



House of Commons
Home Affairs Committee

Government Response to the Committee's First Report of Session 2008–09: Monitoring of the UK Border Agency

**First Special Report of Session
2008–09**

*Ordered by The House of Commons
to be printed 24 March 2009*

HC 381
Published on 27 March 2007
by authority of the House of Commons
London: The Stationery Office Limited
£0.00

The Home Affairs Committee

The Home Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Home Office and its associated public bodies.

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Committee staff

The current staff of the Committee are Elizabeth Flood (Clerk), Eliot Wilson (Second Clerk), Elisabeth Bates (Committee Specialist), Sarah Harrison (Committee Specialist), Darren Hackett (Senior Committee Assistant), Ameet Chudasama (Committee Assistant), Sheryl Dinsdale (Committee Assistant) and Jessica Bridges-Palmer (Select Committee Media Officer).

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First Special Report

On 12 January 2009 the Home Affairs Committee published its First Report of Session 2008–09, *Monitoring of the UK Border Agency*, HC 77 [Incorporating HC 1192, Session 2007–08]. The Government's response to the Report was received on 13 March 2009, and is published as an Appendix to this Special Report.

In the Appendix, the Committee's original conclusions and recommendations are in bold text and the Government's response in plain text.

Appendix: Government response

On 18 November 2008, the Committee took evidence from John Vine CBE QPM, Chief Inspector of the UK Border Agency, and Linda Costelloe Baker, Independent Monitor of Entry Clearance Refusals without the Right of Appeal, on the monitoring of the UK Border Agency.

Recommendation 1: We were pleased to hear the Independent Monitor’s assessment that quality of decision making in visa applications by UK Border Agency staff is “reasonable and very slowly improving”. However, we were disappointed to hear of her residual concerns about staff training, and to learn that several of her recommendations on training had not been accepted. (Paragraph 6)

Recommendation 2: The Independent Monitor’s recommendations on external validation of forgery training, and on translator qualifications for locally engaged staff seem to us to touch on issues crucial to ensure confidence in the entry clearance system. We recognise that they are not easy to implement, but we consider that the Government should review them to determine whether there might be other means of attaining the same ends. (Paragraph 7)

Only two of the Independent Monitor on Entry Clearance Refusals’ recommendations on training have not been accepted.

First, the recommendation that forgery officers should have the benefit of a formal qualification, perhaps at NVQ level, as that would increase public, and judicial, confidence in their opinions

All entry clearance officers including serving immigration officers are required to undertake and pass a three week induction training course prior to taking up post overseas. This includes dedicated sessions on document examination that are delivered by officers from the National Document Fraud Unit. We are introducing from May 09 a specific pass/fail element for the forgery detection aspect which will help reinforce the training.

We are also working with the National Document Fraud Unit to deliver training and specialist equipment overseas to ensure posts have strong forgery detection capabilities. Through our Risk and Liaison Overseas Network, ECOs have access to training and intelligence-led support on identifying new trends in document abuse in addition to specimen samples of genuine travel and supporting documentation to assist in detecting forgeries. Much of this resource has been developed through local knowledge and expertise.

Although we have again considered the possibility of introducing a formal forgery qualification for Entry Clearance Officers, there is no suitable NVQ qualification that

will cover the full range of documentation encountered by our staff. The UKBA National Document Fraud Unit has developed unique specialist expertise in forgery detection and we are satisfied that this high level of training combined with the local knowledge acquired through the Risk and Liaison Overseas Network provides an excellent level of forgery detection capability which complements the training provided for immigration officers working at UK ports of arrival.

Second, we have considered again the recommendation made by the Independent Monitor that we look into the possibility of formal qualifications for translating staff. Her concern was that “Translating well in an interview context requires far more than proficiency in two languages”. We employ staff overseas with local language proficiency, and are satisfied that they have the requisite skills to assist ECOs in translation work. We do not think that there is the need for a formal qualification, even if a suitable one could be identified. We consider that to provide a central qualification would be very difficult given the global spread of the operation and the number of languages spoken, and would not be able to deliver any such qualification at a reasonable price.

Recommendation 3: Based on our experiences as constituency MPs, and from recent visits, including to visa offices in India and Bangladesh, we have ourselves expressed concern about the length and unintelligibility of visa refusal notices. We were pleased to learn that the Independent Monitor has made similar criticisms about the indiscriminate use of standardised paragraphs, and of unintelligible or obscure legal jargon. (Paragraph 11)

International Group has been focusing for some time on the quality of refusal notices. We introduced standard templates in order to improve consistency and help ensure that decisions reflected the correct immigration rule and assessed the circumstances of the applicant. There is already a strong focus on quality of refusal notices on the ECO induction course. Regarding refusal notices, the Independent Monitor noted in her 2007–08 Parliamentary Report that the “Overall appearance has improved tremendously. Most Refusal Notices now look neat and tidy and few have typing or spelling errors... There has been a marked improvement in the way Entry Clearance Officers handle evidence. In this sample, 98% of the Refusal Notices contained applicant specific evidence rather than routine standard paragraphs that could be directed to anyone... Refusal notices are now sufficiently detailed to allow applicants to see where mistakes have been made and this is a huge improvement”.

We implemented an Independent Monitor recommendation that has enabled Entry Clearance Managers to target their reviews of refused applications in a more structured and effective manner. We have developed an IT system, due for rollout later this year, which will help to standardise the format and content of refusal notices, utilising a mixture of standardised text that is vetted by a team at International Group HQ and text entered by ECOs.

Increasing the quality of the content of refusal notices is an ongoing process, and International Group continues to work hard to do so.

Recommendation 4: We recommend that the Government should ensure that the Independent Monitor’s ten ‘indicators’ for good quality refusal notices be implemented throughout UK Visas, that entry clearance staff be trained to follow these, and that they form part of the inspection regime for visa refusals. (Paragraph 12)

Accepted. The UK Border Agency has already begun work with the Independent Monitor to assess how these indicators can be used in Entry Clearance Officer and Entry Clearance Manager training and incorporated into guidance relating to reviews of decision making. We are also proposing to use an adapted version of the methodology for use in our internal audit and assurance processes. This proposal has the full support of the Independent Monitor and will be introduced by June this year.

Recommendation 5: We share the concern of the Independent Monitor that the substantially lower level of evidence that entry clearance officers are obliged to record for a visa issue than for a visa refusal may provide a perverse incentive for officers to issue visas rather than refuse them. However, the extent to which this has happened in practice is far from clear. (Paragraph 16)

Issued visas do not fall within the remit of the Independent Monitor, although she may review a sample of visa issued cases for benchmarking purposes when visiting a post. In doing so, the Independent Monitor has raised problems with incorrect endorsements relating to visa issues which have been accepted and addressed by the UK Border Agency, but no evidence has been presented to suggest that Entry Clearance Officers are issuing visas that should be refused because of the perceived lower level of recorded evidence required. Such an instance would be taken very seriously by the UK Border Agency.

All visa applications are assessed against the evidence and the immigration rules. Detailed reasons for refusal are essential in order to explain to applicants why their application has been unsuccessful; but Entry Clearance Officers are also required to record details of why applications are issued. Quality control samples are taken both locally and centrally, to ensure that the Entry Clearance Officer has sufficiently justified the decision to issue against both the evidence and the Immigration Rules. Entry Clearance Managers can, and do, revoke decisions to issue where appropriate.

UK Border Agency issued nearly 2 million visas in 2008. Visa holders are examined by an immigration officer on arrival in the UK. In 2008, less than 1500 visa holders had their entry clearance cancelled by an immigration officer on arrival in the UK.

Rates for the issue and refusal of visas since 2003 are as follows:

| | | |
|-------|------------|--------------|
| 2003- | 82% issues | 15% refusals |
| 2004- | 79% issues | 19% refusals |
| 2005- | 81% issues | 15% refusals |
| 2006- | 81% issues | 19% refusals |
| 2007- | 83% issues | 18% refusals |

Recommendation 6: The new inspectorate is still being established and therefore is not yet conducting scrutiny of the UK Border Agency. We will invite the Chief Inspector back to give evidence to this Committee in the spring of 2009, once the inspectorate is fully operational. (Paragraph 20)

The Government understands that the Chief Inspector would be happy to come back to give evidence to the Committee in the Spring. The Committee will need to arrange this with the Office of the Chief Inspector directly as he is independent of the Home Office.

Recommendation 7: We were dismayed to learn that the role of Independent Monitor for Entry Clearance Refusals without the Right of Appeal will be repealed in April 2009, by which juncture it was by no means clear to us that the new inspectorate will be fully operational, and therefore able to scrutinise visa refusal decisions in the same detail that the Independent Monitor currently does. We therefore recommend that the Government retains the Independent Monitor position for some months longer, in order to ensure that there is a sufficient overlap with the new inspectorate, and absolutely to guarantee that there is no hiatus in the oversight of visa refusals. (Paragraph 21)

We have decided that the role of Independent Monitor will not be repealed in April 2009. Linda Costelloe Baker's term of appointment will come to an end on 25 April 2009, although the role will remain in statute and Mrs Costelloe Baker is in agreement that this is the best way forward. We intend that the Chief Inspector will take on the IM's remit, which we intend to repeal at the next legislative opportunity. In the meantime UKBA is working with Mrs Costelloe Baker and the Chief Inspector's team to ensure ongoing external scrutiny in this area and that the transition of responsibility will be smooth and well-managed once Mrs Costelloe Baker leaves post. Mr Vine has already accompanied Mrs Costelloe Baker on a monitoring visit to Dhaka and members of the Chief Inspector's staff have been trained in the methodology used by the Independent Monitor. The Chief Inspector will have powers to inspect a wider range of functions than Mrs Costelloe Baker

Recommendation 8: We recommend that the title of the Chief Inspector and his inspectorate be amended explicitly to include the word 'independent', in order to clarify that the post is independent from the UK Border Agency. (Paragraph 23)

We agree that it is important to emphasise the independent nature of the Chief Inspector's role, particularly as his function is new and developing. The Chief Inspector has already been doing this in his meetings with stakeholders. We will refer to the post as the 'independent' Chief Inspector in communications and correspondence.