law did or did not allow at that time, and he decided that this was an explanation that he was not particularly happy with, but he did not pursue it. Just to be clear about the second exchange, Mr Ainsworth visited the posts, and saw in quite general terms, not making the sorts of allegations that Mr Cameron made, but in general terms the fact that staff were saying that these cases were being resolved as they were by the Home Office. He received a reply from Beverley Hughes. As to your question about whether that correspondence was copied, yes, it was copied within the Home Office but not within the Foreign Office. It came to my office but, for reasons Sir Michael was hinting at, I have no

recollection of seeing it. The volumes are such that it was not for me to deal with personally, and I very much wish I had identified it as something that was a source of concern, but I did not and the fact is that the response that Mr Ainsworth received from the Minister was one that simply said that our view of the law was as it was, and that our obligations under the international agreement were such that these cases had to be dealt with in the way they were being dealt with.

**Q60 Mrs Browning:** But somebody must have said to the embassies, "Look, we have taken a legal view on this." It was quite clear from the tension building up in the embassies and from the staff processing in the embassies that to be asked to consistently process these pro formas, particularly for the business applications, what must have been quite self-evident when you see business plans that all look the same was that there was something seriously wrong there, and if, as you have told us, there were staff from both the Home Office and the Foreign Office, presumably at some time they had some contact back with their main embassies. I find it very hard to believe that these two big government departments failed to communicate anything other than the fact that they both knew they were locked in a legal difference of interpretation and somehow the status quo was allowed to proceed for so long.

**Sir Michael Jay:** The embassies alerted the Foreign Office to what they thought was an inappropriate practice. The Foreign Office referred that to the Home Office. The Home Office replied that the way in which they were operating the scheme was in accordance with their interpretation of the law. The Foreign Office therefore had sought advice from the Home Office, had got it, accepted it, passed it on to the embassies, and the embassies were therefore instructed to continue to operate within that framework. As we know from Ken Sutton's report, in fact, the law could have been interpreted differently, which would have meant there would have been a different mechanism for operating it. As I said just now, I think that that is regrettable. It would have been better at the moment when that reply came back from the Home Office that the matter then be pushed further up the tree in the Foreign Office and the Home Office, and we had at that point resolved it. I regret that that was not the case. As I said earlier, I do believe that we have put in place procedures since then, both at ministerial and at official level, to ensure that these sorts of misunderstandings will not happen again.

**Q61 Mrs Browning:** How many people do you think all together have come in under what Mr Sutton describes as an exploitation of the scheme? I will accept a ball-park figure.

**Mr Jeffrey:** Over the key two-year period, just over 7,000 people from the accession countries, including 6,800 Bulgarians and Romanians, got entry clearance under the ECAA, and there were another 17,800, including 7,400 Bulgarians and Romanians, who were granted status within this country, switching from some other temporary status into

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ECAA. That does not mean to say that all or by any means all of these were people who were not entitled to what they were asking for.

**Q62 Mrs Browning:** What changes have you made in recent weeks in terms of applications from Turkey?

**Mr Jeffrey:** The position in Turkey is governed by a different accession agreement, under which these applications are to be dealt with consistently with the Immigration Rules as they were at the time. There is in fact an outstanding court case involving the extent to which people who apply under them when they are in this country should have their cases considered under the Immigration Rules as they were at the beginning of 1973. So there is a bit of uncertainty around the position of Turks but it is not the same as Bulgarians and Romanians because it does not create the kind of absolute entitlement that the Bulgarian and Romanian agreements do to be treated on the same basis as a British national would be if they were trying to establish a business.

**Q63 Mrs Browning:** So you could tell a genuine Turkish business plan from one that was a pro forma?

**Mr Jeffrey:** I would hope so, yes.

**Q64 Chairman:** Just to complete Mrs Browning's questioning, Mr Jeffrey, can you do us a note on the circulation list of the memo from Mr Ainsworth to Ms Hughes of officials and Ministers?

**Mr Jeffrey:** Yes.<sup>3</sup>

**Q65 Mr Jenkins:** Just to clarify in my mind, I understand that the Departments were talking to each other, or not talking to each other, with regard to the situation in Bulgaria and eastern Europe, and it required a visit from Mr Bob Ainsworth, a Member of Parliament, to talk to officials on the ground, to come back, to send a memo to another Minister, and that was the first time the Minister had heard that there was a problem on the ground. Yes?

**Sir Michael Jay:** I believe that is the case, yes.

**Q66 Mr Jenkins:** So your system, which should automatically be feeding problems back, and did feed problems back, because you discussed this between yourselves, but no-one thought of telling the Minister that there was a problem.

**Sir Michael Jay:** No. As I was saying in answer to Mrs Browning's question, I do believe that this issue should have been drawn to the attention of senior officials and Ministers earlier than it was. I am determined, as is John Gieve, to ensure that the arrangements are in place to ensure that that does not happen again.

**Q67 Mr Jenkins:** So, with luck, it will not happen again?

**Sir Michael Jay:** With more than luck, Mr Jenkins; I hope with the proper procedures in place and a determination on both our parts to ensure that it does not.

**Q68 Mr Jenkins:** Mr Barnett, when somebody comes here as a student, what is a student?

**Mr Barnett:** A student is somebody who wishes to study at some form of educational institution in the UK. That could be a school, it could be a short-term language course or it could be, for example, a university degree.

**Q69 Mr Jenkins:** If I were to set up the English Cultural Morris Dance Academy and Worldwide Centre for students to come to my academy for morris dancing in the UK, they would be officially classified as students and given visas to come in?

**Mr Barnett:** Absolutely not, unless they could demonstrate that they were high-quality potential morris dancers, and that they could provide evidence that they had the funds to support themselves while in the UK without recourse to public funds. I have to say too that with an institution with the name that you describe, we would also want to carry out at least some checks to establish whether there was actually a global demand for morris dancers. So we would undoubtedly first want to check the bona fides of an institution. As you know, we have now developed that and the plan is to have a student registration scheme.

**Q70 Mr Jenkins:** That is where I am getting to, step by step. I have seen some of the literature and I have seen some of the applications. When they actually make an application to come here and study at the Mickey Mouse Academy, for lack of a better term for them, do they actually have to attend the college once given a visa and granted entry to this country?

**Mr Barnett:** They are issued a visa for the purposes of attending a college, yes.

**Q71 Mr Jenkins:** I did not ask that. Do they have to attend the college?

**Mr Barnett:** Yes.

**Q72 Mr Jenkins:** Do you check, or is any check carried out on their attendance?

**Mr Barnett:** I think that is a matter I would like to pass to someone else, because I am only responsible for the overseas end of the process.

**Q73 Mr Jenkins:** Surely, once again, there must be a lack of feedback. You do not close the loop. What is the point of attending Mickey Mouse College—and you have granted visas to attend Mickey Mouse College—if they do not actually turn up?

**Mr Barnett:** To be very clear, there is a good deal of joined-up activity. UKvisas works very closely with IND, and particularly with the IND intelligence service, to examine information and investigate trends. It is true to say that we do not have the capacity either overseas or at home to follow each individual case.

**Q74 Mr Jenkins:** So you cannot follow each individual case, but if you have got a college—and I could name one or two, and you will be well aware

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of one or two colleges—do you ever go along and check the attendance register to see that they do attend the college?

**Mr Jeffrey:** This is an area that we have got into in the last month or so much more than in the past, and, as the Home Secretary announced a few weeks ago, first of all, there will be a registration scheme, and the Secretary of State for Education announced that the other day, but in the mean time we have been visiting colleges. We have already been to 300 or 400 of the ones that we thought gave most grounds for doubt, and there are a number of them we have already identified as being essentially bogus and applications in relation to them, whether made abroad or in this country, will be refused.

**Q75 Mr Jenkins:** I can save you some time. You can take Oxford and Cambridge off your list. Universities in this country, when they have students, they do attend. But you know and I know and any one of your people in Dhaka or Accra know that there are sham colleges. People come here as students, they never attend and they disappear.

**Mr Jeffrey:** On the sham colleges, we are determined to end it, and to get to the point where, if the college is not on the register, then application will be refused. On attendance, again, as the Home Secretary announced a month or so ago, we are discussing with the education sector and others arrangements under which there would be an obligation on them to inform us about the extent to which people granted leave as students actually attended the course or not.

**Q76** Let us take it the other way round: let us take it like any good local authority would; let us create a list. To get on the list you have to make an application and you have to pay to be on the list, and then you can send an officer down to check it, just like you would do a take-away restaurant or food outlet. Do you have a list of recognised colleges now?

**Mr Jeffrey:** We have a list now of recognised colleges, but we also have a list of colleges that we will definitely refuse if we have seen applications in relation to them. What we are trying to do is to bridge the gap so that everything is under one thing or the other.

**Q77 Mr Jenkins:** If they are not on the “recognised” list, refusal should be automatic. It is the college’s job to get on the list, and then you can send the inspectors in and have them carry out checks on them; and they pay to be on the list. Does that make sense?

**Mr Jeffrey:** Apart from the point about payment, that will be the position we will have reached at the end of the year because the college is not on the register that the Secretary of State for Education announced the other day. Then we will refuse an application made by somebody who purports to be studying there.

**Q78 Mr Jenkins:** The worry is—and there are alarm bells ringing to me—that we are always going to do something; we are going to get there, but I want to know when we are going to get there and why the stable door is not shut. You know, and I know, names of colleges which have given us problems in the past, and they are quite clearly bogus in their arrangements. I was looking at one applicant, who says that in order to come to London, to do a PhD at this college, the college had indicated he would need £2,700, that is for the college course and to keep him in the four years he would be studying in London. Quite simply, it is just not possible; and yet that college is continuing trading and selling its name, and undermining the good establishments in this country; so when will it be shut down?

**Mr Jeffrey:** We are absolutely determined, and our ministers are, to get on top of this. We feel that a lot of our effort in the last year or so has been about getting much more on top of the asylum problem than we had been, and we have succeeded in that in large measure. We are now devoting a lot more effort to identifying colleges, doubtful marriages and that sort of thing. It is important not least because many of the prospective students are exploited by these sorts of organisations.

**Q79 Mr Jenkins:** Yes, and we can chew and walk at the same time! There is no reason why, if we are doing one function, we cannot devote some energies to another one; and it is quite simple to set up. Believe me, I think it is very simple to set up, and you can use the local authorities to go down that route of setting up, because for any college established in the local authority area, you could ask them to tackle it. They do things like food outlets and health and safety, and they could have gone in there and ratified whether that college was a genuine college. They could have had the names of the students, and they could have sent them back to you on the attendance records. When are we going to get to that stage? It is now 2004; can you give me a date as to when that will be in place, and be fairly watertight?

**Mr Jeffrey:** The key date is the end of this year, when the register will be completed. It will take some time to complete. But to give an indication of the progress that we are making, in the last month or so our staff have visited just over 400 colleges that in our minds raised some doubt. We have already established that over a hundred of them are definitely not genuine, and we will do something about that. There are others that require a bit more careful investigation, so we are getting on with this. It is an area, as you say, Mr Jenkins, where we feel that there may well have been exploitation of the system in the past.

**Mr Jenkins:** It is undermining that brand name we have got with regard to British education, and it is time we should take it very seriously.

**Q80 Mr Bacon:** Mr Jeffrey, are you a member of the Asylum Intake Reduction and Secure Borders Subprograms Board?

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*Mr Jeffrey:* No, I am not.

**Q81 Mr Bacon:** Is Mr Ken Sutton?

*Mr Jeffrey:* The position of Mr Sutton—

**Q82 Mr Bacon:** Is he a member of the Asylum Intake Reduction and Secure Borders Subprograms Board?

*Mr Jeffrey:* The reason I gave an equivocal answer in that—or began to give one—

**Q83 Mr Bacon:** Well, you are a witness for the PAC; we are used to equivocal answers!

*Mr Jeffrey:* The reason I answered as I did was that when we first established the Subprograms Board structure, it was originally intended that Mr Sutton should, as a senior director, additional to the senior director who chairs it—

**Q84 Mr Bacon:** That is the Senior Director of Operations.

*Mr Jeffrey:* That is right. As it happens, he has not become a member and he has not attended any of these meetings.

**Q85 Mr Bacon:** Is the Senior Director of Operations still Brady Clark?

*Mr Jeffrey:* That is correct.

**Q86 Mr Bacon:** He chairs the sub-group.

*Mr Jeffrey:* He does.

**Q87 Mr Bacon:** Who are the other people on the sub-group?

*Mr Jeffrey:* I do not have a full list immediately accessible to me.

**Q88 Mr Bacon:** How many of them are there?

*Mr Jeffrey:* I would think seven or eight people.

**Q89 Mr Bacon:** You do not know who they are?

*Mr Jeffrey:* The sensible thing is probably for me to give you a full list.<sup>4</sup>

**Q90 Mr Bacon:** Thank you; that would be very kind. Sir Michael, you started by saying that a balance had to be struck between what you called strong control and good service to applicants. You had to do both, you said, and one is not more important than the other. I find that an extraordinary statement in a way. People want to come here, that is clear; and the numbers of people who want to come here are increasing. Why should we compromise the quality of our controls because people want to come here, which is essentially what you said; there is a balance to be struck? Why?

*Sir Michael Jay:* I do not think it is compromising the quality of our controls. We have two objectives. One is—

**Q91 Mr Bacon:** You said there was a balance, did you not?

*Sir Michael Jay:* Yes.

**Q92 Mr Bacon:** You had to have good service for applicants and strong control.

*Sir Michael Jay:* Yes. We have a duty to ensure that those who want to come here—and in many cases it will be in our interests should come here, and who have every right to come here, and who satisfy the requirements to come here—should come here. One purpose of UKvisas is to ensure that the system operates effectively to enable them to do so.

**Q93 Mr Bacon:** This system was not operating effectively, was it?

*Sir Michael Jay:* At the same time we need to ensure that those who are trying to come here for nefarious purposes, or who do not meet the criteria, should be stopped from doing so, so that they do not get here. What we need to do is achieve both those things, which is what I mean by a balance between them.

**Q94 Mr Bacon:** That is not what was happening, was it? You were not achieving your balance.

*Sir Michael Jay:* Yes.

**Q95 Mr Bacon:** Reading from appendix 7: “People were coming here with no appropriate skills in their chosen business; they did not have credible business plans; many could speak little or no English . . .” and so on. As a result of that, and reading from the Sutton report, paragraph 3.6: “While posts continue to interview and make recommendations for refusal based on the overall credibility of the applicants . . .”—the things I have just been reading out—“IND caseworkers continue to grant the majority of these cases, based on their strict interpretation of the requirements of the immigration rules. This in effect meant much of the work being done in posts was a waste of time.” In other words, your staff in your department, in the Foreign Office, overseas in post, were doing work that was a waste of time.

*Sir Michael Jay:* As I and Mr Jeffrey have accepted, and as the Home Secretary has accepted, there were flaws in the way in which this system operated, which we are now going to put right, following Ken Sutton’s report.

**Q96 Mr Bacon:** When did you first—

*Sir Michael Jay:* I was not answering the question you asked; I was answering in the more general term, affecting all of the UKvisas operations, where I do believe we have to achieve both proper control and an effective service; and that is what we are trying to do.

**Q97 Mr Bacon:** When was the first time you knew about this organised scam that was going on?

*Sir Michael Jay:* The first time I was aware of the issue at all was when I was alerted to the fact that the entry clearance manager in Bucharest had admitted to talking to Mr—

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**Q98 Mr Bacon:** When was that?

*Sir Michael Jay:* That was on 19 March.

**Q99 Mr Bacon:** Of this year, 2004?

*Sir Michael Jay:* That was 19 March of this year, yes.

**Q100 Mr Bacon:** Because Sir John Ramsden wrote his letter in which he said: “It is clear from what they told me”—that was in Sofia—“that this has developed into an organised scam and completely undermines our entry control procedures, and indeed makes a bit of a nonsense of having a visa regime at all.” He wrote that in November 2002. You saw it, Mr Barnett, did you not, because it was copied to you? In fact, you are the first person on the list. So that was written in November 2002, and you saw it: did you not tell Sir Michael or anybody senior in the Foreign Office? This is actually written on Foreign Office notepaper.

*Sir Michael Jay:* As I have already said—

**Q101 Mr Bacon:** Sorry, this is a question for Mr Barnett now.

*Mr Barnett:* No, I did not tell anybody more senior. I was in contact with John Ramsden about the issue. John Ramsden had written to the Deputy Director General in the Home Office, but I did not myself put the note up to anyone more senior.

**Q102 Mr Bacon:** Right. That is why Sir Michael did not find out until March this year—because nobody told you—is that right?

*Sir Michael Jay:* That is right, and, as I have said, I—

**Q103 Mr Bacon:** Is Sir John Ramsden not quite senior?

*Sir Michael Jay:* He was the head of the department at the time.

**Q104 Mr Bacon:** You see, I think basically there was a secret policy to rush through applications regardless of the quality, was there not?

*Sir Michael Jay:* Not as far as I am aware.

**Q105 Mr Bacon:** Not as far as you were aware. Mr Jeffrey, do you think there was a secret policy to rush through applications, regardless of the quality?

*Mr Jeffrey:* No, there was—

**Q106 Mr Bacon:** You do not. In that case, can you explain this document that is headed up “Flexibility Guidance”? This is about the BRACE (Backlog Reduction Accelerated Clearance Exercise) in which it says that basically an applicant’s past immigration history in the UK cannot be held against him or her, even if they have records of a previous failed asylum-seeker or an illegal entrant; then they can still benefit under entry clearance rules. But this was purely based on your interpretation of the law, and your belief that you had no alternative, and it was not trying to rush things up in order to get rid of the backlog.

*Mr Jeffrey:* There are two distinct issues. There was the Backlog Clearance Exercise, which was the subject of some public attention several months ago, which did involve, for older cases, staff being instructed—and this is the generality of cases, not these particular ones—to deal as far as possible with the application in front of them on the basis of the papers that had been put to them. The second issue, which I took your question to be about, is applications under the European Community’s accession agreements. There, what went wrong—and I readily accept it went wrong—was that IND took an unduly restrictive view of the circumstances in which such applications should be refused, but it was not about flushing things through just for the sake of doing so.

**Q107 Mr Bacon:** Why does it say in these flexibility guidance notes for the ECAA, “do not mention BRACE in the case note; use words ‘granted pragmatically’”? Why would it say that?

*Mr Jeffrey:* I think the guidance you are now quoting from—and I may have misunderstood your first question, Mr Bacon—is the guidance that was drawn up by staff in Sheffield that was the subject of Mr Sutton’s first investigation, which, as his report showed, was developed locally and went beyond anything that had been approved by ministers or by senior management.

**Q108 Mr Bacon:** Is it correct that the Managed Migration Nationality Group in Liverpool, which processes applications for British citizenship, have been instructed not to check whether applicants meet the statutory residence requirement?

*Mr Jeffrey:* No, it—

**Q109 Mr Bacon:** It is not correct; it is incorrect?

*Mr Jeffrey:* What happened here—and I am aware of the point that is being made—was that there was a considered decision taken in consultation with the then minister, that since the information given by applicants about their movements in and out of the country was almost invariably accurate, then the steps that would have been taken to check against passports for the actual movements in and out of the country in some cases did not need to be pursued. The Minister explained all that at the time.

**Q110 Mr Bacon:** In relation to the Sheffield point, there is another piece of guidance here, that initial leave should be approved for 12 months on code 2, but no expiry date should be put on the system. Why would it have said that? Is your answer that it is just again a locally-derived policy that—

*Mr Jeffrey:* I confess I cannot recall from what you have quoted, which—whether it was the Sheffield guidance or not, it must be the same document. I cannot explain that particular reference in this, although I could try to do so in correspondence, if it would help.<sup>5</sup>

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**Q111 Mr Bacon:** We know that Sir Michael did not know what was going on because he admitted it, or it sounds as though there are policies being pursued—of course, we know in the case of that one the Minister did know about it—either senior officials do not know what is going on, but they do know what is going on but they want to hide the fact. Is that not true?

**Mr Jeffrey:** I do not think it is as simple as that. In the case of ECAA applications, the issue was certainly never put to me; although, as I put in response to Mrs Browning's questions earlier, the correspondence between Mr Ainsworth and Ms Hughes was copied to my office. As I said, I do not recall seeing it. It was a question really of not being aware of the detailed nature of the dispute between the staff in the post and the staff in IND.

**Q112 Mr Bacon:** But there was also a desire to cover up what was going on, was there not? For example, in this note here, which was copied to you, about the backlog of citizenship applications, it specifically says that this is intended to meet the specific task of clearing the backlog, and then it says: "There is no reason why it should be disclosed outside of nationality group." In other words, there was a change in the policy, but you wanted to keep the fact secret.

**Mr Jeffrey:** The reason for that, Mr Bacon, was the one I alluded to; that we were essentially—and Sir Michael was saying earlier, there is an extent to which this whole immigration control business is about managing lists. It is about working out where it is sensible to deploy resources, and focusing the resources on the areas of doubt. In this case, in the nationality case, we did decide that one of the checks that was routinely generally undertaken was not necessary, but it would have been a big mistake to have made that known publicly, because people could then . . .

**Mr Bacon:** I have run out of time, I am sorry.

**Q113 Mr Williams:** Mr Barnett, will you clarify for me an answer you gave to Mr Bacon when he was talking about the scam? What was it you were notified of in 2002 that you did not notify anyone else of?

**Mr Barnett:** I received a copy of the letter from Sir John Ramsden to Chris Mace, the then Deputy Director General in IND. I discussed it with members of—

**Q114 Mr Williams:** What was it saying?

**Mr Barnett:** This was the letter which said that Sir John Ramsden had found that ECOs had concerns about the ECAA scheme.

**Q115 Mr Williams:** When in 2002 was that?

**Mr Barnett:** That was October 2002. The letter was dated early November.

**Q116 Mr Williams:** So you found that out; you had that letter but you did not do anything about it.

**Mr Barnett:** I tasked a member of my team to be part of the ongoing discussions on what to do about the problems with ECAA.

**Q117 Mr Williams:** But you did not think it worth notifying ministers?

**Mr Barnett:** I did not think it was necessary at that time to notify ministers.

**Q118 Mr Williams:** I see; so you made that judgment, rather than let them know and decide for themselves whether it was important or not.

**Sir Michael Jay:** I—

**Q119 Mr Williams:** I am sorry, no, I did not ask you; I am asking Mr Barnett.

**Mr Barnett:** No, I did not make that judgment. I simply understood that this was an issue that the Foreign Office had raised with the Home Office, and that UKvisas, as a joint department, needed to be fully involved in the discussions on this issue.

**Q120 Mr Williams:** Let us come to Mr Jeffrey. What was minuted to your office, and when, that apparently somehow you did not actually see?

**Mr Jeffrey:** I was not copied in the exchange between—the letter from Sir John Ramsden to Mr Mace and the reply that he received. That was about a month after I had taken up post myself, and I was unaware of that exchange. I find, going back to it, that I was copied on the exchange between Mr Ainsworth and Beverley Hughes, which I would say, looking at it, is in quite general terms.

**Q121 Mr Williams:** Yes, I understood that; I noted general terms—

**Mr Jeffrey:** It simply amounts to his supporting what he found, and Beverley Hughes replying, saying that there was very little flexibility in the law as it stands.

**Q122 Mr Williams:** That is fine; I have got what I wanted; I have clarified what I wanted to know. Sir Michael, you said that at some time the Foreign Office thought it had been resolved, when it had not. What had you thought had been resolved when it had not, and when was that?

**Sir Michael Jay:** I was there referring to the reply to Sir John Ramsden's letter that came from the Home Office and explained that the Home Office understood the concerns raised by the Embassy in Bucharest and Sofia, but that their interpretation of the rules governing the ECAA scheme meant that they believed they had no alternative but to continue to operate the scheme as they had been.

**Q123 Mr Williams:** When was this?

**Sir Michael Jay:** I think that letter, if I remember rightly, was in November 2002. When either Bill Jeffrey or I said that it had been resolved, what we meant was that the issue had been settled in the sense that at that stage the Foreign Office accepted the Home Office advice, and asked the UKvisas operations to act in that context. So, as Bill Jeffrey said, it was in that sense resolved, but resolved

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unsatisfactorily because, as Ken Sutton's report has subsequently shown, the legal basis on which that judgment was made was not correct.

**Q124 Mr Williams:** Both your offices in 2002 were alerted, but misinterpreted what had been notified to you, or decided to do nothing about it. In the next 12 months, then, if we look at appendix 7 on the very final small table there, the number of cases from Sofia went up nine-fold, from 890 to 6,659; and the number from Bucharest went up seven-fold, from 184 to 1,375. Those are massive increases, are they not? Should increases of that scale have caused any concern?

**Sir Michael Jay:** Yes, it should have done, and I think it did, which was why the embassies continued to express their concerns to the Home Office as that number rose.

**Q125 Mr Williams:** In that case, why was no-one concerned when the number of applications in Sofia went up from 2001–02 forty-fold times by 2002, when the notices were first coming around? If you had noticed the nine-fold increase, why did not anybody notice the forty-fold increase?

**Mr Jeffrey:** I think it should have been noticed.

**Q126 Mr Williams:** It is quite noticeable, is it not?

**Mr Jeffrey:** A big change. I think generally speaking one of the problems we have had in IND in past years is a lack of management information in the right form reaching senior levels. We have reached a position where we get very good analysis of trends of this sort in relation to asylum-seeking. We are working hard to improve it elsewhere, and we now have plans for much richer information and much better spotting of trends of this sort. But I have to admit that that trend was not spotted as early as it should have been.

**Q127 Mr Williams:** To come back to you, Mr Barnett, when you were notified in 2002, it was then increasing in 2002 to 890 that year, whereas the previous year it had been only 23. Were you not concerned when you got this minute, or this notification? Did you not look to see if there was any significant change in the trend in the number of applications, and then did that not raise any worrying signal?

**Mr Barnett:** We did continue to monitor what happened on ECAA applications, although—

**Q128 Mr Williams:** So you were aware of a forty-fold increase—

**Mr Barnett:** I was not aware—

**Q129 Mr Williams:** —over two years.

**Mr Barnett:** No, we were not aware of that level of increase.

**Q130 Mr Williams:** You did not monitor it very well, did you?

**Mr Barnett:** I have to say that our own management information, as the Report points out, has in the past been far from ideal, which is why we—

**Q131 Mr Williams:** Far from ideal! It has been grossly inaccurate.

**Mr Barnett:** This is why we have—

**Q132 Mr Williams:** And that is an under-statement.

**Mr Barnett:** This is why we have developed a new central reference system, which enables us remotely and automatically to collect accurate statistics.

**Q133 Mr Williams:** You see, because you missed the forty-fold increase in the one year, you made possible the nine-fold increase again in the following year. This must have been an absolute bonanza for some of the crooks, the agents who were operating. In the paragraph above that table it says they were getting about £1,500 per case for guaranteeing provision of visas. So on that basis, in 2003 the agents could have made about £10 million in Sofia alone on the fees they extracted.

**Mr Barnett:** We were aware of the trend towards rising applications. That is one of the reasons why an immigration liaison officer was posted to the region, and why action was taken.

**Q134 Mr Williams:** When were you aware of the trend?

**Mr Barnett:** We were aware of the general size of the trend from late 2002 onwards. We were in discussions with IND colleagues. However, it is IND that are responsible for setting the policy against which ECOs overseas have to operate; and, as the Sutton report shows, it was the IND view of policy that prevailed.

**Q135 Mr Williams:** You were monitoring, and yet seemed to be doing nothing, and yet if you take the combined figure relating to Sofia, in 2001–02, to 2003–04, there was a three hundred-fold increase, and still no-one seemed to be concerned.

**Mr Barnett:** Much of this was in response to a series of individual cases. As I say—

**Q136 Mr Williams:** You mean a flood of individual cases, do you not—a three hundred-fold increase in two years?

**Mr Barnett:** I think the first thing to say is that we were aware of a general trend, and that individual—but the post did not address to me a systematic case regarding a whole series of trends. The other point I would want to make here is that—

**Q137 Mr Williams:** But did anything not ring and say, “hold on, there was that minute or that document I saw in 2002, and now things are escalating even further” with this monitoring you were carrying out? Why did you not detect that something was going utterly out of control?

**Mr Barnett:** While I accept that the figures are quite high in and of themselves, against over 2 million applications a year, it was a relatively small number, and partly because after exhaustive and repeated checks my staff were told that the law that prevailed meant that we were not able to carry out more thorough checks. But we are not—

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**Q138 Mr Williams:** But you never saw fit to mention to ministers that this problem existed?

**Mr Barnett:** We directly did not address ministers, no. We believed that IND were fully aware of the concerns and had reached this conclusion, and the fact—

**Q139 Mr Williams:** Do you have the impression that IND was severely under-resourced?

**Mr Barnett:** No, I did not have the impression that IND was severely under-resourced.

**Q140 Mr Williams:** You, Sir Michael, referred to the fact that staff are under intense pressure.

**Sir Michael Jay:** But I was talking about the UKvisas staff overseas, Mr Williams.

**Q141 Mr Williams:** Switching for a second, I do not quite understand the logic: there was a report in April of this year in the *Sunday Times* that IND is to reduce its staff by 25% over the next three years. This is supposed to be in a memo from the Permanent Secretary. How does one reconcile a 25% cut in IND at a time when everything is escalating and spinning out of control?

**Mr Jeffrey:** It is not IND as a whole. In common with other parts of government, we are looking critically at our headquarters staffing. IND is now a large enough organisation to have a significant headquarters function, and we think we can reduce the numbers there by about 25% over three years, but we would be doing so in part to release staff for our own front-line, because most of our staff are engaged on administering immigration, and there is no question of cuts there.

**Q142 Mr Williams:** You referred to the inadequacy of information flows, and it has been manifestly demonstrated here today. I know you are not necessarily responsible for what happened, but you are in the job today. Why did no-one consider addressing the incompatibility of the IT systems? You talked, Mr Barnett, about monitoring; yet here you had two departments trying to monitor with incompatible IT systems. Did no-one think that that might lead to some chaos? This is probably more a question for the Permanent Secretary in fact. I know that, again, you may not have been there at the time this came about, but why was it not addressed?

**Sir Michael Jay:** There are incompatibilities in IT systems around Whitehall, which we are all collectively trying to address. Mr Barnett can say a bit more about it and precisely how we have been trying to address the incompatibility between the Home Office and our posts.

**Mr Barnett:** Absolutely. The main thing we have done is to develop a central reference system. This effectively gives us central access to the entire global visa database. That is now not only accessible to us in UKvisas; it is accessible to posts so that they can check applications if they have received an application from someone who has previously applied in a third country. We are now rolling it around the UK to ports of entry, to caseworkers in Sheffield and elsewhere. We are working very hard

to join up our IT. Another important development is that IND is developing a new intelligence IT system. It is planned that a version of that will be made available in due course to UKvisas staff overseas. That, again, will help us better to join up in the future.

**Q143 Mr Williams:** Thank you very much for that. Can I just give you a pacifying observation, as an MP dealing with constituency cases? UKvisas and IND hotline are both now doing a marvellous job compared with what we had before, in dealing with members' cases; and I would like that passed on to the people involved.

**Sir Michael Jay:** I will do that.

**Chairman:** You have waited an hour and a half for a pat on the back, but it came at last! We have a few supplementary questions for you from Mr Jenkins, Mr Bacon and Mrs Browning.

**Q144 Mr Jenkins:** Sir Michael, do you automatically check on applicants to see if they have a criminal record?

**Sir Michael Jay:** Yes, we do, Mr Jenkins.

**Q145 Mr Jenkins:** An automatic check?

**Sir Michael Jay:** As I understand it, here there would be an automatic—

**Q146 Mr Jenkins:** If they come here and make an application in this country, can we check back to see if they have a criminal record as well?

**Sir Michael Jay:** If the application is made overseas, then there will be an automatic check to ensure that they do not have a criminal record.

**Mr Jeffrey:** The main check is against our warnings index, which is a computerised database of people who are to be refused for all sorts of reasons, including criminality.

**Q147 Mr Bacon:** Mr Williams just said to me, “how anyone could ignore Sir John Ramsden’s letter is fairly unbelievable”—but what I am not quite clear about, Mr Barnett, is, who are the senior managers in this organisation to whom this information was not passed on? Presumably, in the Foreign Office it is Sir Michael; but you are a senior manager yourself, are you not?

**Mr Barnett:** Yes, I am.

**Q148 Mr Bacon:** You did not think that a letter from Sir John Ramsden, saying, “this has developed into an organised scam that completely undermines our entry control procedures” was of fundamental importance and should be flagged up at the highest level? You did not think that?

**Mr Barnett:** I did not think that, but to be very clear Sir John Ramsden was the lead official on this since he had written the original letter.

**Q149 Mr Bacon:** Yes.

**Mr Barnett:** We had remained closely in touch and we did not—

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**Q150 Mr Bacon:** I just wanted to be clear you did not think it was important enough to flag up. Mr Jeffrey, do you deny that quality controls on applications for leave to remain were basically scrapped, and that the driving factors became targets and statistics?

**Mr Jeffrey:** I do deny that. I think that, as I said earlier, there was a period—and it is not something we are now relying on because we are much more up to date with the business than we were—when all the cases were being dealt with under the so-called BRACE arrangements, which involved a judgment—essentially an instruction to decide the case on the papers that are in front of them, and not to make inquiry—

**Q151 Mr Bacon:** So in other words, to quote further from this document I have in front of me: “People who contracted bogus marriages, students at bogus colleges, and others whose applications would have been refused, had even basic further inquiries been made, were all granted leave to remain on the basis that they ticked the right boxes on the application form and supplied the minimum of supporting documents. This policy was applied even to those who had breached the immigration rules by overstaying their previous leave.” That was an accurate description of how things were being applied or misapplied, is it not?

**Mr Jeffrey:** I do not know from what document you are quoting, but what I would say—

**Q152 Mr Bacon:** Is that a broadly accurate description?

**Mr Jeffrey:** I do not think it is an accurate description. I think it underestimates the extent to which the system was working, and it did lead to a proportion of refusals. What I would say is that in terms of the general casework we are now on top of the business. I looked back at your Committee’s report on the IND computer system several years ago, when they then certainly could not say when we would get the backlogs under control, and your Committee was critical about that; but now the backlogs are under control, and we are turning our attention very directly towards tackling abuse of marriage provisions, abuse of students.

**Q153 Mr Bacon:** If you wave everyone through at high speed, it is not surprising the backlogs are now under control, is it? Sir Michael, in answer to the Chairman’s question, “is what Mr Cameron said largely correct?” you gave a long answer but did not actually say whether what Mr Cameron said was largely correct or not. Was what Mr Cameron said largely correct—yes or no?

**Sir Michael Jay:** What he was drawing attention to—

**Q154 Mr Bacon:** Was his description of the situation largely correct? Yes or no will do. Was it largely correct?

**Sir Michael Jay:** He was drawing attention to circumstances, and those circumstances were largely correct.

**Q155 Mr Bacon:** So Mr Cameron’s description was largely correct?

**Sir Michael Jay:** His description of what had been happening, as I understand it, was largely correct.

**Q156 Mr Bacon:** Has he been given a large pay rise and been promoted?

**Sir Michael Jay:** No, he has not.

**Q157 Mr Bacon:** What has happened to him?

**Sir Michael Jay:** He is at the moment facing two disciplinary procedures, and those are being carried out in accordance with our normal departmental procedures. Both of those cases are current at the moment, and it would therefore be wrong of me to go into any further details.

**Q158 Mr Bacon:** Mr Jeffrey, has Mr Moxon been given a large pay rise and been promoted?

**Mr Jeffrey:** No, he has not.

**Q159 Mr Bacon:** What has happened to him?

**Mr Jeffrey:** He too is the subject of a disciplinary investigation, but it has not yet come to a conclusion.

**Q160 Mr Bacon:** Mr Jeffrey, do you get paid a bonus of any kind, or are you eligible for a bonus of any kind?

**Mr Jeffrey:** I am eligible for a bonus.

**Q161 Mr Bacon:** How is it calculated? Is it on the basis of targets that you meet?

**Mr Jeffrey:** It is calculated on the basis of assessment of the Permanent Secretary.

**Q162 Mr Bacon:** But are there targets that you have to meet in order to be eligible for a bonus?

**Mr Jeffrey:** The targets that are reflected in my own job plan for the year are certainly ones that need to be met, and broadly have been.

**Q163 Mr Bacon:** Again, going back to this document I was quoting from earlier, a letter to the Leader of the Opposition, the suggestion is that essentially the operation of policy by senior managers was designed to ensure that the statistics were cleaned up, and that therefore bonuses were paid. Is it correct that bonuses get paid in relation to the achievement of targets in relation to the processing of applications within your directorate?

**Mr Jeffrey:** It is not as straightforward as that. The bonuses are paid on the basis of the line manager’s assessment of performance throughout the year, but there is an extent to which the organisation as a whole is working to targets. The best example of that is the extent to which we were seeking, following the announcement made by the Prime Minister, to impact greatly on the number of asylum forms, which, as an organisation—and this is not about individuals—we succeeded in doing.

**Q164 Mrs Browning:** Following that, I have a question for Sir Michael. When visa applications are subject to rigorous scrutiny and proper process what

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then happens statistically to asylum applications from that country? I am not talking about the sort of process we heard today, but when the system is working properly, what is the usual consequence to asylum applications from that country?

**Mr Jeffrey:** I am not sure that I completely understand. The question is, is the relationship between the increase in the number of ECAA applications over the period we have been discussing this afternoon and the asylum applications from these countries; there was a separate NAO investigation some weeks ago which concluded that there was no such evident correlation. It is also the case that Ken Sutton could find none in his inquiry, and our own judgment is that if you look at the figures over the period in question, the number of asylum claims from all of the eastern European countries, and not just those where this peak was occurring, dropped off. We believe that was largely associated in the early part of 2003 with the Government implementing its provisions for non-suspensive appeals in relation to safe countries, and there was a very sharp reduction in the number of asylum claims from eastern European countries.

**Q165 Mr Steinberg:** Will you be re-looking at all these applications?

**Mr Jeffrey:** One of the things Mr Sutton's report did find was that he estimated, on the basis of figures that he was given by the department, that no more than about 150 or so had worked their way through to the point of being granted permanent residence; so first of all there will be an opportunity, as these people come forward, having been given initially a year's stay to set up a business, to examine very carefully whether they actually did so and whether that business is flourishing. Secondly, we are going to deploy, on Ken Sutton's recommendation, some of our enforcement resource to look into these cases and see whether people did in fact set up in business as they claimed they would.

**Q166 Mr Steinberg:** Or?

**Mr Jeffrey:** Or not.

**Q167 Mr Steinberg:** What would be the alternative, if they did not set up in business?

**Mr Jeffrey:** If they did not set up in business, I think these things are a matter of judgment. One of the judgments that, having gone into it quite carefully, Mr Sutton did reach was that if people were arriving for purposes other than those proclaimed in their application, it was much more likely to take paid employment than to fall into the benefit system. He did not discover anything to suggest that that was happening . . .

**Sir Michael Jay:** Forgive me, Chairman, I need to correct one answer I gave just now to Mr Jenkins. It is not true that there is an automatic check on criminal records of all applicants. The position is that entry clearance officers can ask for checks on the police national computer, and routine checks are made in all cases against the warnings index, which will contain, or often contain some police information.

**Q168 Mr Jenkins:** The reason I asked—and unfortunately I did not have the name—one of my constituents went off to Turkey with her friend, and they both brought back a boyfriend. Her boyfriend got refused clearance, but she was shocked because her mate's boyfriend had been convicted of gun crime and had been in prison in Turkey. Since it was four or five years ago, I was hoping that maybe this system had gone. But in this country, when you realise how many criminal gangs there are in London now, a lot of them are imported—you have let them in. We have enough of our own criminal gangs without bringing any more in. So if we are not making arduous and studious checks on criminal backgrounds and criminal activities, we should be.

**Mr Jeffrey:** The warnings index ought to pick up serious criminals of that sort. Sir Michael is right to say, though, that we do not routinely check the criminal records of all applicants.

**Q169 Chairman:** Gentlemen, thank you very much. Mr Jeffrey, there is one thing I have to ask for a note on, and that is that Mr Sutton in paragraph 1.27 on page 8 said that his inquiry looked at a sample of applicants. I would like to know more about that sample, how big it was and what happened to these people who set up in business.<sup>6</sup> Gentlemen, thank you very much for coming here this afternoon. We are seriously concerned about this. You seem to be launched on a policy that you cannot evaluate, and this is contrary to all modern notions of government. You appear to have very good evaluation systems as to how well people are meeting their targets, who are actually processing 40 applications a day; but you seem to have very weak systems for tracing these visa holders once they get to this country. I am sure it is something we will want to return to in our report. We have had a considerable discussion this afternoon about the affair of Mr Cameron, but it does reveal a lamentable lack of co-operation between your two departments, gentlemen. Thank you very much. Have you enjoyed it?

**Sir Michael Jay:** I have found it educative and I have learnt some lessons for the future, which is something that we all very keen to do just at the moment, Chairman.

**Chairman:** A very diplomatic answer, Sir Michael; you will go far in the Foreign Office! Thank you.

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## Memorandum submitted by Universities UK

### INTRODUCTION

1. Universities UK is pleased to submit this memorandum to the House of Commons Committee of Public Accounts to aid its evidence session with Sir Michael Jay of the Foreign and Commonwealth Office and Mr Robin Barnett of UKvisas.

2. Universities UK responded to the National Audit Office's examination of the service provided by UKvisas in November 2003. This memorandum draws on a number of the concerns expressed in that submission and developments since.

### SUMMARY

3. International students provide an immense economic, social and cultural benefit to the UK. Higher Education is one of the UK's most successful exports and an effective system of visas is essential for this sector to continue to thrive.

4. Higher Education Institutions (HEIs) have reported an improved level and quality of service provided by UKvisas in recent years. However, they also report a number of continuing difficulties. There are some inconsistencies in the treatment of prospective students, such as in the following of guidelines, the reasons offered for the rejection of applications, and the period of leave to remain granted by officials. These have consequences for the income of universities.

5. Recent changes in the charging policies for visas also have the potential to undermine the Government's aim of attracting more international students to the UK. Visa extension charges were introduced in 2003 without consultation and powers under the Asylum and Immigration (Treatment of Claimants etc) Bill would allow the Government to "overcharge" applicants for visas.

### BACKGROUND

6. British diplomatic posts issue "entry clearance" to prospective international visitors to the UK which gives them permission to enter the UK ("Leave to Enter") for a certain period. The UK Government is gradually increasing the number of people for whom "entry clearance" is compulsory including most international students. It is needed for prospective students from countries that appear on the UK's "visa national" list, nationals of "phase 1" countries who are coming to the UK for more than six months and anyone coming with the intention of settling permanently, or for a number of specific purposes. Applications for entry clearance by prospective students cost £36.

7. Entry clearance officer guidance encourages officials to grant leave to enter the UK for the duration of their course, plus a few months (the length depends on the type of course). There remain concerns that students are not being granted the appropriate leave for their course which results in them paying either £155 or £250 to apply to extend their leave.

8. International students make up 11% of all full-time higher education students and 32% of all students at full-time research postgraduate level according to the latest figures from the Higher Education Statistics Agency (HESA) for 2002-03. HESA also reports that there were 184,685 international (non-EU) students at universities and colleges in the UK out of a total of 2,175,115 higher education students in 2002-03.

9. International students are already making a significant financial contribution to the UK. In 2002-03 non-EU fees provided 7% of the UK higher education sector budget. A recent study produced by the British Council, DfES and UK Trade and Investment on "The global value of education and training exports to the UK economy" was carried out by Professor Geraint Jones from Lancaster University Management School. This report provides figures for the economic value of education and training exports to the UK economy. For the whole area of education and training exports, it calculates earnings of £10.2 billion for the UK economy. For higher education a number of figures are provided including income from tuition (£1.25 billion), spending on other goods and services (£1.86 billion), transnational higher education (£99 million), other higher education activities such as academic visitors, franchise agreements, overseas research grants and contracts (£796 million) giving a total of just under £4 billion as export earnings from UK higher education's international activities. These figures for the value of the international activities of UK HEIs are significant and a considerable increase on the findings of previous studies in this area.

10. International students also provide an immeasurable cultural and social benefit to the higher education sector and the UK at large. At postgraduate level international students make a significant contribution to the UK's research base and maintain the viability of a number of key subject areas. They contribute economically through income tax contributions for part time and vacation work.

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**LEVEL OF SERVICE PROVIDED BY UK VISAS**

11. In their replies to the NAO's request for information on the performance of UKvisas, institutions reported that the UKvisas office in the UK has provided an improved level and quality of service to UK universities in the last few years. They are mostly found to be very helpful and prompt in dealing with enquiries. Institutions highlighted some countries where good practice was being implemented and indicated that these practices should be spread elsewhere. For example, in China and Pakistan entry clearance officers have liaised effectively with the British Council and in India the High Commission has hired a private company to vet applications at smaller local centres before prospective students receive interviews. Institutions appreciate the progress that has been made and the improved service that has been provided with fast-track systems and group applications. Many institutions advocate extending this service to more posts and countries.

12. However, institutions reported that considerable numbers of prospective international students face problems when trying to obtain visas or entry clearance to study at HEIs in the UK. A significant number of prospective students who defer their entry to university for a year cite difficulties in obtaining a visa or entry clearance as the reason for their decision to defer.

13. Inconsistency in the service provided by UKvisas is the main problem that students report. Although institutions acknowledged the difficulty of resourcing, implementing and co-ordinating standard procedures across a number of countries operating under different local circumstances, there appear to be unacceptable disparities in the level of service students receive, the information requested by officials and the reasons given for refusals.

14. One of the most significant problems faced by prospective students when trying to obtain a visa is the delay in obtaining an interview with entry clearance officers. Institutions report prospective students waiting for three months after they make their initial application before they are given an interview date. The effect of this delay is that interviews are conducted too late, and visas granted too late, to enable students to start their courses in the UK in September/October.

15. The situation is most acute in countries where there are few visa offices, particularly Kenya, Nigeria and Ghana. Problems have also occurred in India and China but this is explained by the considerable increase in the number of applications from prospective students in these countries over the last few years. Institutions report applicants queuing outside UKvisas offices for up to 10 days to obtain interviews. Students who have tried to pre-empt this problem by applying early ahead of the peak period in the summer have been told to come back later in the year and on other occasions have been processed in the same queue as those applicants seeking non-urgent visitor visas.

16. Institutions report that entry clearance officers do not always adhere to the immigration rules and guidelines. Students have been asked to provide documentation such as tenancy agreements or proof of payment of tuition and accommodation fees, even though these documents are not required according to the immigration rules. There is also inconsistency in the responses students receive when their application is refused. Some of the reasons given for refusals seem to be made on criteria outside the remit and judgement of the entry clearance officers, for example on the academic suitability of the candidate or their English language skills. A template of the information required to support applications would be a useful resource for students and institutions to help to reduce the apparent inconsistencies that occur in this area.

17. There have been benefits for prospective students in countries where group applications are available as this system can speed up the process, although there is a danger that applications are generalised and therefore group refusal can be detrimental for individual genuine applicants. If whole cohorts of applicants from particular countries coming to the UK under partnership agreements are refused visas there may be a danger that valuable relationships between UK universities and universities overseas may be damaged.

18. In some countries UKvisas allow interviews to be booked on the basis of conditional offers. However, elsewhere interviews can only be booked on the basis of unconditional offers, which is problematic as often they can only be given when examination results are issued in late summer. This tends to concentrate the demand for visas in late summer and leads to delays.

19. Once the interview has taken place students sometimes have to wait for up to three months with no feedback before they get a decision on their application. One institution reported that its prospective students were refused visa interviews at one high commission this year if they had conditional offers of places at the institution. This was despite an agreement made in 2001 with the relevant head of the visa section to encourage students with conditional offers to start applying earlier in the year.

20. An increase in the number of refusals of visa applications from prospective students has also been reported by a number of higher education institutions. Obviously applications need to be assessed carefully to ensure that fraudulent applications using the student visa route are minimised, but when all the necessary documentation has been provided refusals risk frustrating genuine applicants and the institutions that wish to receive them. Suggestions were made that a lack of resources contributed to an increase in refusals. A particular problem was raised with regard to Pakistan as to whether the visa offices are open for a sufficient time to applicants throughout the year, although the security situation in Pakistan has undoubtedly had an impact on the level of service that could be provided.

21. There are also issues around the period of leave to remain in the UK that international students are granted by entry clearance officers. According to the UK Visas guidelines students should be given leave to remain for the duration of their course plus at least several months. In many cases it appears that entry clearance officers are either ignoring the guidelines or are unaware of the guidelines and the period of leave granted to students is often insufficient to cover the duration of their course. This was previously administratively inconvenient for students and international student advisers. With the introduction of charges for visa extension applications from 1 August 2003 there is now also a considerable cost implication for international students when they do not receive the appropriate leave to remain in the UK (see section on Visa Extension Charges below). Institutions also highlighted the position of international students coming to the UK for less than six months, who are entitled to work, but who are usually given visitor stamps and then have to apply for a new visa to enable them to work at considerable cost.

22. Some of these issues could be dealt with by instituting a dedicated, centralised enquiry procedure for higher education institutions. This would avoid time being wasted trying to contact UK Visas officials seeking clarification only to be directed to the wrong officials. Institutions report that the heads of visa sections are usually very responsive to complaints in person and will occasionally investigate the circumstances of an individual applicant's visa refusal. However, if the complaint is not taken up in person by UK Visas official it is unlikely to receive even an acknowledgement.

#### CONSEQUENCES FOR UNIVERSITIES

23. Universities, as one of the main points of contact in the UK for prospective students and in many cases the only point of contact, are heavily involved and affected by the service provided by UK Visas. Delays in students obtaining visa interviews and then delays in decisions being made on their applications can result in students arriving late, students deferring their arrival until the following year and ultimately students not attending the university. This can have a knock-on impact as students who arrive late may require additional support.

24. Preparations and assistance given by the institution in considering and accepting the student and then supporting the student's visa application may be wasted. Further work such as providing additional documentation may be required when students need assistance in appealing against their refusal. Universities lose considerable income from tuition fees and accommodation fees when students are unable to take up their places due to a delay in receiving a decision or refusal of their visa application. Courses may run without their full complement of students if prospective students accepted onto the course have not been able to come to the UK.

#### VISA EXTENSION CHARGES

25. During the passage of the Immigration and Asylum Act 1999 (which established the principle of charging for visa extension charges) the then Home Office Minister, Mike O'Brien MP, said that international students would be given special consideration and that consultation would be undertaken prior to the introduction of charges.

26. However, without consultation, the Home Office announced on 10 July 2003 that with effect from 1 August 2003 foreign nationals living in the UK would be charged the costs of the immigration services they use. The charges are being made for applications for an extension of stay in the UK, applications for settlement and permanent residency stamps being put in new passports. International student advisers report that around half of all international students generally need to apply for a visa extension during their time in the UK.

27. Charges for applications for extensions of stay in the UK are £155 for applications made by post and £250 for applications made in person at Public Enquiry Offices. Despite these high charges, institutions report that the service provided by UK Visas is still inconsistent. There are disparities in the level of service that students receive and there are particular delays in obtaining interviews with entry clearance officers.

28. The Government has now said that it will consult with the sector to assess the impact of these charges. This is due to begin in Autumn 2004.

#### ASYLUM AND IMMIGRATION (TREATMENT OF CLAIMANTS ETC) BILL

29. Clause 28 of the Asylum and Immigration (Treatment of Claimants etc) Bill would give the Secretary of State the power to exceed the administrative costs of an application in charging entrants to the UK, subject to consultation and secondary legislation.

30. The Government has agreed to bring forward amendments in the House of Lords to give "a three-month consultation period and approval by both Houses of Parliament under the affirmative resolution procedure before any new fees can be introduced" [Hansard, 18 May 2004: Column 759].

31. Universities UK is concerned that increasing the charge to prospective students above administrative costs would be likely to deter international students from coming to the UK. Universities UK has lobbied for an amendment, put forward by UKCOSA: The Council for International Education, to exclude students from these charges and there has been considerable discussion of the position of students with regard to the provisions of this Bill.

#### CONCLUSION

32. Although universities recognise that the service provided by UK Visas has improved, there are still a number of areas that need to be addressed. In particular, the service provided and assessment of applications is not consistent across countries.

33. The introduction of charges for visa extensions in 2003, without consultation and with limited warning, damaged institutions' confidence in the Government's role in attracting international students. They are therefore wary of the powers in the Asylum and Immigration (Treatment of Claimants etc) Bill which would enable the Government to charge visa applicants above the cost of processing their application.

*Catherine Marston*  
Universities UK

10 June 2004

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#### **Letter to the Chairman from the Immigration and Nationality Directorate, Home Office**

During my evidence on 21 June to the Committee on the issue of visa entry to the UK, you and Committee Members asked me to follow up a number of points of detail in writing. I apologise for the delay in responding, and hope this note provides you and your colleagues with all the information you require.

As recorded at Question 64 in the uncorrected transcript, you asked for a note on the copy list of the letter from Bob Ainsworth to Beverley Hughes dated 4 March 2003, when both were Ministers in the Home Office. This matter was covered in Ken Sutton's report of his investigation, at paragraph 3.17 (see Annex 1). As this makes clear, when Bob Ainsworth's letter was received in Beverley Hughes' office, an e-mail was sent to relevant IND officials seeking urgent advice on it. That e-mail was copied to the Home Secretary's office, but not to him personally.

In response to Question 89 from Richard Bacon, I undertook to provide a full list of the membership of IND's Intake Reduction Secure Borders Sub-programme board. The current membership is:

- Chair—Senior Director, Operations
- Director, Border Control
- Head of Asylum Policy and Programme Division, DCA
- Director, Asylum Casework
- Director, National Asylum Support Service
- Director, Enforcement and Removals
- Director, Immigration and Nationality Directorate Intelligence Service
- Director, International Policy
- Director, International Delivery
- Director, HR Operations
- Director, Finance & Planning
- Director, Business Systems & Technology
- Director, Joint Delivery Programme
- Secure Borders Customer Account Manager
- Deputy Director, Border Control
- Two of IND's Non-executive Directors

Mr Bacon also asked (at Question 110) why the "Flexibility Guidance" issued to caseworkers in IND's Sheffield Office, which was the subject of Mr Sutton's first inquiry, stated that no expiry date should be placed on the GCID system (IND's electronic database) when initial leave for 12 months was granted. The reason no expiry date was to be placed on the system by a UK based caseworker was that it would not yet have been returned to the Entry Clearance Officer (ECO) at the post. It was only when the ECO issued the entry clearance visa, that the applicant's 12 months leave began.

Finally, at Question 169, you asked for further details on the sample of applicants that Ken Sutton referred to at paragraph 1.27 of his report. During his visits to Bucharest and Sofia and separately to Sheffield, Ken Sutton and his team reviewed the cases of a number of applicants. The main profile of these was that they were mostly, but not exclusively, young men—this supported Ken Sutton’s impression that those applying through the ECAA route largely comprised an economically active cohort coming here to work rather than seek benefits. To follow this up, he asked the Immigration Service to visit a small sample of applicants to check whether, contrary to his impression, the people concerned, when in the United Kingdom, had reverted to dependency on state benefits. Although too small to draw definitive conclusions, this exercise found no evidence that this was the case and again tended to confirm Ken Sutton’s recommendation to re-allocate some of IND’s resources to carrying out checks, on a risk basis, to establish whether individual ECAA applicants who have been granted leave are complying with the requirements of the Immigration Rules for the ECAA category.

*Mr Bill Jeffrey*  
Director General  
Immigration and Nationality Directorate

*30 September 2004*

**Annex 1**

#### KEN SUTTON’S REPORT

“3.17 Bob Ainsworth’s letter was not copied to the Home Secretary. When it was received in Beverley Hughes’ office, an e-mail was sent to officials in IND asking for urgent advice on it. That e-mail was not copied to the Home Secretary personally. It was copied to the Home Secretary’s office, as a matter of routine, but because the letter was addressed to Beverley Hughes, and not the Home Secretary, responsibility for action lay between her office and IND. Beverley Hughes wrote to Bob Ainsworth on 17 March 2003 to confirm that she had raised the issues of IND and would reply shortly. Her subsequent reply on 10 April 2003 reflected the continuing IND view that its approach was determined by the prevailing European law—as explained in paragraphs 3.27–3.48 below. The officials advising Beverley Hughes on this correspondence believed that there was no alternative to the approach they were taking on decisions and they provided advice accordingly. The advice reported that the proposal that these cases might be decided locally, rather than being referred to IND, was still being considered. Neither Bob Ainsworth’s letter nor the subsequent submission made reference to James Cameron, forged documents or to applicants in the UK switching to the ECAA category.”

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