

Andrew Elliot
Immigration Appeals Consultation
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Dear Andrew,

**Consultation: Immigration Appeals
“Fair Decisions; Faster Justice”**

I am writing to you, on behalf of the Asylum Support & Immigration Resource Team, in response to your recent consultation paper, with which we are regrettably disappointed.

The process outlined in the paper, as demonstrated by the comment on page 3 that *“in 2006 we removed 16,330 failed asylum seekers, and we intend to remove even more this year”* continues to be driven by an asinine commitment to targets, rather than to justice. As the Independent Asylum Commission has noted, it is incredible that targets around the numbers of returns do not affect the way in which individual applications are decided, so that every application for asylum is viewed as a potential refusal and, therefore, a potential “return”, rather than as a potential opportunity to provide sanctuary for those in need of it, in line with the UK’s obligations under international law.

The paper is driven by the “culture of cynicism” also outlined by the IAC, with arguments put forward describing people who “do not accept the decision of the AIT as the final resolution of their case. Consequently, they seek to prolong their appeal by applying for reconsideration in a number of cases where there is no arguable error of law...”. In actual fact, as you will be aware, a huge number of cases presently heard before the Asylum & immigration Tribunal are heard without any form of legal representation whatsoever. Consequently, while it may well be the case that large numbers people may apply for reconsideration in cases where no arguable error of law has been *identified by a solicitor* or other legal representative, it does not mean that no arguable error of law necessarily *exists*. The ludicrously short deadline for appeals (10 days) currently in existence exacerbates this problem. Our organisation is routinely approached by clients who have been refused asylum, who are seeking to appeal decisions before the AIT and who are unable to access Legal Aid funded representation. Due to our limited staff capacity, we are frequently unable adequately to assist these clients within the 10 day deadline, yet requests for adjournment are routinely refused on the spurious –and frankly wrong- basis that other avenues of legal representation are open to these clients. Consequently, it is no surprise at all

if a significant number of people are presently unable to “accept the decision of the AIT as the final resolution of their case”, yet the consultation paper appears to have no interest in addressing this evident shortcoming.

The whole tone of the document implies massive and unfounded misuse of the appeals system, so that we read of “applicants...seeking to delay their removal from the UK (who) will inevitably take advantage of the procedure...wherever possible”. Such comments appear unsubstantiated by anything resembling research evidence and, indeed, fly in the face of evidence detailing the myriad failings of the asylum determination process, as provided by the likes of Amnesty International and the IAC.

Similarly, the paper’s commitment to targets is based on a fantasy that removals of refused asylum seekers are delayed *only* by the (ab)use of the appeals processes. It is absurd to set a target of 6 months after an asylum decision to return refused asylum seekers to their countries of origin, when the present situation in countries such as Eritrea, Zimbabwe, China, Somalia and Iraq, to name but a few, is of such complexity that it is inconceivable that any such removal targets could be met in the foreseeable future. Again, a departmental fixation on targets, quotas and speed overrides any apparent considerations of natural justice, quality reasoned decisions or even material geo-political realities.

In conclusion, the consultation paper demonstrates a complete failure on the UKBA’s part to engage with the multiple failings of the asylum appeals system. A bewildering level of complacency and a sheer refusal to acknowledge past criticisms of the system is demonstrated by the statement that “The AIT Procedure rules...reflect Government objectives to conclude asylum claims quickly and fairly and are regularly amended to ensure that these objectives are pursued. *The Government believes this model works*” . The last sentence, in particular, reflects an inability to acknowledge the fact that virtually no one else with any knowledge of the system shares this belief. A whole litany of difficulties – ranging from a lack of access to legal representation, poor legal advice, dubious Home Office determination processes, short strict timescales for appeals- has been identified repeatedly as severely detrimental to the lives of asylum seekers, a significant minority of whom have been driven to suicide. Yet the paper’s complacent tone indicates not only that none of these criticisms have been heard, but also that the chief difficulty with the asylum system actually acknowledged by the Government is that of a surfeit of judicial regulation.

The proposals contained in this document will do nothing to promote either fairness or justice and will simply exacerbate the misery of the UK’s asylum system. I urge the UKBA to withdraw them.

Yours sincerely,

Dave Stamp
Project Manager