



An Inspection of applications to enter and remain in the UK under the Tier 1 Investor and Entrepreneur categories of the Points Based System

December 2012 – May 2013



John Vine CBE QPM

Independent Chief Inspector of Borders and Immigration



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FOREWORD FROM JOHN VINE CBE QPM INDEPENDENT CHIEF INSPECTOR OF BORDERS AND IMMIGRATION



Tier 1 of the Points Based System is designed to attract talented and highly skilled individuals to enter and remain in the UK, who can contribute to our economy. This is particularly the case where the individuals apply as entrepreneurs or investors.

This inspection examined the efficiency and effectiveness of the Home Office's handling of entrepreneur and investor applications, with a particular focus on the consistency and quality of decisions. It did this by comparing decisions made by the Home Office on applications for leave to enter at four visa posts overseas with decisions taken on applications for further leave to remain made in the UK.

I was pleased to see that all necessary security checks were carried out against both the Police National Computer and Warnings Index on all the cases in my sample. I also found good relationships between caseworkers and intelligence units in the UK and entry clearance officers and the Risk Assessment and Liaison Network (RALON) overseas. Decision-makers felt confident in making referrals where they had concerns about documents. Such checks provide an important safeguard against grants of leave on fraudulent grounds.

I was unable to assess the reasonableness of the decisions made in 42% of the cases in my sample due to a lack of retained evidence and inadequate case notes. This is unacceptable. The Home Office must ensure that decisions on applications are properly evidenced and recorded.

Where I was able to assess decisions, I found that 91% of decisions on investor applications were reasonable. However, this fell to 62.5% for entrepreneur applications. This is too low. It means that some individuals may have been allowed to enter or remain in the UK who should have been refused. I expect the Home Office to take immediate steps to improve the quality of its decision-making on entrepreneur cases.

In previous reports, I have stressed the importance of learning lessons from appeals and administrative reviews. I found good practice in New York, where administrative review outcomes were shared with the entry clearance officer who had made the initial decision. By contrast, in Sheffield, caseworkers did not routinely see appeal determinations in their cases. The Home Office should ensure that appeal and administrative review outcomes are shared with all decision-makers as a matter of routine and used to improve decision quality.

I found significant variations in the time taken to decide applications in my sample. Overseas, the average was 7.5 days. By contrast, applications decided in Sheffield, took an average of 63 days, more than eight times longer. This is a glaring inconsistency and represents extremely poor customer service.

Between February and December 2012, the number of entrepreneur applications awaiting decision in the UK increased by 1,520%. Staff told me this was primarily the result of the closure of the Post Study Work route in April 2012, which resulted in a displacement of applicants into the entrepreneur category. The Home Office failed to anticipate the scale of the increase and this backlog peaked at

over 9,000¹ cases in March 2013. Whilst the Home Office had reduced this by over 70% by late July, it must ensure that dealing with these applications is not achieved at the expense of decision quality. It must also improve its internal forecasting so that it can allocate resources effectively to prevent future backlogs.

A handwritten signature in black ink that reads "John Vine .". The signature is written in a cursive style with a period at the end.

John Vine CBE QPM
Independent Chief Inspector of Borders and Immigration

¹ Figure includes dependents.

1. Executive Summary

1. Tier 1 of the Points Based System (PBS) is intended to encourage foreign nationals who will contribute to the UK's economy to come to the UK. People who wish to enter or remain in the UK as entrepreneurs or investors can apply under this route. During the financial year 2011 – 2012 there were 1,682 entrepreneur and 594 investor applications.
2. This inspection examined the efficiency and effectiveness of the Home Office's handling of entrepreneur and investor applications, with a focus on the consistency of approach between decisions made in the UK and overseas. It did this by comparing decisions made in the UK and at four overseas visa posts.
3. The Agency had checked all the applicants in our file sample against the Police National Computer (PNC) and the Home Office Warnings Index (WI) in order to establish whether they had previous convictions in the UK, adverse immigration histories or might be of concern on other grounds. In addition, staff felt confident in referring cases for additional checks where they had concerns over the veracity of documents submitted by applicants. Such checks provide an important safeguard against grants of leave on fraudulent grounds.
4. There were highly effective links between decision-makers and those working in the Home Office's intelligence units in the UK and its Risk Assessment Liaison and Overseas Network (RALON). These relationships encouraged decision-makers to share information on individual cases and potential trends with intelligence staff. This was a significant improvement on our findings in an earlier report² where staff told us they did not fully understand their role in relation to intelligence gathering and referral.

There were highly effective links between decision-makers and those working in the Home Office's intelligence units in the UK and its Risk Assessment Liaison and Overseas Network (RALON)

5. Between 1 January 2012 and 31 December 2012, the Home Office recorded 1,550 allegations against people who were in the process of applying, or had applied under Tier 1. We were told information from allegations had informed amendments to the Rules relating to the entrepreneur route. However, the Home Office was unable to tell us what the outcome of the allegations had been. This is disappointing given that the Agency accepted a recommendation in one of our earlier reports on this issue.
6. As in some of our previous inspections, the Home Office had not retained sufficient evidence or notes to allow us to assess the reasonableness of its decisions. In this inspection, this occurred in 42% of the cases we sampled. A failure to keep adequate records not only affects our ability to assess decision quality but also the Home Office's ability to operate efficiently and effectively.
7. Where the retained evidence and notes allowed us to assess the quality of decisions, we found that 91% of investor decisions were reasonable. However, we found only 62.5% of entrepreneur decisions were reasonable. It is noteworthy that all of the decisions that we assessed as being unreasonable, were decisions in which the Home Office had granted the applicant leave.

² Preventing and detecting immigration and customs offences: A thematic inspection of how the UK Border Agency receives and uses intelligence <http://icinspector.independent.gov.uk/wp-content/uploads/2011/02/Preventing-and-detecting-immigration-and-customs-offences.pdf>

8. The number of entrepreneur applications made in the UK rose by 1,520% between February and December 2012. Staff told us that this was due to the closure of the Post Study Work route to new applicants in April 2012, which resulted in people applying as entrepreneurs instead. The Home Office's internal forecasting had significantly underestimated the impact that this change would have on the entrepreneur route. This meant that there had been insufficient staff in post to deal with the number of applications received. As a result, a backlog developed, which peaked at 9,191 in March 2013.³ Whilst the Home Office sought additional resources to deal with these cases in November 2012, it could reasonably have done so earlier.
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- We found that 91% of investor decisions were reasonable. However, we found only 62.5% of entrepreneur decisions were reasonable*
-
9. We found that steps had been taken to reduce the backlog, which had decreased by over 70% between early March and late July 2013. We welcome the steps the Home Office is taking to deal with these applications. It is important that there is an equal emphasis on reducing the backlog and making high quality decisions.
10. The Home Office has service standards for deciding applications made both in the UK and overseas. Its performance against the overseas standards was good. Those whose applications were considered in Sheffield waited, on average, eight times longer for a decision than those whose applications were considered overseas.
-
- It is important that there is an equal emphasis on reducing the backlog and making high quality decisions*
-
11. The Home Office's website displayed its service standards for Tier 1 applications. With the exception of one month for investor applications, the Home Office failed to achieve these standards in-country for entrepreneur and investor applications throughout 2012. However, the information continued to be displayed on the website until April 2013. This gave applicants and potential applicants a false expectation that their case was likely to be decided within four weeks.
12. In previous inspections, we have been concerned at the Home Office's inability to provide us with case files that we requested for our file sample. We were therefore pleased that it was able to provide us with 97 of the 98 files that we requested. However, given the sensitive information contained in entrepreneur and investor applications, we were extremely concerned to find that, in Sheffield, these files were stored in crates in open plan offices overnight. We do not believe that this is acceptable. We raised this with senior managers and as a result they agreed to store these files in lockable rooms with restricted access.
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- Those whose applications were considered in Sheffield waited, on average, eight times longer for a decision than those whose applications were considered overseas*
-
13. We found the Home Office was undertaking a strategic analysis of both Administrative Review and Appeal outcomes in order to identify trends. This is welcome. In New York, managers actively shared the outcome of each Administrative Review with the Entry Clearance Officer who had made the decision. Entry Clearance Officers believed this feedback from managers could be used to improve the overall quality of their decisions in future cases. By contrast, caseworkers in Sheffield did not routinely see appeal determinations in cases where they had made the initial decision. In our opinion, determinations provide an essential source of feedback for decision-makers and therefore should be shared with them.

³ Figure includes dependents.

2. Summary of Recommendations

We recommend that the Home Office:

1. Improves the quality of its decision-making on entrepreneur applications.
2. Ensures that personal data is stored securely and in line with Data Protection Act requirements.
3. Ensures that Appeal and Administrative Review outcomes are shared with caseworkers or Entry Clearance Officers on a routine, consistent and systematic basis.
4. Ensures that its application intake forecasts better reflect the potential consequences of policy changes so that it can prevent a build-up of applications.
5. Ensures that the reasons for its decisions on applications are properly evidenced and recorded.

3. The Inspection

- 3.1 The role of the Independent Chief Inspector of Borders and Immigration was established by the UK Borders Act 2007 to examine the efficiency and effectiveness of the UK Border Agency. The initial remit was to consider immigration, asylum and nationality issues but this was subsequently widened when the Borders, Citizenship and Immigration Act 2009 gave the Chief Inspector additional powers to look at customs functions and contractors employed by the Agency.
- 3.2 On 26 March 2013 the Home Secretary announced that the UK Border Agency was to be broken up and, under a new package of reforms, brought back into the Home Office, reporting directly to Ministers. The Chief Inspector continues to inspect UK immigration functions previously carried out by the Agency, and immigration and customs functions exercised by Border Force, as well as contractors employed by the Home Office to deliver any of these functions. As this inspection started prior to these changes, the report refers to the Agency when describing the situation at the time of the inspection and the Home Office when commenting on the future.
- 3.3 The Chief Inspector is an independent public servant, appointed by and responsible to the Home Secretary.

Purpose and Aim

- 3.4 Tier 1 of the Points Based System was intended to attract ‘high value’ applicants to the UK with a view to promoting economic growth. Given the importance of Tier 1, we decided to assess whether the Agency was handling these applications efficiently and effectively, with a particular focus on the quality of its decision-making.

Scope

- 3.5 This inspection examined applications made by foreign nationals to enter or remain in the UK as an entrepreneur or investor under Tier 1 of the Points Based System (PBS).
- 3.6 Applications for these sub-categories can be either:
- Initial – the first time an applicant has sought leave to enter (LTE⁴) or leave to remain (LTR⁵) in either sub-category. Successful applicants are granted 40 months LTE or 36 months LTR.
 - Extension – the applicant has extant leave in either sub-category and seeks to extend their LTR in the same sub-category. Successful applicants are granted a further 24 months LTR.
- 3.7 The scope of the inspection did not include applications for extensions for leave to remain in either the entrepreneur or investor sub-categories, as these types of application (specifically extensions) are rarely made overseas. As such, no comparison could be made with the equivalent considerations made in the UK.

4 Applications for LTE as entrepreneur and investor are made overseas at UK embassies and consulates.

5 Applications for LTR as entrepreneur and investor are made from within the UK.

3.8 The inspection examined the quality and consistency of decision-making in cases where people had applied for initial:

- Leave to enter (LTE) or leave to remain as an entrepreneur; or
- Leave to enter or leave to remain as an investor

Methodology

3.9 A range of methods were used during the inspection, including:

- File sampling 98⁶ applications. In order to select the files, we asked the Agency to provide us with details of all entrepreneur and investor applications made between 6 April 2012 and 30 November 2012 in which a decision had been made. We then chose cases to examine and sampled:
 - 25 files where an application had been made in the UK for leave to remain as an entrepreneur, including 20 cases where the application was successful and five where it was refused;
 - 23 files where an application had been made in the UK for leave to remain as an investor, including 20 cases where the application was successful and three where it was refused; and
 - 50 files where a pre-entry application had been made overseas. These were from four overseas posts (Abu Dhabi, United Arab Emirates; Manila, Philippines; Moscow, Russia, and New York, USA). These were divided as follows:
 - > 25 files where an application for leave to enter as an entrepreneur had been made, which comprised 20 cases where the application had been successful and five where it had been refused;
 - > 25 files where an application for leave to enter as an investor had been made, which comprised 20 cases where the application had been successful and five where it had been refused.

3.10 The on-site phase of the inspection took place between 8 April 2013 and 7 May 2013 in Sheffield, New York and London. During that time, we interviewed 31 members of staff and managers at a range of grades, which are detailed in Figure 1. In addition we held ‘drop in’ sessions in New York and Sheffield so that staff who had not been interviewed could speak to us if they wished.

Figure 1: Composition of Interviewees (by grade)

Grade (or equivalent)	Number
AO	8
EO	9
HEO	4
SEO	3
Grade 7	2
Grade 6	3
SCS	2
Total	31

⁶ Initially 100 applications were requested. However, the Agency had refused only three in-country investor applications meeting our criteria and so the sample size was reduced to 98.

- 3.11 12 working days after the completion of the on-site phase of the inspection, the inspection team provided feedback on high level emerging findings to the Home Office.
- 3.12 The inspection identified five recommendations for improvement to operational service delivery. A full summary of recommendations is provided on Page 5 of this report.

4. Background

- 4.1 The Points Based System (PBS) was introduced in 2008. Tier 1 of the PBS was designed to allow ‘high value’ migrants to enter or remain in the UK. This migration route is of importance to the UK, as attracting foreign entrepreneurs, investors and individuals of exceptional talent is seen as a way of promoting economic growth. Indeed, in November 2010, the Home Secretary said, ‘Operating effectively, tier one should only be used by investors, entrepreneurs and people of exceptional talent; in short, the genuinely highly skilled.’⁷
- 4.2 People who are overseas and wish to enter the UK under Tier 1 can apply for leave to enter (LTE); these applications are considered by Home Office staff working overseas. People already in the UK can apply for leave to remain (LTR); these are normally⁸ considered by Home Office staff in Sheffield.
- 4.3 As with other tiers within PBS, there have been changes to Tier 1, with some of the original sub-categories being closed. There are currently five sub-categories available to people. These are outlined in Figure 2.

Figure 2:

Sub-category	Description
Tier 1 Exceptional Talent	For people who are recognised, or have the potential to be recognised, as leaders in the fields of science and the arts.
Tier 1 Entrepreneur	For people who want to set up or take over, and be actively involved in running, a business or businesses in the UK.
Tier 1 Investor	For people who want make a substantial financial investment in the UK.
Tier 1 General	For highly skilled workers. This category was closed in April 2011. However, extensions under this category are allowed up until 2014.
Tier 1 Graduate Entrepreneur	For people identified by UK higher education institutions as having developed world class innovative ideas or entrepreneurial skills, to extend their stay in the UK after graduation to establish one or more businesses in the UK

- 4.4 Children and dependants of ‘main applicants’ are also able to make applications under these categories. Whilst the ‘General’ category was closed to initial applicants in the UK in April 2011, applications from children and dependants of main applicants already in the UK are still accepted. In addition, although applications are no longer being accepted from main applicants under the Post Study Work⁹ category (which closed in April 2012), applications made by dependants or children of main applicants with leave to remain are being accepted.

⁷ <https://www.gov.uk/government/speeches/immigration-home-secretarys-speech-of-5-november-2010>

⁸ Applicants can also apply in person at one of seven Public Enquiry Offices.

⁹ The Post Study Work route is a previous category of Tier 1 of the Points Based System which allowed the UK to retain the most able international (non-European) graduates who had studied in the UK. This route was closed to all new applicants on 6 April 2012.

4.5 As can be seen in Figure 3, data provided to us by the Agency covering the financial year 2011-12, showed that the number of applications in some of the sub-categories of Tier 1 were small.

Figure 3: T1 Applications received by UKBA in financial year 2011-12

Sub-category	In-Country	Overseas
Tier 1 Exceptional Talent	0	95
Tier 1 Entrepreneur	1,065	617
Tier 1 Investor	157	437
Tier 1 General	13,986	0
Tier 1 Graduate Entrepreneur	0	0

4.6 In the financial year 2011-12, only 95 applications were made for LTE under the exceptional talent sub-category; whilst between April and August 2012, only seven applications were made seeking LTR as a graduate entrepreneur. As the General sub-category was closed at the time of the inspection, it was decided to focus the inspection on the entrepreneur and investor sub-categories.

4.7 Data provided by the Agency showed that, in 2011-12, 1,682 entrepreneur and 594 investor sub-category applications were made in the UK and overseas. Given the economic importance of these routes and the fact that volumes were higher than for the other remaining Tier 1 sub-categories, we decided to focus on entrepreneur and investor applications.

4.8 In addition, we decided only to examine applications made by main applicants and not those made by their partners or children (their dependants). This was because decisions on dependants' applications relied heavily on the outcome of the main applicants' cases.

4.9 Applications for the entrepreneur sub-category are considered under paragraphs 245D-245DF¹⁰ of the Immigration Rules, and for the investor sub-category, under paragraphs 245E-245EF1. People who have made their application overseas and are successful, are given LTE the UK for 40 months, whilst applicants who successfully apply from within the UK, are given LTR for 36 months. At the end of this leave, applicants can apply for an extension of their leave. If successful they will be given a further period of leave of 24 months.

4.10 The standard fees for these applications¹¹ are shown in Figure 4 below:

Figure 4: Application fees charged by UKBA for Tier 1 Applications

Category	Entrepreneur	Investor
Overseas	£816	£840
LTR	£1,020	£1,051
Premium	£1,321	£1,426

4.11 Where an in-country application for LTR as an entrepreneur or investor is refused by the Home Office, the applicant may have a right of appeal against the decision. Appeals are heard by Her Majesty's Courts and Tribunals Service (hereafter referred to as The Tribunal) in the UK.

4.12 Applicants who are refused LTE overseas have a right to seek an Administrative Review of the Home Office's decision if they believe that an error was made in refusing their visa application under the

¹⁰ <http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/part6a/>

¹¹ Application fees as at 6 April 2013.

PBS. An Administrative Review is a check by the Home Office of its own decision and examines whether the claimed points were correctly assessed by the Entry Clearance Officer. This consideration is undertaken by an Entry Clearance Manager.

- 4.13 For this inspection, we reviewed applications for LTE under the entrepreneur and investor sub-categories that had been considered by four overseas posts; Abu Dhabi, Manila, Moscow and New York. Abu Dhabi, Manila and New York are ‘hubs’ and therefore consider applications from people making an application for LTE from ‘spoke’ countries.¹² Manila, for example, considers applications from, amongst others, Australia, Japan, New Zealand and Taiwan.
- 4.14 We also reviewed applications for LTR made under the entrepreneur and investor sub-categories. These had been made by post and had been considered in Sheffield, or had been made ‘in-person’, and were then considered at one of the Home Office’s seven Public Enquiry Offices in the UK.
- 4.15 In our file sample, those applying in the UK were, on average, much younger than their counterparts applying overseas. This can be seen in Figures 5 and 6 below:

Figure 5: Age profile of applicants

Age (years)	Entrepreneur		Investor		Combined
	In-country	Overseas	In-country	Overseas	
Under 20	0	0	5	0	5
20-29	18	6	14	3	41
30-39	7	7	4	3	21
40-49	0	6	0	14	20
50-59	0	5	0	4	9
60 and over	0	1	0	1	2
Total	25	25	23	25	98

Figure 6: Average age (years) of applicants

	Entrepreneur	Investor	Combined
In UK	28	24	26
Overseas	40	43	42
Overall	34	34	34

- 4.16 The difference in the age profile reflected the fact that many of those who were applying in-country had originally been granted leave as students.

¹² The hub and spoke business model has seen decision-making move from small visa sections (or ‘spokes’) to larger regional hubs, or processing centres.

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

Quality of decision-making

- 5.1 Foreign nationals can apply to enter or remain in the UK as an entrepreneur or investor under Tier 1 of the Points Based System. People wishing to apply as entrepreneurs make their application under paragraph 245D–245DF of the Immigration Rules¹³ (hereafter referred to as ‘the Rules’), whilst those wishing to apply as investors make their application under paragraph 245E–245EF of the Rules. Consideration is also given to whether the application should be refused on the basis of ‘general grounds for refusal’,¹⁴ which provide for the refusal of applications when certain criteria relating to criminality and previous immigration history are met.
- 5.2 We assessed the quality of the Agency’s decision-making on the basis of the information available to the Entry Clearance Officer or caseworker at the time of the initial decision. We chose applications for LTE that had been considered at four overseas posts (Abu Dhabi, Manila, Moscow and New York), and applications for LTR that had been considered in the UK, either in Sheffield or at one of the Agency’s Public Enquiry Offices.
- 5.3 A breakdown of the 98 files the Agency provided us with is set out below:

Figure 7: Breakdown of files that were in-scope

Type of application	Application for LTE (in-country)	Application for LTR (overseas)	Total
Entrepreneur issued	20	20	40
Entrepreneur refused	5	5	10
Investor issued	20	20	40
Investor refused	3	5	8
Total	48	50	98

Reasonableness of decisions

Retained evidence and notes

- 5.4 Applicants seeking leave as entrepreneurs and investors are required under the Rules to achieve a specific number of ‘points’. Points are awarded based on whether applicants meet specific requirements, referred to as ‘attributes’.¹⁵

¹³ http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationRules/part8/spouses_civil_partners/

¹⁴ Paras 320-322 of the Rules.

¹⁵ These are contained in Appendix A to the Rules. The attributes for entrepreneurs and investors can be found in Appendices 3 and 4 of this report.

- 5.5 To assess the reasonableness of the Agency's decisions, we reviewed both the evidence retained¹⁶ on the Agency's files and the notes on its electronic caseworking systems.¹⁷ We then assessed whether the decision was reasonable, having regard to the requirements of the Rules and Appendix A.
- 5.6 In 41 (42%) of the cases we sampled, the retained documentation and/or electronic notes were so limited that we were not able to assess the reasonableness of the decisions. Thirty nine of these cases (95%) were decisions to issue an applicant with leave. The majority of the cases where we could not make an assessment (26 of the 41) were entrepreneur cases.
- 5.7 Applicants who are refused are given a 'Refusal Notice', in which the reasons for refusal are set out by the decision-maker. These are retained either on the file and/or on an electronic database. From these we were able to see why a decision to refuse had been made in the majority of the cases we examined. Where a decision to issue is made, however, caseworkers/Entry Clearance Officers record their reasons on the Casework Information Database (CID)/Proviso. The level of notes varied; whilst some contained detailed explanations for the decision and had a comprehensive synopsis of the evidence that led to the decision, others contained significantly less information.
- 5.8 We have previously¹⁸ expressed concerns about the Agency's approach to both the retention of evidence and the adequacy of notes relating to its decision-making. In response to these concerns the Agency took steps aimed at ensuring that relevant documents are retained and that decision-making notes clearly set out why decisions are made. For example, the Agency issued instructions to staff considering applications overseas informing them of the importance of making adequate caseworking notes.
- 5.9 In addition, a further casework instruction¹⁹ had been issued in May 2012, which reminded staff of the above. It is disappointing that despite these steps, we were unable to make an assessment of the reasonableness of the decision in 42% of cases. Not only does the lack of notes impact on our ability to assess the reasonableness of decisions but it can impact on the Agency's own ability to operate efficiently and effectively. During interviews, some managers told us they were sometimes unable to understand how a decision had been made from the notes when they quality-assured a case or reviewed it at a later stage.
- 5.10 During interviews with staff and managers, we noted that there were three differing views about the purpose of recording electronic case-notes:
- as a caseworking *aide mémoire* when considering an application;
 - in order to record the reasons for reaching a decision and what evidence was considered; and
 - some saw the purpose as being for both of these.

We were unable to make an assessment of the reasonableness of the decision in 42% of cases

We believe that the purpose behind the notes had an impact on the amount of information that they captured. Until there is a consistent understanding amongst both staff and managers over the purpose of notes, it is likely that there will continue to be inconsistent approaches to standards of note keeping in cases. We therefore make the following recommendation:

We recommend that the Home Office:

Ensures that the reasons for its decisions on applications are properly evidenced and recorded.

¹⁶ That had been provided at the time of the decision.

¹⁷ The Casework Information Database for applications considered in the UK and Proviso for those considered overseas.

¹⁸ Including our inspections of settlement and marriage, Entry Clearance Decision-making – A Global review, Africa, Amman and Istanbul.

¹⁹ OPI 335.

Overall assessment of reasonableness of decisions

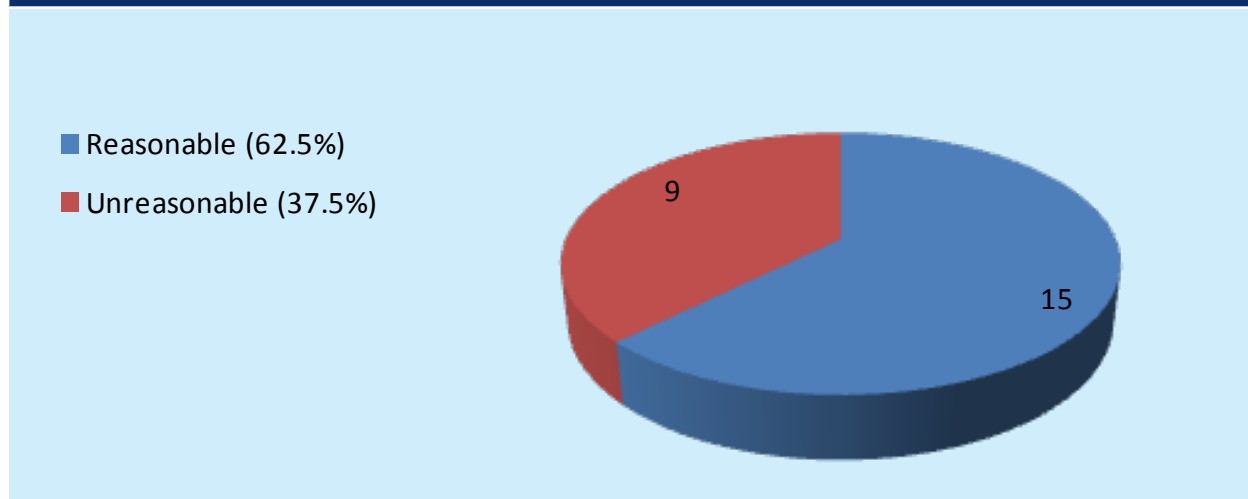
5.11 We were able to assess the reasonableness of the decision in 57 cases (58% of our sample). Of these, we were satisfied that the decision was reasonable in 45 cases (79%)²⁰ and unreasonable in 12 cases (21%). All of the decisions that we assessed as being unreasonable related to decisions to issue an applicant with leave. Nine (75%) of these were decisions to issue a person with leave as an entrepreneur, whilst the remaining three (25%) were decisions to issue a person with leave as an investor.

All of the decisions that we assessed as being unreasonable related to decisions to issue an applicant with leave

Entrepreneur

5.12 We reviewed 50 entrepreneur cases, but were unable to assess the reasonableness of the decision in 26 (52%) of these cases. Of the remaining 24 cases, we assessed the Agency's decision as being reasonable in 15 (62.5%) cases and unreasonable in nine (37.5%) cases.

Figure 8 - Reasonableness of entrepreneur decisions in cases that we were able to assess



5.13 As discussed above, all of the decisions that we assessed as being unreasonable were ones where the applicant had been granted leave. By granting leave, the Agency had accepted that the applicant met the requirements of the Rules to have adequate funds to invest in a UK business. Our concerns related to:²¹

- Bank regulation in five cases;
- Third party support in four cases; and
- Whether the money was disposable in the UK in one case.

We discuss these cases in further detail below.

²⁰ Percentages rounded up to the closest number (0.5% round up).

²¹ In some cases we had concerns relating to more than one issue.

Financial regulation

- 5.14 Applicants are required to submit documentary evidence to show that they have access to the necessary amount of money to invest in a UK business. The Rules require that money in the UK must be held by a financial institution that is regulated by the Financial Services Authority (FSA), whilst money held overseas has to be held in a financial institution that is regulated by the appropriate body of that country.
- 5.15 Applicants who rely on money held in a UK financial institution are able to evidence this by submitting a recent statement from an FSA regulated bank/building society, which confirms that the money is available to the applicant.
- 5.16 Individuals wishing to rely on money held in an overseas financial institution must submit a letter from their financial institution confirming that the money is available to the applicant. The letter must confirm that the financial institution is regulated by the appropriate body.
- 5.17 In four of the cases that we sampled, the Agency had accepted that the financial institution was appropriately regulated, however, it was not clear to us from the retained evidence and/or electronic case notes how this decision had been reached. An example of such a case can be seen in Figure 9 below.

Figure 9: Case study 1 – Financial Regulation - unreasonable decision.

The applicant:

- was a Bangladeshi national who applied for leave in the UK as an entrepreneur (as part of a team); and
- submitted a range of evidence, which included evidence that money (relied on by the applicant) was held in a bank in Bangladesh.

UKBA:

- was satisfied that the Bangladeshi bank was regulated by the appropriate body; and
- having been satisfied on the other aspects of the Rules granted the applicant LTR.

Chief Inspector's Comments:

- Although the applicant's evidence included a letter from the bank in Bangladesh, it did not confirm that the bank was regulated by the appropriate body;
- There were no notes on either the file or CID to confirm how, in the absence of this information, the caseworker had satisfied themselves of this requirement of the Rules; and
- We therefore assessed this decision as unreasonable.

- 5.18 During interviews with staff we were told that it was not uncommon for them to consider applications in which the evidence from banks/financial institutions did not confirm whether they were regulated by the appropriate regulatory body. In these cases, they told us that if they knew from their own personal knowledge that the financial institution was regulated and they would be satisfied that the Rules were met. Where they did not have personal knowledge of the financial institution, they made their own enquiries, which often included searching the internet. They told us that, in cases where they were unable to confirm that a financial institution was regulated, they would contact the applicant and ask that they provide evidence of this. We were told that this approach was beneficial to applicants, as, it could prevent delays in reaching a decision in their case.

5.19 This approach is likely to be beneficial to applicants as they are likely to receive a decision more quickly than if the Home Office requests further information. It is also likely to be more efficient from the Home Office's perspective as it reduces the number of cases that are 'on hold' whilst further documents are requested. Such a process should also reduce the amount of correspondence and the likelihood that applications will need to be caseworked more than once, after additional evidence is submitted. Where staff make their own enquiries, however, we believe that it is important that these are clearly recorded on either the file or electronic notes, so that the basis on which the decision-maker was satisfied that the financial institution was regulated is clear.

5.20 We also had concerns about the Agency's approach to regulation of a financial institution in another case. Whilst electronic notes set out how the caseworker had satisfied themselves that the financial institution in which the money was held was regulated, we did not agree with the conclusion that was reached and therefore assessed the decision as unreasonable. In this case the applicant relied on money held in an overseas financial institution and submitted evidence from the bank to show this. This evidence:

- did not state that the bank was regulated by the appropriate body, but
- was accepted by the Agency, as the bank had a subsidiary in the UK, which was regulated by the FSA.

5.21 This approach was incorrect, as it is the regulator of the country in which the money that is held that is relevant under the Rules.

Third party support

5.22 Applicants seeking leave as an entrepreneur are required to demonstrate that they have a certain level of money available to them. The amount depended²² on the applicant's circumstances and was either at least:

- £50,000; or
- £200,000.

We were not satisfied that the Agency's approach to Third party support had been reasonable in four of the cases that we sampled

5.23 The Rules allow for this money to be made available to the applicant by a third party or third parties (rather than, for example, by a bank), and is commonly referred to as 'Third party support'. We were not satisfied that the Agency's approach to Third party support had been reasonable in four of the cases that we sampled.

5.24 Where an applicant relied on third party support, they were required²³ to provide a number of documents, which included:

- an original declaration from every third party, which contained the applicant's signature and that of the third party; and,
- a letter from a legal representative confirming the validity of signatures on each third party declaration provided, which confirms that the declaration(s) from the third party/parties contains the signatures of the people stated.

5.25 Our reading of the Rules is that they require that the lawyer confirms the validity of all signatures contained within the declaration(s). During our file sampling, however, we found three (in-country) cases where LTR had been granted to applicants where the lawyer had only confirmed the validity of the signature of the third party and not that of the applicant.

²² The amount required depends on certain factors, as set out in Appendix A to The Rules, Attributes for Tier 1 (Entrepreneur) Migrants: <http://www.bia.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/appendixa/>

²³ Appendix A to The Rules, Para 41 SDb

- 5.26 Staff told us they only checked to see whether the lawyer had confirmed the validity of the signatures of the third party/third parties. We note that there may be practical difficulties with this requirement of the Rules. This is because the Rules require that the legal representative must be permitted to practice in the country in which the third party or money is. Consequently it might be difficult for applicants to satisfy this requirement if they are in a different country from the legal representative and third party.
- 5.27 Notwithstanding these potential practical difficulties, we are concerned that the practice adopted by the Home Office is not consistent with the requirements of the Rules. Therefore we assessed the decision to issue as unreasonable in the three cases in which all signatures were not confirmed by the legal representative(s).
- 5.28 In a further case, an applicant relying on third party support was issued with LTR, as the Agency accepted that he met the requirements of the Rules. It was not clear to us, however, how the Agency had reached this conclusion. This case is discussed in Figure 10 below.

Figure 10: Case study 2 – Third party support - unreasonable decision.

The applicant:

- was a student who applied for LTR as an entrepreneur (as part of an entrepreneurial team); and
- relied on support from two third parties for the £200,000 he claimed to have access to. In support of this he submitted:
 - a third party declaration from one of the third parties (Mr X), who offered the applicant £130,519;
 - a letter from an advocate verifying the signature of Mr X; and
 - a letter from a bank saying that it acted for Mr Y (the second third party) and that he had £74,971.90 available for the applicant's entrepreneurial team.

UKBA:

accepted that the applicant had £205,490 and therefore had adequate funds. As he met the other requirements of the Rules it went on to issue him with LTR.

Chief Inspector's Comments:

The Agency accepted that the applicant had £205,490, based on the third party support of Mr X and Mr Y. However, there was no evidence that the applicant had submitted either:

- a third party declaration from Mr Y offering the funds, or
- a letter from a lawyer confirming the validity of the signatures in such a document.

Therefore we were not satisfied that the decision to issue was reasonable.

Money disposable in the UK

- 5.29 The Rules require that where applicants hold money overseas,²⁴ it is transferable to the UK. In one of the cases we sampled, however, part of the funds on which the applicant relied was held in a bank account in the USA. The Agency was satisfied that the money was transferable to the UK and

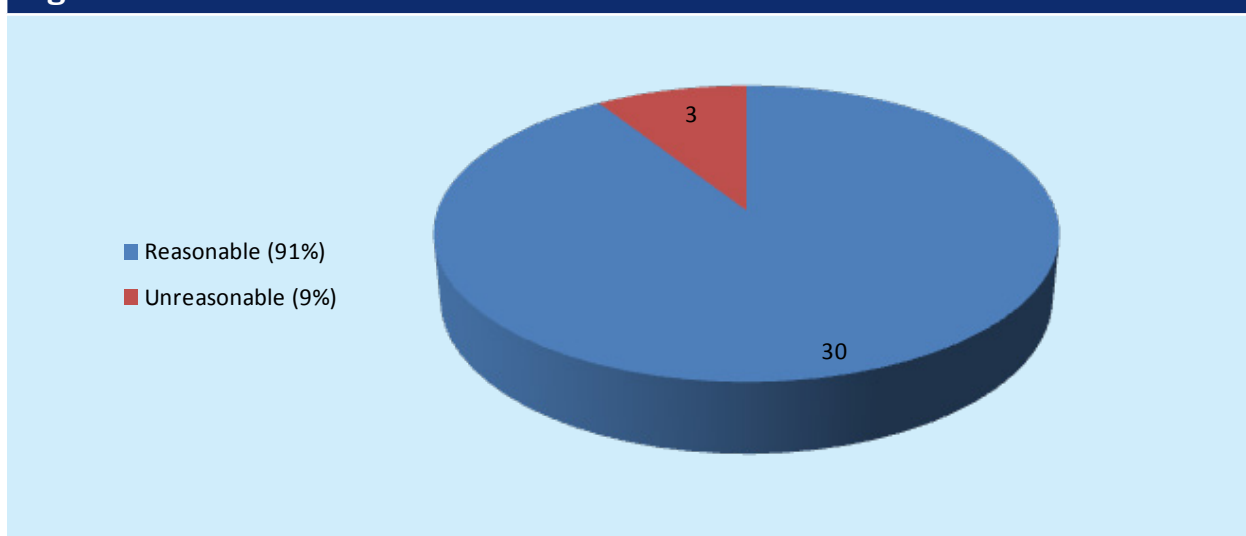
²⁴ Money that is held in an overseas financial institution that is regulated by the FSA will meet this requirement.

therefore that the application met this requirement of the Rules. It was not possible for us to see from either the retained evidence or Proviso notes how this decision had been arrived at; we therefore assessed this decision as being unreasonable.

Investor

- 5.30 We reviewed 48 investor cases. However, we were unable to assess the reasonableness of the decision in 15 (31%) of these cases. Of the remaining 33 cases, we assessed the Agency’s decision as being reasonable in 30 (91%) cases and unreasonable in three (9%) cases. We note that the proportion of decisions that we assessed as being reasonable was markedly higher for investor cases than for the entrepreneur category:

Figure 11 - Decisions of investor decisions that we were able to assess



- 5.31 As with the entrepreneur applications that we sampled, all of the decisions that we assessed as being unreasonable related to decisions to issue a person with leave. In these cases, the Agency had accepted that the applicant had adequate funds to invest in the UK.

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Funding

- 5.32 In order to qualify as investors, applicants have to demonstrate that they meet the ‘attribute’ requirements²⁵ of the Rules. To do this they have to show that they either have:
- (a) money of their own under their control held in a regulated financial institution and disposable in the UK amounting to not less than £1 million; or
 - (b) (i) own personal assets which, taking into account any liabilities to which they are subject, have a value exceeding £2 million, and
 - (b) (ii) have money under their control held in a regulated financial institution and disposable in the UK amounting to not less than £1 million which has been loaned to them by a UK regulated financial institution.

²⁵ Appendix A to The Rules

- 5.33 In three of the cases that we sampled, the Agency had accepted that the applicant met these requirements and granted leave. From the retained evidence and notes on CID/Proviso, however, we were not satisfied that these conclusions were reasonable. Two such cases can be seen below:

Figure 12: Case study 3 – Investor funding - unreasonable decision.

The applicant:

- was a national of the USA;
- relied on their own funds; and
- submitted a bank letter, which stated that they had \$1,550,600 available. It went on to say that this was 'equal to £1m based on the GBP-USD spot rate/exchange rate 1.550600 effective XX/XX/2012.

UKBA:

was satisfied that the applicant had the appropriate funds and granted leave

Chief Inspector's Comments:

- For money to be 'disposable in the UK' the Rules state that foreign currency will be converted to pounds sterling using the spot exchange rate which appeared on www.oanda.com on the date on which the application was made;
- However, our checks on OANDA for the conversion rate on the date of application showed that the applicant's funds totalled less than the required £1,000,000;
- Checking the exchange rate should have been a routine part of deciding this case and clearly had not been undertaken; and
- Therefore the decision to grant leave was not reasonable.²⁶

²⁶ In this case the bank letter also stated, 'we confirm that funds in the amount of \$4m were deposited on XX/XX/2011 and our relationship since that time has been continuous'. It was unclear whether by 'relationship since that time has been continuous' meant that the applicant had at all times since the deposit, held \$4,000,000, or merely that they had continued to have a relationship with the bank.

Figure 13: Case study 4 – Investor funding - unreasonable decision.

The applicant:

- was a Taiwanese national;
- submitted evidence which they claimed showed that they had:
 - loans from a Taiwanese bank;
 - invested £750,000 in a UK bank; and
 - invested £250,000 in a UK company.

UKBA:

- initially refused the application;
- overturned the refusal after the applicant applied for an Administrative Review; and
- issued a visa.

Chief Inspector's Comments:

It was not clear from Proviso which attribute requirements the Agency assessed this case against. We were not satisfied that it qualified under either category (a) or (b).

As the funds had not been held in a UK regulated institution for the requisite 90 days, the applicant needed to demonstrate the 'source of the funds'. Acceptable sources were:

- a gift;
- deeds of sale;
- evidence from a business;
- a will;
- a divorce settlement; or
- award or winnings.

However, the source of the funds that the applicant relied on was loans secured from a bank in Taiwan - so the applicant did not meet the requirements for (a) as the money was not their own. Whereas to have qualified under (b) the applicant would have had to have shown that the money had been loaned by a regulated financial institution in the UK, which the Taiwanese bank was not. Therefore the applicant did not meet the requirements of (b) either.

It is a matter of concern that this decision was made by a manager who conducted the Administrative Review.

Quality Assurance

- 5.34 We found that the Home Office had processes in place to ‘quality assure’ the decisions made by staff in both the UK and overseas.
- 5.35 The level of quality assurance applied depended on the experience and skills of the caseworker or Entry Clearance Officer. New staff would, initially, have all of their decisions checked by a manager, until they were satisfied that the member of staff was making appropriate decisions. Thereafter the proportion of cases that would be sampled would gradually be reduced. In Sheffield we were told that managers would quality assure a minimum of 2% of a caseworker’s decisions, whether to issue or to refuse.²⁷ Overseas, whilst a minimum of 2% of decisions to refuse were quality assured, 10% of decisions to issue were subject to the process.²⁸
- 5.36 We asked staff and managers why this different approach had developed. There was no consistent explanation, nor consensus, on whether the differences were necessary. We were therefore pleased to hear that the Home Office was working to agree a more consistent approach to the way that it managed applications, which included decision-making.

The quality of decisions on investor cases in our sample was generally good

Reasonableness of decisions: conclusion

- 5.37 Staff and managers told us that it was not uncommon for entrepreneur and investor applications to contain significant amounts of detailed evidence, which often included numerous and lengthy financial documents. As a result of this, staff said that it sometimes took them a considerable amount of time to assess the evidence before reaching a decision. Our file sampling and observations supported this view.
- 5.38 The quality of decisions on investor cases in our sample was generally good, although we still found 9% of such decisions to have been unreasonable based on the retained evidence and notes. The quality of decision-making on entrepreneur applications was poor. In those cases where the notes and retained evidence allowed us to make an assessment, we judged 37.5% to have been unreasonable. This is unacceptable. Given that all related to grants of leave, as a result, individuals have been allowed to enter or remain in the UK who did not meet the requirements of the Rules. Therefore:

The quality of decision-making on entrepreneur applications was poor

We recommend that the Home Office:

Improves the quality of its decision-making on entrepreneur applications.

²⁷ In addition to these, the Home Office informed us that ‘a minimum of 2% of decisions are randomly selected for quality assurance by the in-country casework database.’

²⁸ This is the quality assurance level for all non-settlement cases, a category which entrepreneur and investor falls within.

6. Inspection Findings - Customs and immigration offences should be prevented, detected, investigated and, where appropriate, prosecuted in accordance with the law.

- 6.1 We examined how the Home Office identifies people applying for leave to enter or remain who may present a danger to the UK.

Standard checks

- 6.2 The Home Office undertakes a number of checks, which it refers to as 'standard checks' to satisfy itself of the above. Home Office guidance requires that these checks be undertaken on every application. As part of this process, applicants' biometric details are checked against a number of databases. The results are placed on file and entered onto the Home Office's Casework Information Database (CID) or Case Reference System for the caseworker or Entry Clearance Officer to refer to when the application is assessed.

Given the importance of these checks, we were pleased that they had been undertaken in all of the cases that we sampled

- 6.3 Given the importance of these checks, we were pleased that they had been undertaken in all of the cases that we sampled and that the results of these checks had been taken into account by caseworkers and Entry Clearance Officers when considering applications.

Further checks

- 6.4 We found that caseworkers in Sheffield and entry clearance staff in New York had received training in identifying potentially fraudulent documents and that they felt confident doing so. Where they had had concerns about the veracity of documents, they felt able to conduct further checks. They were able to either make their own enquiries, such as contacting a claimed employer or, where they had concerns about specific documents (e.g., bank statements), refer the case so that detailed checks could be made.²⁹
- 6.5 We were pleased that staff felt confident being able to make these referrals, as document verification provides an important safeguard against grants of leave on fraudulent grounds. Data provided by the Agency³⁰ showed that, of the 541 referrals made to the in-country verifications team between 1 January and 31 December 2012, 237 (44%) of documents were judged to be false.

²⁹ In Sheffield these referrals were made to the 'verifications team', whilst overseas referrals were made to the Agency's Risk and Liaison Overseas Network (RALON).

³⁰ This related only to cases that had been referred to the in-country verification team, as the Agency did not collate details of the number of referrals to RALON by category type.

Collaborative working

- 6.6 We were told by staff that working relationships between caseworkers/Entry Clearance Officers and operational intelligence units were excellent. Decision-makers described an environment in which they were actively encouraged to share information with intelligence colleagues on individual cases and wider concerns about potential trends that they might have observed.
- 6.7 In Sheffield we were told that the links between caseworking teams and the intelligence units were strengthened through the use of 'intel buddies': caseworkers within each team whose responsibilities included acting as a liaison point between caseworking teams and the intelligence unit. This role acted as an additional channel through which information could be passed between caseworking teams and intelligence units.
- 6.8 Feedback that caseworkers received when they referred information to the intelligence unit was particularly valuable. Caseworkers were told how the information had been used and acted upon, where this was deemed appropriate. This relationship was welcomed by both caseworkers and staff working within the intelligence units. Staff in the intelligence units used this information to inform the Agency's threat assessment process.
- 6.9 We were particularly pleased to hear this, given that in a previous inspection³¹ we found that many staff did not fully understand:
- how the Agency intended intelligence to be used;
 - what was expected of them in terms of identifying and referring intelligence; and
 - what benefits intelligence would bring to their work.³²
- 6.10 Following the abolition of the Agency, intelligence units and caseworking units now sit within different parts of the Home Office. Both in-country and overseas decision-making are now part of the 'UK Visas and Immigration' group, whilst intelligence now sits within the 'Immigration Enforcement' group. We expect this exchange of intelligence to continue.

Credibility testing

- 6.11 In January 2013³³ the Rules relating to entrepreneurs were amended. We were told that these changes were introduced when an increase in the number of applications was identified and the Home Office considered that many of these applicants were 'low calibre' and did not genuinely intend to establish or run a business. The changes to the Rules included the introduction of a 'genuine entrepreneur' test, which was intended to:
- give the Agency's caseworkers and Entry Clearance Officers the ability to test the credibility of applicants, and
 - ensure that the applicant held or invested the money on an ongoing basis, rather than only being required to prove they had the money on the date of application.
- 6.12 Staff and managers told us that they had previously been concerned that applicants were seeking to abuse the system by providing evidence that met the Rules (e.g., financial requirements), despite not being a genuine entrepreneur. As these applicants satisfied the requirements of the Rules, the Agency had little option but to grant.

31 Preventing and detecting immigration and customs offences: A thematic inspection of how the UK Border Agency receives and uses intelligence

<http://icinspector.independent.gov.uk/wp-content/uploads/2011/02/Preventing-and-detecting-immigration-and-customs-offences.pdf>

32 Para 5.19.

33 These changes came into effect on 31 January 2013.

6.13 Staff and managers welcomed the amendments to the Rules because they now had the ability to test whether applicants applying as entrepreneurs were genuine. They believed that interviewing applicants in order to test their knowledge and understanding of how they would act as an entrepreneur was valuable in determining if the applicant was genuine or not.

Allegations

6.14 In a previous report³⁴ we found that the Agency received large numbers³⁵ of allegations. However, it was unable to identify the number that had resulted in people being prevented from entering the UK, or enforcement action being taken against those living or working illegally in the UK. We did not believe that this was acceptable and therefore at the time recommended that the Agency, ‘Records the outcome of allegations and assesses how often they lead to the development of intelligence and subsequent operations to prevent or detect immigration and customs offences.’

6.15 We examined how many allegations the Agency received in relation to entrepreneur and investor applicants and what the outcome of these allegations had been. Data provided by the Agency showed that, between 1 January 2012 and 31 December 2012, it recorded 1,550 allegations against people who were in the process of applying, or had applied, under Tier 1 of the Points Based System.³⁶ These figures covered all of the routes under Tier 1, as the Agency’s systems did not allow it to differentiate between the different routes.

6.16 In its response to our information request, the Agency told us that it did not hold data on the outcome of allegations, but a senior manager told us that information contained in allegations had been used as part of the evidence base to suggest recent changes to the Rules. In light of our 2011 recommendation, which the Agency had accepted,³⁷ we were surprised and disappointed to find that the Agency was not recording the outcome of allegations.

We were surprised and disappointed to find that the Agency was not recording the outcome of allegations

6.17 We are aware that the Home Office has been developing an ‘Allegation Management System’, to capture and analyse allegations. However, it is unacceptable that over two years after the Agency accepted our recommendation, it was unable to provide us with details of the outcome of allegations. We now expect the Home Office to implement our recommendation on this issue without further delay.

34 Preventing and detecting immigration and customs offences: A thematic inspection of how the UK Border Agency receives and uses intelligence, May 2011 <http://icinspector.independent.gov.uk/wp-content/uploads/2011/02/Preventing-and-detecting-immigration-and-customs-offences.pdf>

35 Over 100,000 per year.

36 From a total of over 100,000 per year.

37 <http://icinspector.independent.gov.uk/wp-content/uploads/2011/02/UK-Border-Agency-response-to-the-intelligence-inspection.pdf>

7. Inspection Findings - Resources should be allocated to support operational delivery and achieve value for money

Service standards

- 7.1 The Home Office has targets for the length of time that it will take to consider and make a decision on entrepreneur and investor applications, which it calls 'service standards'. Evidence provided to us by the Agency at the start of the inspection showed that these standards differed, depending on whether the applicant applied in the UK or overseas, as can be seen in Figure 14 below:

Figure 14: UK Border Agency Published Service Standards for PBS T1

Applications made:	Service Standard
In the UK ³⁸	<p>Applications made by post:</p> <p>90% of applications decided within 4 weeks of the applicant attending a biometric appointment.³⁹</p> <p>Applications made 'in person' at a Public Enquiry Office (PEO):⁴⁰</p> <p>90% of applications decided on the same day.⁴¹</p>
Overseas ⁴²	<p>90% decided within three weeks;</p> <p>98% decided within six weeks; and</p> <p>100% decided within 12 weeks of the application date.</p> <p>Please note that we define one week as five working days.⁴³</p>

- 7.2 As can be seen from Figure 14, the Agency had a different approach to service standards between applications made in-country and those made overseas. We discuss these in greater detail in Chapter 6.

38 The service standards for applications made in-country applied to all Tier 1 routes, which included entrepreneur and investor applications.

39 <http://www.ukba.homeoffice.gov.uk/visas-immigration/working/tier1/poststudy/applying/waitingtimes/>

40 The Agency has seven PEOs located in Belfast, Cardiff, Croydon, Glasgow, Liverpool, Sheffield and Solihull.

41 The Agency state on their website 'We do aim to provide a same day service to everyone who uses our premium service.'

42 The service standards for applications made overseas applied to 'non-settlement' applications, which included entrepreneur and investor applications.

43 <http://www.ukba.homeoffice.gov.uk/visas-immigration/general-info/processing-times/>

Performance against service standards

7.3 We requested information from the Agency on how it had performed against these standards between January and December 2012 and it provided us with data relating to:

- All Tier 1 applications made in-country;
- Investor and entrepreneur applications made in-country; and
- All Tier 1 applications made overseas (it was unable to break this down further to provide data for entrepreneur and investor applications).

7.4 The Agency's performance against the service standards is set out in Figure 15 below:

Figure 15: Performance v Service Standards

Location	Targets	All PBS T1 categories	Entrepreneur	Investor
In-country	% Within 4 Weeks (Target 90%)	45%	35%	54%
Overseas (all posts)	% Within 3 Weeks (Target 90%)	88%	Data not available	Data not available
	% Within 6 Weeks (Target 98%)	97%		
	% Within 12 Weeks (Target 100%)	99%		

7.5 The data demonstrated that the Agency had only narrowly failed to achieve its service standards for applications made overseas, but that it had missed its service standard by a wide margin where applications were made and considered in the UK. Consequently it was likely that those making an application in-country would wait longer for their case to be decided than applicants overseas. In the light of this, we reviewed how long it took the Agency to make decisions in the cases that we sampled. Our findings are set out in Figure 16 below:

The Agency had missed its service standard by a wide margin where applications were made and considered in the UK

Figure 16: Decision-making in sampled files

Location	No. of applications sampled	Shortest (days) ⁴⁴	Longest (days)	Median Average (days)
In-country - PEO	9	Same day	Same day	Same day
In-country – Sheffield	39	10	148	63
Overseas	50	1	55	7.5

7.6 We were pleased to note that in all of the cases sampled, in which an application had been made at a PEO, the Agency had made a decision on the same day, exceeding the service standard it had set for such cases.

⁴⁴ Calendar days

7.7 The Agency's performance against its service standards in overseas applications was also good. However, people whose applications were considered in Sheffield waited on average eight times longer (55.5 days) for a decision than those who applied overseas.

People whose applications were considered in Sheffield waited on average eight times longer (55.5 days) for a decision than those who applied overseas

7.8 Data supplied by the Agency indicated that it had only achieved its overall in-country target service standard in the first three months of 2012. In investor cases, the Agency only achieved this target for one month and it did not make 90% of entrepreneur decisions within this timescale in any month during 2012. This can be seen in Figure 17 below:

Figure 17: The Agency's in-country performance against service standards

Month ⁴⁵	% Within four weeks ⁴⁶ (Target 90%)		
	All PBS T1 categories	Entrepreneur	Investor
January 2012	90%	55%	82%
February 2012	93%	74%	90%
March 2012	91%	63%	75%
April 2012	30%	47%	86%
May 2012	16%	50%	63%
June 2012	37%	55%	71%
July 2012	15%	17%	0%
August 2012	20%	12%	8%
September 2012	18%	29%	0%
October 2012	10%	21%	25%
November 2012	10%	18%	43%
December 2012	11%	33%	64%
Overall 2012	45%	35%	54%

7.9 We explored the reasons for this poor performance with senior managers responsible for overseeing the Agency's in-country decision-making, who told us that there were various reasons why the service standards had not been met, including:

- a significant increase in the number of entrepreneur applications from April 2012 onwards, which had not been anticipated, and
- a concentration of caseworking resources on clearing a backlog of applications in the Post Study Work route of Tier 1.

In February 2012, the Agency received 133 entrepreneur applications. By December 2012 this had risen to 2,155, an increase of 1,520%

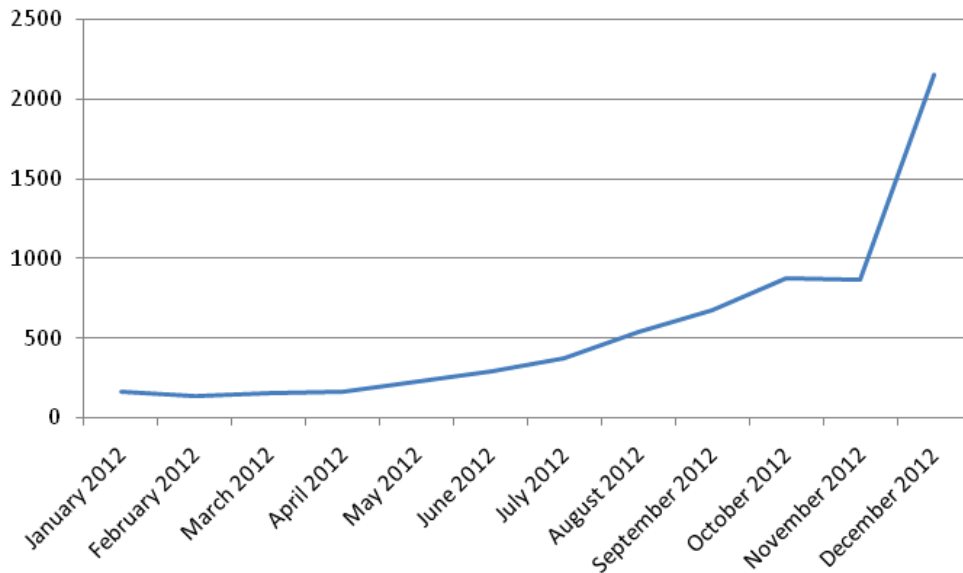
⁴⁵ The Agency provided data relating to the month in which its decision was despatched to applicants.

⁴⁶ The Agency's data related to decisions made in 20 working days.

Increase in the number of entrepreneur applications

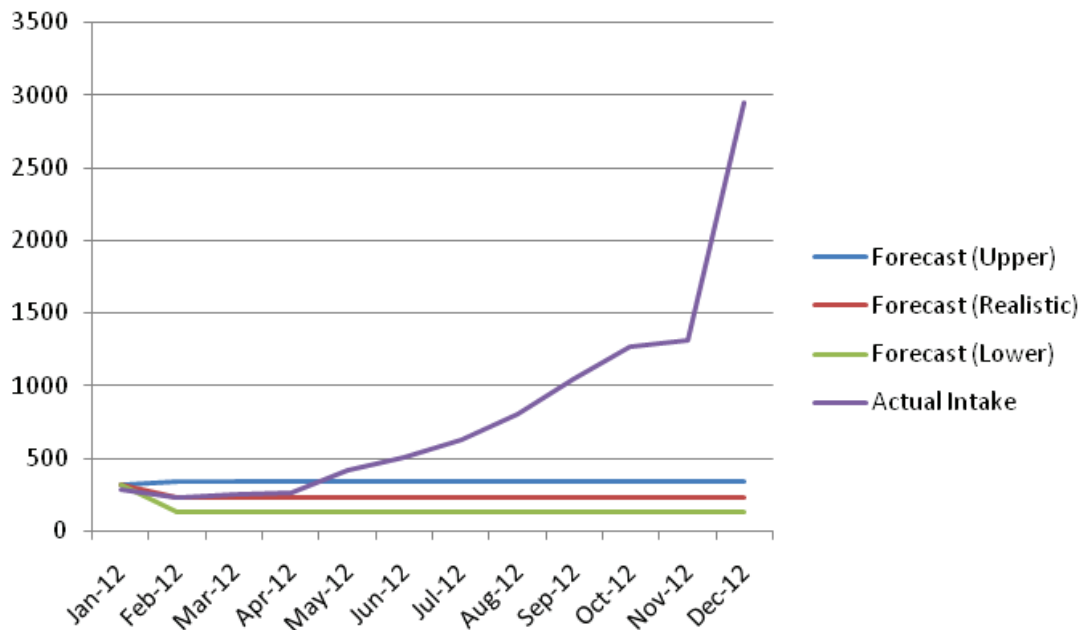
- 7.10 Staff and managers told us that, after the closure of the Post Study Work route to new applicants on 6th April 2012, there was a significant increase in the number of people applying as entrepreneurs. In February 2012, the Agency received 133 entrepreneur applications. By December 2012 this had risen to 2,155, an increase of 1,520%. The scale of this increase can be seen in Figure 18 below.

Figure 18: Entrepreneur applications received by month during 2012



- 7.11 Managers told us that the scale of this increase had not been anticipated, nor had it been predicted by the Home Office's internal forecasting. Data provided to us by the Agency supported this, demonstrating a marked contrast between the forecasts for the number of applications and the actual number received. This is set out in Figure 19 below:

Figure 19: Entrepreneur and Investor applications received v forecasts for 2012



- 7.12 We note that the forecasting provided three possible figures for the number of entrepreneur and investor applications that were likely (referred to as lower, realistic and upper). Even the forecasted 'upper' figure predicted little increase in the number of applications. Whilst there was no significant increase in the number of investor applications, the forecast significantly underestimated the number of entrepreneur applications that were actually received for much of 2012.
- 7.13 We note that there was a widely held view amongst both staff and managers that a high percentage of people who applied as entrepreneurs after the closure of the Post Study Work route were not genuinely planning to establish or run businesses in the UK. Whilst we are unable to comment on the intentions of applicants, it is clear that there was a significant increase in the number of applications following this policy change. We believe that the Agency's forecasting should have better anticipated the effect that the closure of the Post Study Work route was likely to have on the number of applications in the entrepreneur category. It is important that lessons are learned for the future. We therefore make the following recommendation:

We recommend that the Home Office:

Ensures that its application intake forecasts better reflect the potential consequences of policy changes so that it can prevent a build-up of applications.

Workforce planning and resource allocation

- 7.14 We found that resources had, as managers suggested, been redirected to consider Post Study Work applications. A consequence of this was that decision-making took longer for applications in other routes, including entrepreneur and investor. Whilst we recognise that the Home Office, as with other public sector organisations, has to prioritise the use of its resources, we do not think it was acceptable that the consequence of this decision was that people who had applied as entrepreneurs had to wait many months for decisions. This was poor customer service.

The Agency's forecasting should have better anticipated the effect that the closure of the Post Study Work route was likely to have on the number of applications in the entrepreneur category

- 7.15 Given the Agency's performance against its own service standards, we explored the level of resources that the Agency had allocated to considering entrepreneur and investor applications. In a response the Home Office told us that 'staff were deployed flexibly in response to intake.'
- 7.16 Senior managers informed us that, after it became clear that there was a sustained increase in the number of entrepreneur applications, a request for additional resources was made, which was subsequently approved. They explained, however, that it took a significant amount of time after the request was agreed for these resources to arrive due to, for example, delays in obtaining the necessary security clearance for staff.
- 7.17 We sought clarification on when these resources had been requested and were told that:

'...it was ...identified it (sic) November that additional staffing would be required.... in light of the higher intake and higher complexity of the [employment] route and proposed that an additional 30 FTE were required from January.'

- 7.18 The response went on to state that:

'It wasn't until prior to the December Rules change that we experienced a significant peak in intake on the Entrepreneur route.'

7.19 We recognise that the assessment of the level of resources that would be necessary would have been taken in the context of the forecasted levels of intake. As has already been discussed, these forecasts significantly underestimated the number of applications that would be received. Nevertheless, we believe that it should have been apparent much earlier than November that the level of intake was exceeding the forecast; that this was not a 'blip' and that consequently additional resources would be required. In that context, we note that the Agency was consistently deciding fewer than 30% of entrepreneur applications in four weeks or less in each month between July and November 2012, against a service standard of 90%.

It should have been apparent much earlier than November that the level of intake was exceeding the forecast; and that additional resources would be required

Backlog

7.20 We asked the Home Office for information on the number of in-country entrepreneur applications awaiting a decision. They informed us that as of 15 June 2013, 3,445⁴⁷ such applications were outstanding. This had reduced from a peak of 9,191 cases on 7 March 2013.⁴⁸

7.21 We were told that this progress in reducing the backlog was due to an injection of extra resources. The number of staff in post working on all PBS Tier 1 routes had increased from 34 on 6 January 2013 to 93 on 31 March 2013.

7.22 Senior managers informed us that they intended to reduce the number of applications awaiting a decision to 'frictional levels' by the summer 2013. They described frictional levels as equating to 'approximately four weeks' worth of intake'. They were confident that this could be achieved, given the level of resources now available to them.

It is important that there is an equal emphasis on reducing the backlog and making high quality decisions

7.23 As the backlog had decreased by over 70% between early March and late July, it is likely that further progress will be made to reduce the number of outstanding cases over the next few months. Given our concerns about the reasonableness of decisions in entrepreneur cases, however, it is important that there is an equal emphasis on reducing the backlog and making high quality decisions.

47 Figure includes dependants.

48 The Home Office informed us in relation to both figures: 'this information was obtained from locally produced and collated management information.'

8. Inspection Findings - Safeguarding Individuals

All individuals should be treated with dignity and respect and without discrimination in accordance with the law.

Decision-making

- 8.1 Our file sampling, observations and interviews with Home Office staff found no evidence that decisions, taken either in the UK or overseas, were being made other than in accordance with the Immigration Rules and the law. There was no evidence that applicants were being treated any differently on the basis of their nationality or any other personal attribute. During the period of the inspection, there were no Ministerial Authorisations⁴⁹ specific to entrepreneur or investor applications and staff confirmed this during our interviews and observations with them.

Service standards

Differing service standards

- 8.2 As we previously noted in Chapter 6, the Agency had different targets for the length of time that it aimed to take to decide entrepreneur and investor applications, depending on whether they had been made in-country or overseas.
- 8.3 These differences meant that:
- Whilst the Agency had a target to make a decision in 100% of applications made overseas, it did not have such a target for applications made in the UK, and
 - The timescale to decide 90% of applications made in the UK is one week longer than for equivalent applications made overseas.
- 8.4 We explored the reasons for these differing standards with managers, who told us that individual parts of the Agency had each developed their own service standards in isolation. They told us that, whilst there might have been valid reasons for the differing standards when they were developed, they were unclear about what these might have been. Senior managers told us that the Home Office was reviewing its service standards, which would include those relating to entrepreneur and investor applications.
- 8.5 Whilst we recognise that it may be appropriate to have differing service standards, for example to reflect the relative complexity of applications, we believe that if the Home Office has them, they should, wherever possible, be consistent for applicants applying in-country and overseas. Where the Home Office considers that differences are necessary between in-country and overseas service standards, these reasons should be clearly explained to staff and applicants.

⁴⁹ An authorisation under the equality Act 2010 allowing for greater scrutiny of applications of nationals of countries covered by the authorisation.

Speed of decision-making

- 8.6 As discussed in Chapter 6, the Agency was more likely to achieve its service standards for applications made overseas than for those made in the UK. We recognise that some in-country applications might take longer to consider than those made overseas, as applicants in these cases will already have been given leave in the UK and so additional checks might be required. As the Home Office's service standards are published on its website, however, applicants will reasonably expect their cases to be decided within those stated time-frames. Issues such as the complexity of cases and the potential need for additional checks should be considered when service standards are being developed, rather than being used to justify a failure to meet them.
- 8.7 We were told that the Home Office was reviewing its approach to service standards generally and those relating to entrepreneur and investor applications would be included in this.

Keeping applicants informed of progress in their application

- 8.8 As discussed above, the Agency did not meet its in-country service standards for the majority of 2012. However, throughout that year, the Agency's website continued to display its service standards, thereby giving both applicants and potential applicants a false expectation that their application was likely to be decided within four weeks. It is disappointing that this information continued to be displayed on the Home Office website until 26 April 2013.
- 8.9 We also found that the Agency had not routinely notified people who had applied in the UK if a decision had not been made within the time set out in the Agency's Service Standards, nor had it advised applicants when a decision might be made. This was in marked contrast to the approach taken by the visa section in New York, which had an excellent approach to ensuring that applicants were informed of the progress of their application. This included notifying the applicant:
- that the application had been as received;
 - if the application was to be deferred, how long they might expect to wait; and
 - when the decision had been made on the application.
- 8.10 Given the larger number of applicants in the UK, we recognise that this will present greater logistical challenges. However, this does reinforce the importance of having accurate and up to date information on how long it is taking for decisions to be made and for this to be accessible to applicants, for example through the Home Office's website.
- 8.11 Whilst we are disappointed that the Home Office had not routinely notified applicants when their case fell outside its service standards, we were pleased that it had written to people who had made an in-country entrepreneur application, which had not been decided to:
- explain the changes to the Rules;
 - give the reasons for the changes to the Rules;
 - explain that it would be contacting them again to advise how the changes affected the application; and
 - apologise for the delays.

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

File management

- 8.12 As discussed in Chapter 5, we requested 98 files from the Agency, 48 from in-country (Sheffield) and 50 from four separate locations overseas. The Agency was able to locate 97 of the 98 these and provide them to us within the agreed timeframe.⁵⁰ This is a significant improvement compared to some of our previous inspections. The Agency was, for example, only able to provide us with 37% of the files that we requested for our inspection of the handling of customs and immigration offences at ports.⁵¹

Personal data

- 8.13 The Home Office is subject to the provisions and restrictions of the Data Protection Act 1998 (DPA). The DPA is the law that regulates the ‘processing’ (collection, storage, sharing and deletion) of ‘personal data’ (information that identifies a living individual, for example: name, date of birth, nationality, address).

- 8.14 People applying for leave as entrepreneurs or investors ordinarily provide personal and sensitive information, which can include bank statements and passports. In order to comply with its obligations under the DPA, the Home Office needs to process such information fairly and lawfully. In particular, it should take the appropriate measures to prevent unauthorised or unlawful processing, accidental loss or destruction, or damage to, personal data.

We were concerned that such sensitive information was not being held in a more secure manner

- 8.15 Given these obligations, we were concerned that during our on-site inspection in Sheffield, we found that the Home Office was storing applications in crates in open plan offices overnight. These crates had been ‘secured’ with plastic cable ties (‘zip ties’). We were told that the crates contained files relating to a number of different types of applications, including those made under the entrepreneur and investor routes. Whilst we recognised that the building had restricted access and that staff working within it had been security cleared, we were nevertheless concerned that such sensitive information was not being held in a more secure manner.

- 8.16 Senior managers told us that this approach had been necessary due to the lack of appropriate file storage space. They informed us that these arrangements had been agreed by the Agency’s Security and Anti-Corruption Unit, who had stated:

‘Whilst we have concerns about storing docs in these crates we are conscious of the current problems surrounding the lack of secure storage due to the backlog clearance exercise.

We advise that the crates are secured with the “zip ties” and are regularly monitored to ensure compliance.

⁵⁰ The Agency was unable to locate one of the files, which it notified us of at an early stage. It was able to locate and provided us with the alternative file that we requested.

⁵¹ <http://icinspector.independent.gov.uk/wp-content/uploads/2013/01/An-inspection-of-how-the-UK-Border-Agency-and-Border-Force-handle-customs-and-immigration-offences-at-ports-FINAL-WEB.pdf>

General security within the building is deemed to be very good with 24/7 guarding and electronic security. All staff on site should also be cleared to a minimum of CTC.

We recommend that as soon as adequate secure accommodation/storage becomes available these crates should be moved.

Senior managers on site should also be prepared to accept this risk.’

8.17 Sensitive information, such as that contained on these files, should be secured in a lockable container even if the work area is access controlled. In our view, storing files in crates secured with zip ties is not sufficient. It is certainly not acceptable to leave passports/bank details unsecured.

8.18 Whilst we appreciate that there might have been challenges surrounding adequate storage facilities, we are nevertheless concerned that the unit within the Agency that was responsible for security sanctioned such an approach. We believe that sensitive information such as bank statements and passports needs to be held securely, irrespective of the storage challenges that may face the Home Office. This should, in our opinion, at least include such material being held in a secure and lockable container/area.

We believe that sensitive information such as bank statements and passports needs to be held securely, irrespective of the storage challenges that may face the Home Office

8.19 In contrast to what we saw in Sheffield, whilst we were on site in New York, we noted that applications that were not being worked on were stored in one of two lockable, secure rooms that had restricted access rights. This helped prevent people who did not need access to the files (e.g., contractors or staff working in other parts of the consulate) from seeing/accessing the files. This was good practice.

8.20 Given our concerns about the manner in which sensitive data was being held, we raised these with senior managers. After this, they informed us that they had taken steps to secure files in lockable rooms to which access was restricted only to those who had a business need to do so.

We recommend that the Home Office:

Ensures that personal data is stored securely and in line with Data Protection Act requirements.

8.21 We have previously had concerns about the way that the Agency physically maintained case files. For example in a joint report with HMIP⁵² published in 2012, we reported, ‘Many documents in files were duplicated, not in chronological order or missing. Many were not securely attached to files.’ Therefore, we were pleased to find that files for this inspection were in a tidy, logical order and with a minimum of repeatedly copied documents being found.

8.22 Only one of the files that we sampled had documentation relating to another unrelated applicant. Whilst it is disappointing that documentation relating to an unconnected application was held in such a way, it is nevertheless a marked improvement on our findings in some of our previous reports. For example, during our inspection of the management of Foreign National Prisoners⁵³ we found that 8% of the files we sampled contained personal information unrelated to the case.

52 <http://icinspector.independent.gov.uk/wp-content/uploads/2012/12/Immigration-detention-casework-2012-FINAL.pdf>

53 <http://icinspector.independent.gov.uk/wp-content/uploads/2011/02/Thematic-inspection-report-of-how-the-Agency-manages-Foreign-National-Prisoners.pdf>

9. Inspection Findings – Continuous Improvement

The implementation of policies and processes should support the delivery of Home Office objectives.

Appeals and Administrative Reviews

- 9.1 People who have made an application as either an entrepreneur or an investor, which is refused, are able to challenge that decision. The way in which the decision can be challenged, however, depends where the application was made.
- 9.2 Applicants who applied for leave to remain from within the UK were able to appeal against the refusal of their application to the independent HM Courts and Tribunals Service (Immigration and Asylum Chamber). As with other tiers of the Points Based System, those who applied overseas have a limited⁵⁴ right of appeal. However, those who applied from overseas could ask that the refusal of their application be 'Administratively Reviewed'. Under this process the Agency checked to see whether the points claimed by the applicant had been correctly assessed against the requirements of the Rules.

Appeals

- 9.3 Data provided by the Agency showed that a significant proportion of appeals against refusals of entrepreneur and investor applications had been allowed. Between January 2012 and December 2012, 188 people appealed against the refusal of their entrepreneur or investor application. Of these an 'outcome' had been recorded in 107 cases. As can be seen from Figure 20 below, 42% of appeals were allowed in the applicant's favour:

Figure 20: Tier 1 entrepreneur and investor appeal outcomes January – December 2012

	Allowed	Dismissed	Other ⁵⁵
Investor and Entrepreneur (combined)	42%	37%	21%

Administrative Review

- 9.4 Data provided by the Agency showed that, between January 2012 and December 2012, 100 people whose application as an entrepreneur or investor had been refused requested an Administrative Review of the decision. Of these 30 (30%) resulted in the initial decision to refuse the application being overturned, as can be seen below:

⁵⁴ Applicants could only appeal on a ground set out in Section 84(1)(b) of the Nationality, Immigration and Asylum Act 2002.

⁵⁵ Where appeal was either: abandoned, struck out, withdrawn by appellant, or withdrawn by the Agency.

Figure 21: Tier 1 Administrative Review outcomes 1 January 2012 – 31 December 2012

	Allowed	Dismissed
Investor and Entrepreneur (combined)	30%	70%

- 9.5 In New York, we found that the Agency routinely recorded the outcome of Administrative Reviews and that these were analysed in order to identify:
- the percentage of Administrative Reviews that resulted in the initial decision being overturned, and
 - the reasons why decisions were overturned.
- 9.6 This analysis informed the reviews that Entry Clearance Managers carried out to assess the quality of Entry Clearance Officer’s decisions. Where trends were identified, these were shared amongst staff through local updates and/or verbal briefings, in order that these could improve the quality of decision-making.
- 9.7 In addition we found that after an Administrative Review had taken place, the outcome of it would be shared with the Entry Clearance Officer who had made the initial decision. This approach allowed Entry Clearance Officers to understand why their decision had been upheld or overturned; feedback which they valued, as they believed it assisted them to make better quality decisions in the future.
- 9.8 The Home Office was capturing and analysing the outcomes of appeal determinations, including the reason that appeals were allowed (i.e., the initial decision made on the application was overturned). This information was shared with managers in order that it could inform their quality assurance checks. We were pleased to find that this approach was being adopted, given the valuable information that appeal determinations contain. Indeed, this is in line with recommendations that we have made in previous reports.
- 9.9 Staff and managers in Sheffield told us that whilst this ‘high level’ analysis was taking place, determinations were not routinely shared with the caseworker who had made the decision to refuse the application. Caseworkers told us that they would welcome the opportunity to see these determinations, as they would contain information that they could use to improve the quality of their decision-making. We noted that the approach taken in relation to appeal determinations in-country differed to that taken in New York for the outcome of Administrative Reviews; staff in New York told us that they routinely saw appeal determinations in cases that attracted a right of appeal and found this feedback helpful.
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- We believe that appeal determinations provide an essential source of feedback for decision-makers, which is likely to result in improved decision quality*
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- 9.10 We were interested in the reasons for this different approach and explored it during our interviews with managers in Sheffield. They told us that appeal determinations were not routinely shared with caseworkers for a number of reasons, including that:
- the time that would be taken reading them would reduce the number of decisions that caseworkers could make, and
 - caseworkers might be demoralised when seeing that their decisions had been overturned.
- 9.11 We believe that appeal determinations provide an essential source of feedback for decision-makers, which is likely to result in improved decision quality. Improved decision-making will benefit applicants as it will remove the uncertainty and associated stress placed on them whilst an ultimately

successful legal challenge is ongoing. It will also avoid the cost of unnecessary legal challenges, thereby saving the taxpayer money. These are benefits that appear to have been recognised in New York given the approach that is taken there in relation to both Administrative Reviews and appeals. It is surprising therefore that such a different approach was adopted by the Home Office in its in-country decision-making.

We recommend that the Home Office:

Ensures that appeal and Administrative Review outcomes are shared with caseworkers or Entry Clearance Officers on a routine, consistent and systematic basis.

Implementation of the new Rules

Background

- 9.12 On 13 December 2012, amendments⁵⁶ to the Rules came into effect, which affected a number of immigration routes. They contained a number of changes to the Rules relating to entrepreneurs and investors. Examples of these are set out below:
- Tier 4 students⁵⁷ in the UK were no longer eligible to apply as entrepreneurs;
 - the curtailment of an investor's leave if they did not maintain the necessary level of investment for the duration of their leave; and
 - provision that points would not be awarded to people applying as entrepreneurs or investors if the funds that they relied on were held in a financial institution that the Agency could not satisfactorily verify.
- 9.13 Further amendments to the Rules⁵⁸ relating to entrepreneurs came into effect on 31 January 2013. These changes were introduced following concerns that people were abusing the entrepreneur route by switching from the Post Study Work route in order to obtain leave in the UK, despite not being genuine entrepreneurs.
- 9.14 These changes included the introduction of a 'genuine entrepreneur' test, which was intended to:
- give the Agency's caseworkers and Entry Clearance Officers the ability to test the credibility of applicants, and
 - ensure that the applicant held or invested the money on an ongoing basis, rather than only being required to prove they had the money on the date of application.

Relationship between decision-makers and policy staff

- 9.15 We heard from staff and managers working in New York and Sheffield that they enjoyed highly effective working relationships with staff in the Home Office's operational policy unit who, in turn, had good working relationships with the unit⁵⁹ responsible for developing border and immigration policy. We heard how, through these relationships, frontline staff were able to:
- provide a 'real time' assessment of how the Rules were being used both by staff and applicants;
 - inform policy development; and
 - have access to policy advice to clarify the correct application of the Rules in complex cases.

56 <http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2012/december/17-rules>

57 Tier 4 of the Points Based System is the route which people from outside Europe can apply to study in the UK.

58 <http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2013/january/41-t1-entrepreneur>

59 The Immigration and Border Policy Directorate.

- 9.16 There was a commonly held view that this approach enabled the Home Office to develop and implement policy more swiftly in response to what was happening ‘on the ground’ than would have been the case had these relationships not existed.
- 9.17 Staff and managers working in Sheffield cited an example where this relationship had worked effectively. They said that, following the closure to new applicants of the Post Study Work route on 6 April 2012, they had concerns that some students from this route started switching to the entrepreneur route, despite not being genuine entrepreneurs. They had been able to raise these concerns and cite examples, with operational policy colleagues. They believed that through this dialogue they had contributed to the amendments to the Rules introduced in January 2013 which, in turn, had reduced the ability of people to abuse the entrepreneur route.
- 9.18 We were pleased to see that frontline staff, their managers and operational policy staff were working together closely to ensure that the amended Rules were understood and applied correctly. Not only does this approach increase the likelihood that policy is developed having regard to what is happening ‘on the ground’ but, also increases the likelihood that policies are applied consistently across the Agency.
- 9.19 We believe, however, that more could be done to ensure that concerns from frontline staff are identified and acted upon swiftly, where this is appropriate. Staff in Sheffield first raised concerns about potential abuse of the entrepreneur route in late 2011. Rules changes were made in December 2012 and January 2013. We recognise the importance of analysing evidence and consulting on options before making changes to the Rules. We recognise the importance of analysing evidence and consulting on options before making changes to the Rules. However, given the widely held view among staff about the level of potential abuse of the entrepreneur route, we would have expected Agency senior managers to have addressed this issue with greater urgency.
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- Given the widely held view among staff about the level of potential abuse of the entrepreneur route, we would have expected Agency senior managers to have addressed this issue with greater urgency*
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- 9.20 As the amendments were introduced during our inspection we did not examine how they were being applied by caseworkers or Entry Clearance Officers in their decision-making. Given our concerns about the quality of the Home Office’s decision-making in the entrepreneur category under the previous Rules, however, the application of the new Rules is something we intend to examine at a future date.

Appendix 1

Core Criteria

The criteria used in this inspection were taken from the Independent Chief Inspector's Core Inspection Criteria. They are shown below.

OPERATIONAL DELIVERY

- Decisions on the entry, stay and removal of individuals should be taken in accordance with the law and the principles of good administration.
- Customs and immigration offences should be prevented, detected, investigated and, where appropriate, prosecuted.
- Resources should be allocated to support operational delivery and achieve value for money.

SAFEGUARDING INDIVIDUALS

- All individuals should be treated with dignity and respect and without discrimination in accordance with the law.
- Personal data of individuals should be treated and stored securely in accordance with the relevant legislation and regulations.

CONTINUOUS IMPROVEMENT

- The implementation of policies and processes should support the delivery of Home Office objectives.
- Risks to operational delivery should be identified, monitored and mitigated.

Appendix 2

Glossary

Term	Description
A	
Administrative Review	The process by which applicants can request a review of Entry Clearance refusal decisions, made in applications overseas, under the Points Based System.
Agency	Refers to the UK Border Agency which, following the separation of Border Force on 1 March 2012, was responsible for immigration casework, in-country enforcement and removals activity, the immigration detention estate and overseas immigration operations. The Agency was abolished on 1 April 2013 and its functions brought back into the Home Office.
Allegation	A piece of information received mainly from members of the public detailing potential immigration crime.
Appeal Rights	The rights of an applicant to appeal against a decision made in refusing their application, if their application was made in the UK, and if they believe that a mistake has been.
Audit trail	Chronological list of events.
B	
Biometrics	All customers are now routinely required to provide ten digit finger scans and a digital photograph when applying for a United Kingdom visa. There are some minor exceptions to this rule, e.g., Heads of State and children aged under five. Customers are also required to provide their biometric data when applying for leave to remain.
Business	Business means an enterprise which is a sole trader, or a partnership, or a company registered in the UK and subject to UK taxation.
C	
Caseworker	The Home Office term for an official, usually at Administrative Officer or Executive Officer level, responsible for processing applications.
Case Work Information Database (CID)	The Case Work Information Database is an administrative tool, used by the Home Office to perform caseworking tasks and record decisions.
Certified Copy	A duplicate of an original document, certified as an exact reproduction, by a lawyer, notary public or any other person authorised to make a statutory declaration.
Customer	Defined by the former UK Border Agency as ‘anyone who uses the services of the Agency, including people seeking to enter the United Kingdom, people in detention and MPs.’

D	
Data Protection Act 1998	The Data Protection Act requires anyone who handles personal information to comply with a number of important principles. It also gives individuals rights over their personal information.
Documentary Evidence	All documents supporting the applicant's application. These must be provided at the same time the application is submitted.
E	
Entrepreneur	A person applying under the Tier 1 Entrepreneur category wanting to invest in the UK by setting up or taking over, and being actively involved in the running of a business or businesses within the UK.
Entrepreneurial Team	A team of a maximum of two entrepreneurs, where both members are applying as Tier 1 Entrepreneurs using the same investment funds.
Entry Clearance	Permission to travel to the UK. For Tier 1, this is a visa endorsement in the applicant's passport, and must be obtained prior to travelling to the UK.
Entry Clearance Assistant	Supports the overseas visa application process within a visa section.
Entry Clearance Manager	Manages the overseas visa application process within a visa section.
Entry Clearance Officer	Processes overseas visa applications, making the decision whether to grant or refuse entry clearance within a visa section.
Exchange Rate	The Exchange Rate used for the conversion of overseas currency into Pounds Sterling. The conversion rate is the rate of conversion on the application date, and is taken from the OANDA website on www.oanda.com
Executive Officer	Lower management grade. Equivalent grades exist in the Former UK Border Agency and Border Force, including Officer and Immigration officer.
F	
Financial Institution	An institution which provides financial services to its clients. These include, but are not limited to, banks, building societies, asset management firms and credit unions. Financial Institutions must be regulated by the appropriate financial regulator of the country in which they are operating in; for the UK, this is the Financial Services Authority (FSA).
Financial Services Authority (FSA)	The Regulator of the financial services industry in the UK.
Foreign and Commonwealth Office (FCO)	UK Government department responsible for promoting British interests overseas and supporting British citizens and businesses around the world.
G	
Grade 7	Senior manager, subordinate to Grade 6, superior to a Senior Executive Officer.
Grade 6	Senior manager, subordinate to the Senior Civil Service, superior to Grade 7.
H	
Hard copy file	Each application has a unique file that contains case paperwork.
High Value Migrant	A classification of applicants of the Tier 1 Points Based System wanting to work in the UK, and which includes Investors and Entrepreneurs.

Higher Executive Officer (HEO)	A management grade. Equivalent grades exist within the former UK Border Agency and Border Force, including Higher Officer and Chief Immigration Officer.
Home Office	The Home Office is the lead government department for immigration and passports, drugs policy, crime, counter-terrorism and police.
Home Office Warnings Index (WI)	A database of names available to Border Force staff of those with a previous history of immigration offences and those of interest to detection staff, police or other government agencies.
Home Regulator	The Home Regulator is the official financial regulatory body of a country, equivalent to the Financial Services Authority (FSA) in the UK.
Hub and Spoke	<p>Prior to 2007, virtually all British diplomatic missions had a Visa Section. Each worked largely independently; handling all aspects of visa processing including taking decisions on site.</p> <p>Hub and Spoke was introduced to move away from the traditional model which was based on the physical presence of the Visa Section. The consideration of an application does not need to happen in the same place as it is collected.</p> <p>Applications can be moved from the collection point (the spoke) to the processing point (the hub). This separation between the collection network and the decision-making network aims to improve quality and consistency of decision-making; efficiency and flexibility. Work can be moved to staff rather than the other way round.</p>
I	
Independent Chief Inspector of Borders and Immigration	The role of the Independent Chief Inspector of Borders and Immigration was established by the UK Borders Act 2007 to examine the efficiency and effectiveness of border and immigration functions in the UK. The Chief Inspector is an independent public servant, appointed by and responsible to the Home Secretary.
Intelligence Unit	A team that collates and disseminates intelligence, usually for immigration arrest teams.
Investor	A high-net-worth individual applying under the Tier 1 Investor category who wants to make an investment of at least £1 million in the UK.
Immigration Enforcement	One of the two operational commands set up under the direct control of the Home Office in place of the UK Border Agency which was broken up on 26 March 2013. From 1 April 2013 this department handles all immigration enforcement activity.
L	
Lawyer	A person authorised to practise law or give legal advice in the country they are practising in.
Leave to Enter	Leave to Enter is granted to non-entry clearance holders at the port of entry. The entry clearance confers leave to enter; this leave is 'activated' on arrival at the port of entry.
Leave to Remain	Permission to stay in the UK granted when the applicant successfully applies to stay in the UK, from within the UK.

Legal Representative	A person who oversees the legal affairs of someone else. For Tier 1, a lawyer or a notary official authorised to practice in the country they are practising are acceptable as a legal representative.
Lesson learned	Used to describe any organisational learning that has arisen following the investigation of a complaint. May be good practice to share, or an area for improvement.
Locally Engaged Staff	Staff recruited directly by the British diplomatic or visa post in the country where they are employed.
M	
Management	
Information (MI)	Data on which management decisions can be made.
Minister	The Minister of State for Borders and Immigration is a member of Her Majesty's Government with responsibility for matters relating to immigration.
Ministerial Correspondence	Correspondence from an MP that is addressed to the Minister or UK Border Agency CEO. Requires a response from the Minister or CEO.
Ministerial Authorisation	An authorisation, approved by ministers, which allows Immigration Officers to give greater scrutiny to certain nationalities. A new Ministerial authorisation for nationality-based differentiation – covering entry clearance, border control and removals – came into force on 10 February 2011 under the Equality Act 2010. The new authorisation allows International Group to differentiate on the basis of nationality in the entry clearance visa process.
N	
National Qualifications Framework	A classification of occupational information for the United Kingdom, in which occupations are classified within a framework in terms of skill level and salary. The Framework can be found at www.ukba.homeoffice.gov.uk . For Tier 1 Entrepreneur, the requirement where applicable, is National Qualification Framework level 4 or above.
Non-European Economic Area nationals	A national or a citizen from a country that is not part of the EEA. They are all subject to the Immigration Rules. See also Visa nationals.
Non-visa nationals	A national or citizen of any country that is not listed on the UK Border Agency website (Appendix 1 of the Immigration Rules). A non-visa national does not need a visa to come to the United Kingdom for less than six months, unless it is a requirement of the immigration category under which they are entering. A non-visa national coming to the United Kingdom for more than six months will need a visa.
Notarisation	Certification by a notary public that a signature appearing on a document is genuine.
Notary Public	A public official who is authorised to administer oaths and confirm signatures in the country in which they are practising in.
O	
Operational Instruction (OPI)	Process for disseminating instructions or advice that have an impact on overseas operations to staff.

P	
Points Based System (PBS)	<p>On 29 February 2008, a new immigration system was launched to ensure that only those with the right skills or the right contribution can come to the United Kingdom to work or study. The Points Based System was designed to enable the UK Border Agency to control migration more effectively, tackle abuse and identify the most talented workers. The system:</p> <ul style="list-style-type: none"> • combines more than 80 previous work and study routes to the United Kingdom into five tiers; and • awards points according to workers' skills, to reflect their aptitude, experience and age and also the demand for those skills in any given sector. <p>Employers and education providers play a crucial part in making sure that the Points Based System is not abused. They must apply for a licence to sponsor migrants and bring them into the United Kingdom; and meet a number of duties while they are sponsoring migrants.</p>
POISE	The IT system/platform used by Home Office in the UK.
Police National Computer (PNC)	The PNC holds details of people, vehicles, crimes and property that can be electronically accessed by the police and other criminal justice agencies.
Portfolio of Investments	A collection of investments all owned by the same person.
Post	See Visa Section.
Post Study Work Route	A previous category of Tier 1 of the Points Based System that allowed the UK to retain graduates who had studied in the UK. This route was closed to all new applicants in April 2012.
Proviso	The database used by overseas visa sections as the audit trail of entry clearance applications. It records all details of an entry clearance application from the date of application through to the decision and any post decision correspondence.
Public Enquiry Office	Office where fee-paying customers can submit an application to extend a stay in the UK or to settle permanently.
Q	
Quality Assurance Framework	An internal quality assurance programme operated by the Home Office.
R	
Risk and Liaison Overseas Network (RALON)	An amalgamation of the former Airline Liaison Officer Network and Overseas Risk Assessment Unit Network. RALON has responsibility for identifying threats to the UK border, preventing inadequately documented passengers from reaching UK shores, providing risk assessment to the UK Border Agency visa issuing regime and supporting criminal investigations against individuals and organisations which cause harm to the UK.
S	
Seed Funding Competition	Investment fund specifically for Tier 1 Entrepreneur applications which must be endorsed by UK Trade & Investment (UKTI), and listed on their website www.ukti.gov.uk
Senior Case Worker/Case Owner	The former UK Border Agency term for an official, usually at Senior Executive Officer level, responsible for a team of Case Owners and/or Case Workers.

Senior Civil Servant (SCS)	Senior manager, superior to Grade 6, typically responsible for a directorate, region or large operational business area.
Senior Entry Clearance Officer (SECO)	Decides visa applications and also manages Entry Clearance Assistants.
Senior Executive Officer (SEO)	A management grade, subordinate to Grade 7. Equivalent grades exist within the former UK Border Agency and Border Force, including Senior Officer and Her Majesty's Inspector.
Source of Funds	If a Tier 1 Investor has not held required funds for 90 days, they must provide evidence of the Source of Funds. There are six specified Source of Funds which are acceptable: Gift; Will; Deeds of sale; Divorce settlement; Award or winnings; and Evidence from a business.
Standard Occupational Classification (SOC)	A classification of occupational information for the United Kingdom, developed by the Office of National Statistics, in which jobs are classified in terms of their skill level and skill content.
Submission	Document used to provide updates, information or warnings about specific matters to Ministers or senior managers. They are also used to seek decisions or agreements to a course of action.
Supporting documents	Any documents sent by the applicant with their application form.
T	
Tier 1	A category of the Points Based System dealing with applications from high value migrants, which includes investors and entrepreneurs.
Third Party	Contributor of money which the applicant is relying upon to meet investment fund requirements for his application. Third parties may include family members, other investors, individuals and corporate bodies.
Third Party Funding	Any money that a third party is providing to the applicant. The applicant must have full access to, and be able to dispose of the funds freely in the UK.
U	
UK Trade and Investment (UKTI)	Governmental body that globally promotes trade and investment opportunities in the UK.
United Kingdom Border Agency (UKBA)	The agency of the Home Office which, following the separation of Border Force on 1 March 2012, was responsible for immigration casework, in-country enforcement and removals activity, the immigration detention estate and overseas immigration operations. The Agency was abolished on 1 April 2013 and its functions reintegrated into the Home Office.
V	
Venture Capital Firm	A firm that provides investment funds for entrepreneurial business ventures. For Tier 1 Entrepreneur applications, Venture Capital Firms must be regulated and listed as venture capitals firms by the Financial Services Authority (FSA).
Verification Checks	Checks to ensure supporting documents are genuine and accurately reflect statements made in the application. Verification Checks are conducted where there is reasonable doubt that a specified document is not genuine.
Visa Section	An office that manages UK visa operation services. Home Office Visa Sections are located in a variety of locations around the world.

Visas And Immigration	One of the two operational commands set up under the direct control of the Home Office in place of the UK Border Agency which was broken up on 26 March 2013. From 1 April 2013 this department handles all overseas and UK immigration and visa applications.
W	
Warnings Index	Also known as the 'Home Office Warnings Index.'
Watchlist Index	A database of names available to Border Force staff of those with previous immigration history, those of interest to detection staff, police or matters of national security.

Appendix 3

Table of Attributes and Points required for entrepreneur applications

Investment and business activity	Points
(a) The applicant has access to not less than £200,000, or	25
(b) The applicant has access to not less than £50,000 from:	
(i) one or more registered venture capitalist firms regulated by the Financial Services Authority,	
(ii) one or more UK entrepreneurial seed funding competitions which is listed as endorsed on the UK Trade & Investment website, or	
(iii) one or more UK Government Departments, or Devolved Government Departments in Scotland, Wales or Northern Ireland, and made available by the Department(s) for the specific purpose of establishing or expanding a UK business, or	
(c) The applicant:	
(i) is applying for leave to remain,	
(ii) has, or was last granted, leave as a Tier 1 (Graduate Entrepreneur) Migrant, and	
(iii) has access to not less than £50,000, or	
(d) The applicant:	
(i) is applying for leave to remain,	
(ii) has, or was last granted, leave as a Tier 1 (Post Study Work) Migrant,	
(iii) was, on a date falling within the three months immediately prior to the date of application,	
(1) registered with HM Revenue and Customs as self-employed, or	
(2) registered as a new business in which he is a director, or	
(3) registered as a director of an existing business,	
(iv) is working in an occupation which appears on the list of occupations skilled to National Qualifications Framework level 4 or above, as stated in the Codes of Practice in Appendix J, and provides the specified evidence in paragraph 41-SD. 'Working' in this context means that the core service his business provides to its customers or clients involves the business delivering a service in an occupation at this level. It excludes any work involved in administration, marketing or website functions for the business, and	
(v) has access to not less than £50,000.	
The money is held in one or more regulated financial institutions	25
The money is disposable in the UK	25

Appendix 4

Table of Attributes and Points required for investor applications

Assets	Points
<p>The applicant:</p> <p>(a) has money of his own under his control held in a regulated financial institution and disposable in the UK amounting to not less than £1 million; or</p> <p>(b) (i) owns personal assets which, taking into account any liabilities to which they are subject, have a value exceeding £2 million, and</p> <p>(b) (ii) has money under his control held in a regulated financial institution and disposable in the UK amounting to not less than £1 million which has been loaned to him by a UK regulated financial institution.</p>	75

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