THE UK BORDER AGENCY RESPONSE TO THE INDEPENDENT CHIEF INSPECTOR’S KUALA LUMPUR REPORT
The UK Border Agency thanks the Independent Chief Inspector for the report, the first overseas inspection that has been assessed using the core inspection criteria. The UK Border Agency welcomes the fact that a number of issued cases have been looked at for the first time. We are pleased to note that all 50 cases examined (100% of the sample) met the ICI inspection criteria.

The UK Border Agency response to recommendations from the Independent Chief Inspector's Kuala Lumpur Report.

1. Ensures that interim casework instructions on the points-based system, issued in the United Kingdom, are circulated to overseas posts when it is relevant to do so: The UK Border Agency accepts this recommendation.

1.1 When PBS casework instructions are issued in the United Kingdom, they will normally be repeated to staff overseas. In this case, the recommendation relates to the interim casework instruction on the points-based system (PBS) that was circulated to all in-country staff in August 2009, encouraging them to contact customers and sponsors to clarify minor errors or omissions. This instruction was not circulated to posts overseas because International Group had already circulated similar instructions in May 2009. The UK Border Agency’s Director of Visa Services sent an email to all overseas staff stating the following regarding Tier Four applications: “You do not have discretion in the application of the guidance. However the guidance should not prevent you from contacting an applicant or a sponsor to clarify a point of detail if you feel it is practicable to do so. In the interests of efficiency we encourage decisions to be taken on the basis of the papers submitted but in this initial period when the new system is bedding down you should make direct contact where appropriate. I know this can be time-consuming so it is left to you to decide when to do so.” This was followed up in June with a casework instruction that was circulated to all overseas staff. A subsequent email sent out in August repeated the message. International Group applied this approach to Tier 4 during the busy summer period.

2. Standardises document checklists at all overseas posts: The UK Border Agency accepts this recommendation.

2.1 Following a previous recommendation from the ICI, The UK Border Agency has started a review of supporting document requirements and of the information currently available in the document checklists available at overseas posts, Visa Application Centres and websites. The aim of the review is to standardise and simplify, as far as possible, the information provided to visa applicants on supporting documents, striking a balance between the need for consistency and flexibility to allow for local conditions.

2.2 The UK Border Agency will publish Interim findings from the review by the end January 2010. A final report containing recommendations from the review will be submitted to posts and commercial partners in March 2010.
3. Implements a process to evaluate the efficiency and effectiveness of Hub and Spoke: The UK Border Agency accepts this recommendation.

3.1 The UK Border Agency is carrying out a benefits evaluation of hub and spoke, building on an initial one done in April 2009. In addition, all future hub and spoke moves will be subject to a full post implementation review.

4. Ensures it meets the 28-day target on conducting administrative reviews: The UK Border Agency accepts this recommendation.

4.1 ARs submitted in Kuala Lumpur are now processed within the 28 day target. The failure to meet the target on processing ARs in Kuala Lumpur over the summer was the result of a combination of issues in Bangkok, where they are processed. Bangkok’s workload increased significantly during the summer, and there was a staffing shortage, as one ECM departed earlier than anticipated from post, leaving a gap. Processing of cases was therefore prioritised by travel date. Bangkok has had a new ECM team in place since November, and planned staffing increases will ensure we continue to meet the target on processing ARs within the 28 day target.

4.2 The UK Border Agency instructed posts to keep a record of all Administrative Reviews (ARs) received and gave a target of 28 days to process each review. Posts are responsible for managing any correspondence relating to ARs. Guidance issued to posts stated that if they failed to meet the 28 day target then they should write to the applicant informing them of the delay. The UK Border Agency uses a number of support tools to record information around ARs that are received. The UK Border Agency accepts that the process for recording ARs needs to be improved and is currently looking at a number of possible solutions to produce robust Management Information (MI). We are also learning lessons from the operation of AR during 2009.

5. Introduces formal procedures, targets and monitoring for the handling of telephone calls to assess service standards: The UK Border Agency accepts this recommendation.

5.1 The UK Border Agency accepts the need to improve telephony services. We are currently developing a new solution which will offer a standard service in all parts of the world delivered through our commercial partners. We are seeking funding for this service. In addition, we are upgrading websites (as previously recommended by the ICI) in order to ensure customers get accurate information.

6. Puts in place processes at post to analyse complaints to identify trends with a view to improve customer service: The UK Border Agency accepts this recommendation.

6.1 The UK Border Agency implemented revised complaints handling procedures for the overseas visa business from 1 September. These align the International Group’s processes with those in the rest of the Agency and include monthly reporting of all complaints received in a unified format. Each quarter, with effect from October – December 2009, the five overseas regions will submit an analysis of complaints received, highlighting categories of complaints received, trends and actions taken to learn from complaints. These will be analysed centrally by International Group and shared with the whole visa business. The first report under this new procedure is due to
be submitted by the end of January 2010. A central team will then ensure that best practice as highlighted by the regions is promulgated globally and that generic weakness in procedure is addressed.

6.2 Since 1 September Kuala Lumpur has referred all complaints to the Regional Manager, and all replies to complaints are authorised by the same Regional Manager. Details of all complaints from the sub-region (SE Asia) are then sent to Hong Kong each month, and then forwarded to London. Any trends are picked up and fed back to ECMs. Kuala Lumpur was operating this system from 1 September, but their first return to Hong Kong would not have been until the end of that month (outside the period of the inspection).

7. Reviews its global target in relation to complaints to ensure it complements the aims of its Customer Service Strategy: UK Border Agency accepts this recommendation.

7.1 The UK Border Agency agrees that the current complaints metric highlighted in the Chief Inspector’s report requires revision. This metric was first introduced into the UK Visas Balanced Scorecard in 2007. The metric has been found to be unsuitable for measuring posts handling of complaints as it was too volume driven resulting it giving an inaccurate picture of individual posts complaint analysis. By the end of February 2010 the UK Border Agency will replace this with a metric that measures the quality of complaint responses from the visa business. This qualitative analysis should help identify trends in complaints and we aim to use this to complement the UK Border Agency’s wider customer service strategy.

Other points raised in the report

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

8. Processes and procedures including quality of decision making and consistency of approach

In paragraph 8.3 it is noted that “Forty eight refusal notices (98% of the sample) were assessed against the correct Immigration Rules. The remaining case was a student seeking to study for five months who had been refused under paragraph 57 for long term students (prior to the introduction of the points-based system) instead of under paragraph 56.

In this case, the applicant stated on her Visa Application Form that she intended to study for one year. She did not apply as a Student Visitor, so the decision to refuse under paragraph 57 was technically correct.

Visit refusals (four applications)

- There was doubt over the employer’s letter but a verification check had not been done.

The applicant was from North Korea where it is not possible to verify documents. The Entry Clearance Manager initially agreed to issue a revised refusal notice as it was thought that the Entry Clearance Officer had made an error by stating that the applicant
had submitted a photocopied invitation letter. It transpired that the Entry Clearance Officer was not mistaken and the refusal notice was correct. A revised refusal notice was not therefore issued.

- The customer had rightly been refused for not disclosing a previous entry clearance refusal but a subsequent issue of an entry clearance and compliance was not taken into consideration.

The UK Border Agency notes the ICI’s comments and that it was agreed that no further action was required. The UK Border Agency has made changes to guidance on handling 320 7 (a) and (b) cases to emphasise that although these are mandatory grounds for refusal they are not intended to catch those who make innocent mistakes in their applications. Guidance now makes it clear that the Entry Clearance Officer needs to be satisfied that deception has been employed and/or the applicant intended to deceive the Entry Clearance Officer before using these powers. This guidance has been sent to all overseas posts.

- The customer had previously been refused a working holidaymaker entry clearance. They were refused for two reasons; one being the lack of evidence of leave but the leave letter was on the file.

The UK Border Agency accepts that there were deficiencies in the way that the evidence in this case was presented in the refusal notice. A revised refusal notice has been issued.

- The decision was sound but positive evidence (of the sponsor’s ability to support the customer) was not included in the refusal notice.

The UK Border Agency notes the ICI's comments and it was agreed that no further action was required.

Business visit (one application)

- The customer was initially refused because the employer’s letter did not confirm duration of the business visit. They obtained this evidence and resubmitted a second application which was refused on different grounds. The first refusal should have contained all the grounds for refusal.

The UK Border Agency accepts that there were deficiencies in the way that the evidence was presented in the refusal notice in this case. A revised refusal notice has been issued.

Short term Students (two applications)

- The customer was refused under paragraph 57 instead of 56 of the Immigration Rules and was also refused on funding despite evidence of funding being supplied.

This case is referred to in paragraph 8.3. A revised refusal notice was issued to reflect the correct relationship between sponsor and applicant.
The customer was refused because they had not produced bank statements but they had provided alternative proof of funding.

The UK Border Agency accepts that there were deficiencies in the way that the evidence in this case was presented in the refusal notice. The applicant submitted a bank statement printed from the internet. The balance shown was not sufficient to cover his costs during his proposed period of study. A revised refusal notice was issued setting out in more detail the reason for refusal.

In paragraph 8.5 it is noted “The Entry Clearance Manager agreed to review the above cases. They subsequently issued revised refusal notices in five of the eight cases and acknowledged our comments on the remaining three.”

For reasons given above there were four revised refusal notices issued and not five.

In paragraph 8.22 it is noted that “We consider more work should be done to inform customers about the types of criteria they need to meet when making applications for entry clearance for periods longer than six months.”

The UK Border Agency agrees and revised the information provided on long term visit applications on the 23rd of December 2009.

In Paragraph 8.25 it was noted “Forty seven of the cases (94% of the sample) met the above criteria. In three cases the refusal notice did not include the customer’s rights to an administrative review. All of the cases met customer processing times.

The three cases that did not receive the right to an Administrative Review (AR) were applications from dependents of those applying under the points based system (PBS). Although PBS dependents apply on a PBS application form they are not considered under the PBS rules. It was therefore correct that the refusal notices did not include rights to an administrative review.

The UK Border Agency accepts that the information to applicants could have been clearer on this point and has amended guidance and customer information to remove any ambiguity.

Paragraph 8.27 details a case study where a customer who failed to disclose a previous visa refusal was refused under paragraph 320 7 (a) of the immigration rules. In relation to this case Paragraph 8.28 states “It is important that when entry clearance staff use these powers, they do so carefully, as the impact on customers can be harsh.”

The UK Border Agency accepts the ICI’s team’s findings in respect of this application. Changes to guidance on handling 320 7 (a) and (b) cases have been made as set out in paragraph 8.4 above.

9. Impact on People subject to UK Border Agency services

In paragraph 9.7 it is noted that “We found that processing times at Singapore took much longer during the busy summer student period, with typical waiting times of up to three hours.”
The UK Border Agency accepts that there were occasions when applicants faced significant delays in the Singapore Visa Application Centre (VAC). Since these delays occurred measures have been put in place to:

- Provide additional staff well in advance of the peak period to manage the increased workload.
- Provide frequent customer information updates on documentation requirements and how to complete the application process so that they spend less time at the VAC counters and enabling a quicker turn around time.
- Encourage applicants to make more use of the appointments system which is in place in the VAC so there are not so many walk-in applicants.

In paragraph 9.17 it is noted that “We spoke to the manager of the visa application centre in Singapore about the telephone helpline. They told us they had the software to produce management reports on call waiting times (the time taken to answer a call) and the number of abandoned calls but that the software was not used. This was a weakness, particularly during the busy summer student season. In relation to the visa application centre in Kuala Lumpur, we were told they did not have this software.”

The UK Border Agency has discovered that there was a misunderstanding with the Visa Application Centre manager in Singapore. The manager manually completes an Excel spreadsheet to record the number of calls received and the average time taken to handle the calls but there is no software in place to produce management reports.

10. Management and Leadership

In paragraph 10.5 it is reported that “The Entry Clearance Manager told us that he considered the provision of training to be generally good, although he felt that training on the points-based system could be improved.”

Paragraph 10.16 reports “They (the ECOs) said that the three week Entry Clearance Officer training course only included a short talk on the points-based system. For those already at post the training consisted of two sessions delivered locally which staff said left questions unanswered.”

All delegates on the 3 week ECO Induction courses are given comprehensive PBS training. Over 12 hours of the course is devoted specifically to PBS and Tier 4 applications are covered in detail. In addition, serving ECOs have been able to complete a PBS e-learning module and attend regional training events organised by the PBS champions for the region. Staff from London have also visited individual posts to provide specific PBS training.

In paragraph 10.5 it is reported that “The Entry Clearance Manager said a Performance Development Review had not been opened for him this year.”

A Performance Development Review (PDR) was submitted in draft format to The Entry Clearance Manager in June by his previous line manager. Discussion of the draft with a view to agreeing it did not take place before the line manager left post. The Entry Clearance manager’s PDR has now been reviewed by his new line manager and will be monitored in line with HR practice.
In paragraph 10.5 it is reported that “They also had concerns about the points-based guidance. They said they found it difficult to find the information they needed and to find amended guidance issued in the form of addendums.”

The UK Border Agency constantly seeks to improve and clarify guidance. A significant clarification and reformatting of the guidance was published on 5 October 2009 following consultation with Stakeholders including Overseas Posts. Operational Instructions (OPI's) are issued to Overseas Posts to notify them of changes to guidance.

The UK Border Agency agrees that policy changes should be incorporated within the main body of guidance as soon as possible. However, there are circumstances when an addendum is necessary. For example where a short-lived concession is introduced or where urgent changes are required. This is because the formatting and clearance times are considerably shorter for an addendum than for a full guidance change. The previous Independent Monitor made reference to the fact that entry clearance guidance was often hard to access or out of date. In March 2009 the UK Border Agency launched a central guidance site that provides access to all OPI's and policy guidance relating to visa work. Guidance will normally be fully updated before amendments are announced. Addendums on PBS are always attached to the guidance and to date all addendums have been incorporated into the main body of the guidance within six weeks.

In paragraph 10.5 it is reported that “Entry Clearance Officers told us they were concerned about information technology systems. They told us there had been delays with the introduction of biometrics, but acknowledged that these teething problems had been resolved. However, they would like to have access to the casework information database used in the United Kingdom together with regional access to the intelligence system. This was because of the considerable time delays they suffered in requesting checks on these databases from the United Kingdom.

It is accepted that the fact that overseas caseworkers are not on the same IT systems as the rest of the Agency is a weakness. This is one of the drivers behind the Agency’s new caseworking programme, ICW (Immigration Case Work). ICW will replace Proviso from November 2010. Rollout of the system is dependent upon the testing results and budgetary considerations.