

ILPA information sheet

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Entry Clearance Decisions

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Entry clearance decisions are made on applications made overseas for permission to come to the UK. The decisions are made by entry clearance officers. This information sheet provides information about these decisions.

General

Some of those who wish to come to the UK are required to obtain entry clearance. This means they must apply at a visa application centre overseas to be permitted to travel to the UK before they travel to the UK. Whether a person is required to do this will depend on two matters:

- **The person's nationality:** Some nationals (called 'visa nationals') are required to obtain entry clearance whatever their reason for wishing to travel to the UK.
- **The reason for travelling to the UK:** Some reasons for travelling to the UK require the person to obtain entry clearance whatever the person's nationality.

A person, who is not required to obtain entry clearance, may travel to the UK without having obtained permission to do so. His or her application to enter the UK will be considered by an immigration officer on his or her arrival in the UK. Some people, who are not required to obtain entry clearance, nonetheless apply for it before travelling. Although a person's entitlement to enter the UK will still be considered by an immigration officer when he or she has entry clearance, having entry clearance restricts the reasons for which an immigration officer is permitted to refuse entry to the UK. (Since a British citizen's right to enter the UK cannot be restricted, there is no need for such a person to apply for entry clearance.)

Applications for entry clearance

Applications for entry clearance must be made on specified forms for the particular purpose for which the person wishes to travel to the UK. Depending on where the application is made, it may be made online or on paper (and in several countries one or other may be required). Information as to where (i.e. which visa application centre) and how to apply can be found by selecting the relevant country or territory at:

<http://www.ukba.homeoffice.gov.uk/countries/>

The person will also need to submit his or her passport and any relevant documents to support his or her application, pay the appropriate fee and (in most cases) submit biometric information (fingerprints and a digital facial photograph). In many countries, the UK Border Agency uses private contractors to receive and check applications before these are passed on to an entry clearance officer for a decision.

Entry clearance officers and guidance

Entry clearance officers are based overseas. They are UK Border Agency staff. They make decisions on entry clearance applications. The UK Border Agency guidance to entry clearance officers is called the entry clearance guidance. It is available at:

<http://www.ind.homeoffice.gov.uk/policyandlaw/guidance/ecg/>

Challenging refusals of entry clearance

Appeals against immigration decisions can generally be brought before an immigration judge in the First-tier Tribunal (Immigration and Asylum Chamber). However, appeals against refusals of entry clearance are only permitted in limited circumstances – e.g. where someone has applied for entry clearance so as to visit family in the UK, or where it is alleged that the refusal of entry clearance is contrary to human rights or race discrimination legislation.

Where no appeal is permitted, a person may request a review of his or her application by an entry clearance manager (called an ‘administrative review’). Entry clearance managers are also UK Border Agency staff. On a review, the entry clearance manager will only look at the material that was considered by the entry clearance officer. There is no appeal against the decision of the entry clearance manager.

In certain circumstances, an entry clearance manager will be required to consider an application before any refusal – e.g. where the entry clearance officer thinks the application should be refused for one of the general grounds for refusal. More information on general grounds for refusal is provided by the March 2011 “General Grounds for Refusal” information sheet at <http://tinyurl.com/72uoq4n>

Chief Inspector’s report

In December 2011, the Chief Inspector of the UK Border Agency published a report on entry clearance decision-making – *Entry Clearance Decision-Making: A Global Review*. The report is available at:

http://icinspector.independent.gov.uk/wp-content/uploads/2011/02/Entry-Clearance-Decision-Making_A-Global-Review.pdf

The Chief Inspector looked at a sample of the cases decided in all of the UK Border Agency’s entry clearance decision-making centres, and around 1,500 cases in total. Of these cases, he found that the evidence submitted with the application had not been considered properly in 483 cases (33% of the sample). In a further 201 cases (14% of the sample), the lack of evidence held on the UK Border Agency file meant it was not possible to assess whether or not the evidence submitted had been considered properly.

The Chief Inspector also found that in 235 cases (16% of the sample), applications had been refused on the basis that the applicants had failed “*to provide information which they could not have been aware [was required] at the time of making their applications.*”

In 475 cases, there had been a review by an entry clearance manager. Of these, in 144 cases (30%) the Chief Inspector found that poor-quality decision-making had not been picked up by the entry clearance manager.