



PRESENTING OFFICER INDUCTION COURSE DAY ONE

TRAINERS' NOTES

Professional Development Team
Litigation and Appeals Management Directorate
Central Operations and Performance

Version	2
Date	01/10/2008

VERSION HISTORY

Date	Version	Comments	Author	Approved by
20/08/08	1	Quality control checks. Version 1 of the induction course to be reviewed in line with PDT best practice.	Lyndsey Kalaher	N/A – notes only
24/09/08	1	Emailed International Group to confirm that ECO section is correct in light of Hub & Spoke etc.	Lyndsey Kalaher	Awaiting confirmation from International group
01/10/08	2	Review has been completed. Material updated in line with PO Manual. Operational Policy have no further comment to make regarding day 1. Material to Julian Smith for approval and sign off.	Lyndsey Kalaher	Julian Smith

DAY ONE

Materials required:

- Induction course folders (these should be pre-prepared and contain all of the handouts. A list of the materials for the folder is contained in the Induction Course 08 folder). They should not contain legislation or the bundles for the exercises. These are to be retained by PDT)

Introduction and Domesticcs.

Trainers to introduce themselves

Domesticcs

- Notify trainers if late / ill (mobile numbers to be provided)
- Start / finish times
- Lunch / Break times
- Fire drill / exits / PEP's
- Location of toilets
- Smoking policy

Ground rules

- Be on time
- Ask questions
- No swearing
- Avoid Jargon
- Maintain Home Office Values
- Participate

Icebreakers

This is an 11 day course. The use of Ice Breakers and energizers is recommended to keep attention levels up. For ideas on either visit www.businessballs.com

Expectations

Using post-its, trainees to write down what they want, or expect to get from the course. Relevant areas to be grouped together and put on the board. Keep for reference on the last day of the course to ensure that all areas have been covered.

Aim of the course

To give new Presenting Officers sufficient knowledge and resources to begin their mentoring period through an introduction to all of the key aspects of the Presenting Officers role. This will include immigration, asylum, human rights and role plays as well as general procedure rules and advocacy training.

Explain what happens after the course (11 days):

- Mentoring period – usually 4 weeks.
- It will be agreed between mentee / mentor and manager as to when to go solo – referred to as going live
- Other training and developmental opportunities that are offered – refer to the modules.

Draw attention to the learning diary. 2 purposes:

- 1) to highlight any areas that the trainee requires further assistance / clarification / training on
- 2) to assist with completion of the evaluation in 11 days time

Each trainee should have a folder of the course material pre-prepared. This should not include the role play material as this is to be retained by PDT.

The role of the Presenting Officer, The AIT and Court Procedure.

Prior to observing at court, cover the following section to ensure that trainees are familiar with the procedure.

The role of the Presenting Officer

Q: What is the role of the PO?

- To assist the UK Border Agency in its key objectives of securing our border and controlling migration for the benefit of the country and in particular to ensure that we implement fast and fair decisions.
- Represent the decision-maker in line with the law, the appropriate Immigration Rule and UK Border Agency policy.
- Ensure that each case is argued fully, responding to new evidence and issues raised by the Immigration Judge and the appellant's representative.
- Ensure the Immigration Judge considers all the relevant parts of the Immigration Rule.
- Support the decision under appeal but be mindful of the need to assist the court and the Immigration Judge to reach a just and fair decision: this may involve disclosing evidence and material to achieve a balanced determination of the case.
- Test the evidence that has been given by the appellant (and any other witnesses) at earlier stages and at the hearing.
- Pursue all relevant and appropriate aspects of the appellant's case or claim but where it is apparent that new issues are to be raised in support of the original decision and in addition to those already given, notification should be given to the appellant and their representative at the earliest opportunity and preferably in good time before the hearing. The new issues should be in line with the law, the Immigration Rules and UK Border Agency policy.
- Ensure cases are dealt with as efficiently and quickly as possible, opposing unmeritorious adjournment requests and only applying for adjournments where it is absolutely necessary with – where practical – the approval of an SCW or TM..
- Ensure that decisions on the handling of a case such as seeking adjournments or conceding are – where practical – made in advance of the hearing and following consultation with SCWs or TMs. In the case of criminal deportations, approval must also be sought from CCD SCWs.
- A PO is not targeted on how many appeals are dismissed.
- Prepare and present the cases allocated to them.
- Complete pre and post hearing work (legible prep on file and minuting).
- Provide feedback to management, your team and unit.

Types of cases dealt with by Presenting Officers are:

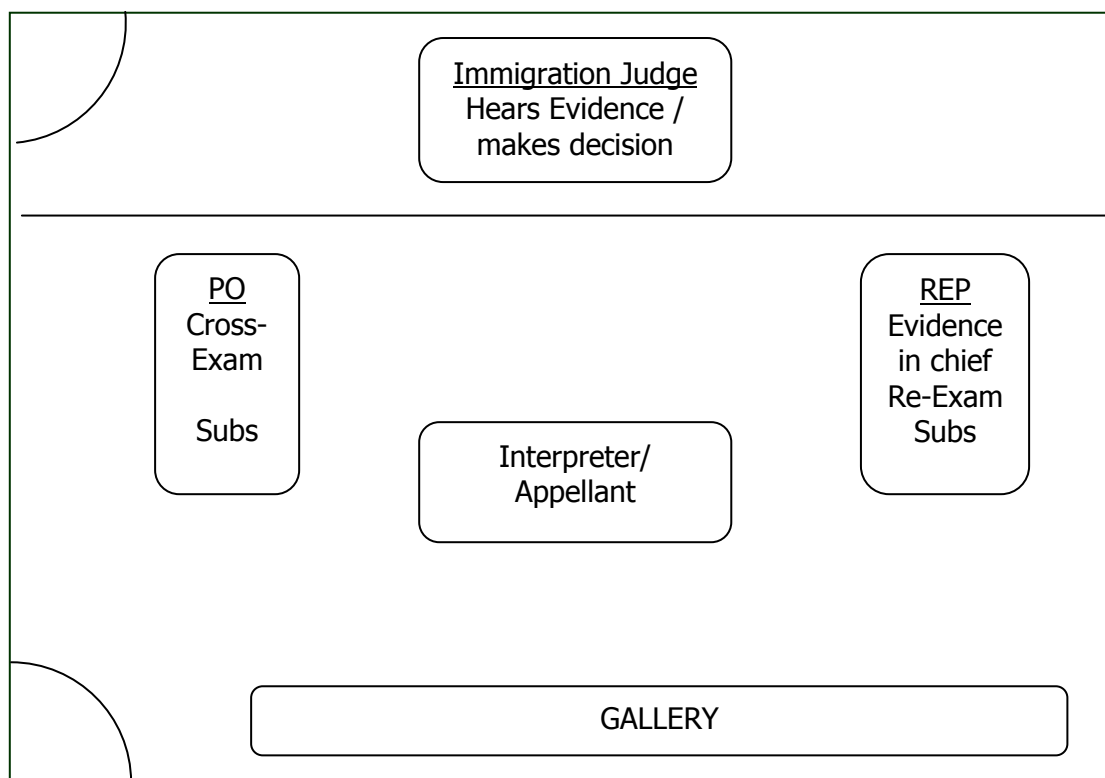
- Asylum
- Human Rights
- Case management Reviews
- Deportation
- Reconsideration
- Bail
- EEA
- Entry Clearance
- Immigration
- Race Relations

The Asylum & Immigration Tribunal

- The AIT was formed on the 04/04/2005 as a single tier appellate tribunal.
- Prior to this there was a multi-tier system comprised of the IAA and the IAT. You may still hear and see references to this on case-law and in the legislation.
- The AIT is an independent tribunal who hear appeals against all immigration and asylum decisions – whether those appeals stem from pre, on or post entry decisions.
- Immigration Judges are employed by the Ministry of Justice and will either be: Immigration Judges (IJ's), Designated Immigration Judges (DIJ's), Senior Immigration Judges (SIJ's), the Deputy President or the President of the Tribunal.
- The majority of cases that a PO will run, will be before an Immigration Judge.

Court procedure

Go briefly through roles of each



Interpreters – fully qualified and employed by the court service. They interpret what is being said throughout the hearing. They are there to assist the court, and cannot be used by either party i.e. the PO if the hearing has not started, nor the representative to speak with the appellant in a private conference.

If you do not think that they are interpreting everything, then raise with the IJ immediately (e.g. if the appellant has given a 2 minute answer to the interpreter, yet the answer that is given back to the court is simply 'yes').

The course will cover more detail on each of the parts of procedure later.

Court brief – pre-observation

- Combination to PO's room
- Time for everyone to meet after (allow an hour at court)
- Mobile phones to be turned off

- Explain about the security checks
- Check court lists to make sure not bail / CMR
- If IJ asks who you are, explain that you are observing the case, and are from UKBA
- If there are 2 PO's in the court room then do not go in to observe – one of them may be being mentored.

Post-Court

Talk through what the trainees observed.

Any concerns / queries about the conduct in the court room?

Now that trainees have had the opportunity to see the proceedings talk through basic etiquette.

Court Etiquette

A lot of the basics of court etiquette may sound obvious, but it is the obvious things that people tend not to do. A few simple instructions to start with:

- Be on time. Court starts at 10:00am. If you are ever late then apologise to the IJ immediately – do not simply make an excuse.
- Dress appropriately – suits. Even in the summer, do not take off your jacket without permission from the IJ.
- No eating & drinking in court – There is water provided on the table, do not take your own drinks in with you.
- Turn off mobile.
- Address IJ appropriately – Sir / Ma'am, and always remember to stand whenever an IJ enters or leaves the room
- Address the appellant's representative appropriately. The representative may refer to you as "my friend" this is a term that legal professionals use. You should refer to the representative as "the appellant's representative" or if you have taken their name refer to them by that (Mr / Mrs / Ms...).
- Use plain English at all times – whilst it is unavoidable that technical issues will have to be addressed, there is no necessity to use some of the language that the judiciary or legal professionals may use. For instance, the decision you are supporting is not your "instructions" – it is a decision made in another business area in line with the law, the Immigration Rules and UK Border Agency policy that you are advancing in support of the strategic aims of the Agency.
- If you need a comfort break then ask for one.
- The courtroom is a professional environment and you are there to represent the UK Border Agency. Do not argue with anyone. If the representative is interrupting questions or submissions it is the IJ who will deal with this.
- Maintain sensitivity, these are not criminal proceedings. The appellant (especially if un-represented) may not be clear on the proceedings, they may also not have been in a court or tribunal before.
- All conversations to be conducted through the IJ. At no point should you and the rep get into a conversation or a dispute across the IJ.

- At the outset of the hearing, the rep may well approach you to make concessions. Be very aware of what you say and do not make any concessions or withdrawals without – where practical - prior permission from SCW or your TM.
- If the rep suggests to the IJ that you have accepted certain aspects or that you have made concessions which you have not – then raise it with the IJ immediately. In doing so, simply state that it appears that the representative may have misunderstood the conversation.
- Under no circumstances should you discuss your personal opinions about a decision with any other party.

Immigration control

Q - For what reasons do you think we need to have immigration control?

- Economic
- Employment
- Skills
- Public good

Q - Is everyone entering the UK subject to immigration control?

Those with right of abode are not subject to immigration control – although they will need to show that they are entitled to it (i.e. passport)

Anyone who does not have a right to abode in the UK needs to be given Leave to Enter.

Q - What are the different types of immigration control that we employ?

DISTRIBUTE HC395

The immigration rules set out the requirements that someone needs to meet in order to obtain entry clearance, leave to enter or leave to remain. These rules cover a variety of categories including visitors, students and settlement. Rule 6 sets out interpretations for the rules and if there are any areas that are not clear, you should refer to this section first.

Pre-Entry Control

Entry clearance – generic term for Visas, Entry Clearance & EEA Family Permits (we will be covering EEA later in the course)

Go through relevant section in HC395 - Paragraph 24 – 30C

Visa national countries (Appendix 1 HC395) – if you are from a visa national country, then you require a visa / entry clearance in order to come to the UK under any circumstance (visit / student etc).

If you are from a non visa country, then you only require a visa if the immigration rules state so (usually this will be where the stay in the UK would be over 6 months etc).

Q - Where do you obtain a visa or entry clearance?

Any application must be made outside the UK and will be made either at a High Commission (commonwealth countries) or an Embassy (non-commonwealth countries).

- Approximately 150 visa sections based in Embassies and Consulates world-wide
- A fee is payable for the majority of applications. The fee that is paid is for the application process and NOT the decision. Therefore it is non-refundable even if an application is refused.

Visa application process – Depending on the post, there are a number of ways that someone can apply for entry clearance:

In person

- Usually dealt with on the same day
- The onus is on the applicant to show the ECO that they meet the requirements of the immigration rules
- Achieved through submitting documents and in some circumstances having a brief interview (which may be extended if necessary).

Through a commercial partner

- Collect the applications and supporting documents and deliver them to the visa office.
- Once a decision is made the decision is sent back to the CP who will pass this on to the applicant.
- This process saves applicants having to travel to the visa section, which in some countries may be a journey lasting several days. If more info is needed then the applicant will be invited for interview

Online

Relatively new process – application is made online and the ECO will make a decision if possible based on the information provided. If insufficient details are provided, then the applicant may be invited for interview. However the onus is on the applicant to provide sufficient information for the application. Applicants are informed online as to the information and supporting documents that will be required.

Approved drop box

- Used where the applicant meets specific criteria and generally dealt with on the papers alone – although the ECO still can invite for interview if not satisfied
- (typical drop box category: previous travel to the UK in last 5 years, Travel to USA, Canada, Australia or NZ in last 5 years, Travel to W Europe or Switzerland in last 3 years, Diplomat accredited to foreign mission in host country, accompanying spouse or parent with previous UK travel in last 5 years)

Generally speaking, there are over 2.5 million applications a year, and out of those approximately 80% of applicants are issued with visas.

To apply for a visa, the applicant has to:

- Complete the appropriate application form
- Attach a photograph
- Attach supporting documents
- Lodge the application with the visa section or CP
- Pay appropriate fee

In order to ensure fairness all ECOs follow the same sources of guidance

- Immigration Rules
- Entry Clearance Guidance (ECG's)
- Immigration Directorate Instructions (IDIs)
- AECIPS (Updates on policy / guidance)
- FCONET (Best Practice Guidance)

Decision making

ECO assesses the information provided and may invite the appellant for an interview

Grant – visa / EC issued

Refused – may attract a full right of appeal (in these cases the applicant will have 28 days (if submitted in person) or 56 days (postal decisions) in which to appeal).

If the application does not have a full right of appeal, it may still attract a limited ROA on Human Rights and Race Relation grounds. It is fairly rare that an applicant will appeal these decisions, you should always check the notice of decision to establish what the right of appeal is.

Provisio / CRS

When presenting entry clearance appeals, the PO will have the documents that the ECO send for the appeal, but not the original file.

Each presenting unit has access to CRS – the Central Referencing System. This is automatically updated by the ECO's own system Provisio. By accessing CRS you will be able to see a read only version of the ECO's records, providing you with the history of the application, and the facility to print off saved copies of documents, e.g. interview records or the notice of decision.

Refer trainees to the Notice of Decision and Annex D examples in their folders. These templates have been used by ECO's since Feb 2007. If they present a case with a less detailed decision, this will be an older case.

Entry clearance decisions are made by UKBA International Division

On-Entry Control

Q. If an appellant has been granted entry clearance, does that mean that they are automatically granted leave to enter the UK when they arrive?

- Immigration officers are employed by UKBA to protect the UK's borders.
- Work at various border control points across the UK and France (UK Air / Sea & Rail Ports and Juxtaposed controls in Paris, Brussels, Calais and Coquelles where an IO sees the passengers before they have boarded the Eurostar / ferry etc)

On-Entry control points are manned 24 hours a day, 365 days a year.

Responsibilities of an IO

- To facilitate the admission to the UK of those genuinely seeking entry; in 2006 there 32 million visitors to the UK.
- Check the nationality and identity of all arriving passengers (i.e. checking the authenticity and validity of the document presented)
- EEA - If satisfied the IO will grant admission to the UK
- Other passengers – further checks through initial questioning (i.e. reason for coming to the UK)
- UK Border Agency records checked for adverse immigration history

The individual has to satisfy the Immigration Officer that he or she meets the requirements of the immigration rules and:

- There has not been a change in purpose since visa / EC gained (i.e. obtained a visit visa but wants to study)
- There has not been a change of circumstances (Fiancé visa but relationship ended)

- The individual did not use deception or mislead the ECO (i.e. applied as a visitor but IO finds good luck in your new life cards)

Immigration Officers are given certain powers under the Immigration Act 1971, which aids them in identifying who qualifies for entry and those who do not. These include:

- The power to examine arriving passengers to determine if they require Leave to Enter and qualify for that leave
- To require a person to submit to further examination
- Require a passenger to produce a passport or other document
- Power to search a passenger's baggage
- Power to search for documents
- To produce a completed landing card
- Power to remove a person
- Power to detain

Only after the IO has been satisfied with the passengers nationality and identity – and that they meet the requirements of the rule, will the IO grant leave to enter.

After Entry Control

After entry control covers any application that is made after the appellant has been granted Leave to Enter the UK (If an applicant claims asylum at port before being granted LTE then this remains a port case)

After entry cases:

In country Asylum / Human Rights cases

- Applications typically will be made in person and at an Asylum Screening Unit although some people may apply via solicitors or the police.
- A caseworker from a Regional Asylum Team is assigned the case to assess the merits of the asylum claim.
- If it is considered that there is no valid claim, or that the appellant does not meet the criteria in the refugee or human rights conventions, then a notice of decision will be sent which may give rise to a right of appeal. The decision will be accompanied by a detailed letter explaining why the decision was reached.
- If however it is considered that the appellant should be recognised as a refugee, then leave will be granted for an initial period of 5 years.
- We will be covering the refugee convention in more detail on day 4.

Extensions of stay under the immigration rules

- When an individual has been granted leave under the immigration rules, this will have an expiry date to it (unless it is an application for indefinite leave to enter / remain). To lawfully remain in the UK the applicant will have to apply to extend this leave.
- The application will be assessed according to the evidence that has been provided and the requirements of the immigration rules.
- If satisfied that the rules are met, the appellant will be granted further leave.
- If the applicant fails to meet the requirements then they may have either a full or limited right of appeal.

Settlement Applications

- Similarly to extension of stay applications, these are usually made under the immigration rules.
- Alternatively, the application may be as a result of a specific discretionary policy that applies at that time. Details of the policies are available on the LAMD RU intranet site.

- The applications have to be evidenced and made via the particular team or department that is dealing with the policy or the applications (i.e. managed migration).

EEA applications

These will be dealt with by the European Casework team. There is a different set of rules that are applied than HC395 – we will be covering these later in the course.

All After-Entry decisions are made by the UK Border Agency.

Any questions?