

‘Inhumane’: Challenge to Home Office’s ‘no notice’ immigration removals



A legal challenge to the Home Office’s draconian immigration removal policy under which detainees can receive just 72 hours’ notice will be heard today in the Court of Appeal. In an earlier hearing, the Home Office revealed that between 2015 and 2018 it carried out over 40,000 enforced returns and most were served with a ‘removal notice window’ giving between three and seven days’ notice that they will be removed at any time over a three month period. The challenge is brought by Medical Justice represented by Public Law Project, and ‘FB’, an individual who faced removal under the policy who is represented by Duncan Lewis Solicitors.

Lawyers for Medical Justice argues that the policy is in breach of the European Convention on Human Rights and the Dublin III regulations preventing those being removed from having a fair chance to put their case forward and has led to ‘tens of thousands’ of deportations . ‘This case is about access to justice,’ commented Rakesh Singh, solicitor at Public Law Project. ‘Under this policy, the notice period can be so short that it is impossible for the individual to exercise their legal right to challenge a removal decision.’ To successfully challenge a removal, an individual would need to find and instruct an immigration lawyer, make representations to the Home Office, challenge a refusal and then obtain an injunction to prevent removal if necessary.

According to the Public Law Project, the Home Office was not able to say exactly how many of the 40,000 removals were ‘no-notice’ removals but it confirmed that ‘the majority of returnees’ would have been served with a removal notice window.

Emma Ginn, director of Medical Justice, called the consequences of the policy ‘devastating for the individuals involved and for their families and loved ones’. ‘The Home Office failed to monitor the operation of the policy for years. It cannot truly say how it has used the RNW policy, what impact the policy has had on access to justice or how many people have been affected by it. Tens of thousands may have been affected.’

The Public Law Project have represented a number of individuals deported under the scheme who have subsequently had to be returned by the Home Office and now have leave to remain. But such cases were rare, said Rakesh Singh. ‘In most cases if a person is wrongly removed they may never return to the UK,’ he added.

One of their clients, who had legitimately lived and worked in the UK for nearly 30 years and was caught up in the Windrush, was given notice under the scheme but was unable to find a lawyer. ‘It was by pure luck that he avoided removal,’ said Singh. ‘His family came across me by chance and since he couldn’t find another lawyer I agreed to represent him. But on the same day he was told that he would be put on a plane in less than 48 hours. We applied to the court the day before his removal for an injunction and it was granted.’

Alison Thewliss MP, chair of the All Party Group on Immigration Detention, called the policy ‘further evidence of the Home Office being intent on making the environment for the likes of asylum seekers, and those in immigration detention, as hostile and challenging as possible’. ‘That many cases need to be taken before a court in order for justice – or even some level of compassion – to be borne out illustrates that many Home Office policies continue to be completely inhumane,’ she said. ‘What’s more, a great number of these people are vulnerable, and some have significant mental health difficulties. It seems however that the Home Office are content to turn a blind eye to all of this, despite the further suffering that forced removal at such short notice can bring about.’

Anthony’s story: There was no warning at all

I came to the UK from Jamaica in 1988 when I was 22 years old. When the Home Office tried to remove me in 2017, I had lived in the UK for nearly 30 years, I had indefinite leave to remain and a son at University.

It all started when I had to replace a lost passport and I asked the Home Office for a new stamp to show that I had indefinite leave to remain. I was asking them for the exact same stamp that they had put in the previous passport. But the Home Office had lost their records and that obviously triggered something in their system. My immigration status then meant that I couldn’t get NHS care, I was let go from a drylining training course that I was doing really well in, and of course I couldn’t get any benefits.

The day I was taken to the detention centre was horrendous. There was no warning at all. It was early in the morning. There was a loud hammering at the door. I looked out of the window and there was a van outside with a huge gang of people in their immigration uniforms. I let them in and they all came into the room one by one. My ex-partner Patricia was with me and she was hysterical. We had no idea what was happening.

When I got to the detention centre they took my phone away and gave me another handset to use, but it was useless. It was almost impossible to get a signal. I couldn't contact anybody to help me. I struggle with dyslexia so I couldn't understand what the paperwork was saying and nobody would explain what was going on. I would queue up all day in the detention centre to try and see a lawyer and when I finally got to see an assistant they said straight away that they couldn't help.

I was in detention for about two weeks when they called me in for a meeting and told me that I was going to be put on a plane to Jamaica in 2 days' time.

I spoke to my partner the day before I was being removed and she asked if I wanted her to bring anything for me to take with me like clothes and toiletries. I'll be honest, I told her not to bother as I couldn't see much point in carrying on. I was close to just wanting to end it all.

By chance, my partner Patricia had come across a lawyer at the last minute who said he could try and get an injunction. Thank God, the injunction came just after 5pm the next day. They were going to take me to the plane the next morning as it was leaving just after midday. It was literally down to the line. I don't know how they did it. All that paperwork. They literally had someone rushing to court on a bike that day with all the paperwork.

Once the injunction was in place, that gave us more time to prove my immigration status. The Home Office accepted that I had had indefinite leave to remain since 1990, which meant that they should not have tried to remove me in the first place. They also acknowledged that they had unlawfully detained me.

In the end, the paperwork my solicitor got together to show that I had the right to stay in the UK was over 500 pages covering almost 30 years of my life here. It included Home Office records, tax and NI records, DWP records, GP medical records, local authority records, and DVLA records. There is no way we could have got this together in the removal notice window that I was given.



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NEWS

Home Office removal window makes access to justice ‘practically impossible’

By [Monidipa Fouzder](#) | 7 July 2020



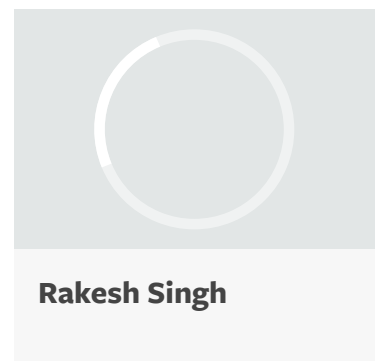
The Home Office is being challenged today in court over an immigration policy that campaigners say imposes too tight a timetable for people facing deportation to get proper access to justice.

The Court of Appeal is hearing an appeal by Medical Justice, a charity set up to provide medical and legal advice to immigration detainees, against a 2019 High Court ruling that the Home Office’s ‘removal notice window’ (RNW) policy is lawful.

Public Law Project, which is acting for Medical Justice says that under the policy, individuals are given between 72 hours and seven days’ notice that they can be removed without further warning at any time over the next three months. To challenge their removal, which PLP says could be as soon as three days after being given notice, those subject to a RNW must find an immigration lawyer, make representations explaining why they should be allowed to stay, and wait for the Home Office to decide their application. If the application is refused, the individual must find a lawyer to challenge the decision. In some cases, it may be necessary to obtain an injunction to prevent their removal.

PLP solicitor Rakesh Singh said it is practically impossible to go through all the steps in the time allowed.

He said: 'I have represented people who were unlawfully detained and removed from the UK because this policy simply denied them the opportunity to put their case before a court. We represented a man affected by the Windrush scandal who had legitimately lived and worked in the UK for nearly 30 years. He was subject to a RNW and was unable to find a lawyer. It was by pure luck that he avoided removal. His family came across me by chance and since he couldn't find another lawyer I agreed to represent him. But on the same day he was told that he would be put on a plane in less than 48 hours. We applied to the court the day before his removal for an injunction.'



Medical Justice will today argue that the policy is unlawful because it poses an unacceptable risk of interference to the constitutional right of access to justice. It also breaches the Dublin III Regulation which requires individuals claiming asylum to have access to free legal advice and the court before they can be removed to the EU member state responsible for considering their claim.

PLP says today's hearing ties together challenges brought by Medical Justice and an individual, represented by Duncan Lewis Solicitors, who faced removal under the RNW policy.

A Home Office spokesperson said: 'As legal proceedings are ongoing, it would be inappropriate to comment.'

