

# The cost of Home Office staff ‘incentives’

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Immigration lawyers Duncan Lewis Solicitors respond to the revelation that Home Office staff are being rewarded with gift vouchers for helping to ensure failed asylum seekers lose their attempt to stay in the country.

The Home Office practice of rewarding its staff with gift vouchers, cash bonuses and extra holidays for winning appeals in immigration and asylum cases is yet another distasteful gimmick in immigration policy, but the incentives are only a part of the picture. Staff who represent the Home Office in these cases (Home Office Presenting Officers, or HOPOs) also have mandatory targets of winning 60% of cases and a whopping 70% of asylum cases.

These improper pressures have no place where lives can be at stake and the focus must be on arriving at the right result, in a system where the state will always hold the majority of the cards (and has just dealt itself another by removing most immigration cases from legal aid).

To compound matters the quality of initial decision-making has been a subject of sharp and sustained

criticism in report after report. The Home Office’s own internal review found that ‘approximately 60% of appeals allowed are due to case working errors’.

Between the rock of a poor decision to defend and the hard place of a mandatory ‘win rate’ HOPOs can feel pushed to cut corners and play fast and loose. They certainly take advantage of the features of the appeal system that favour the Home Office.

The most glaring example is that while the rule that places significant hurdles to adjournments of these appeals applies to both parties, the HOPO can circumvent this by simply withdrawing the decision under appeal. This does not mean that the appeal has been successful, far from it. In the ordinary course of events a further refusal letter arrives months later, with virtually identical reasoning to the first decision.

It is also easy to see the temptation for a HOPO to simply withdraw a decision under appeal if the appeal seems as though it is likely to succeed – in which case the impact on his success rate can be avoided by removing the appeal from the official figures. We are carrying out a survey of these decisions in conjunction with the Free Movement blog ([www.freemovement.org.uk](http://www.freemovement.org.uk)), and these concerns have been raised repeatedly. There was even one case in which the HOPO requested an adjournment which was refused, only to withdraw the decision under appeal the day after the hearing!

The impact upon litigants can readily be imagined, especially those who have made arrangements for witnesses to attend who may not be available next time, and spent substantial sums on representation, none of which are recoverable.

These incentives to bad practice not only undermine the fairness of the appeal procedure, but waste resources. The cost to the Home Office, and the Tribunal, of preparing the appeal is also thrown away. Further delay is imported to an immigration system still unable to clear huge backlogs.

Responding to the furore Mike Harper, the immigration minister, defended the Home Office stating that ‘[n]o caseworker is incentivised to refuse asylum claims’; he should recognise that incentives at the appeal stage are equally inappropriate, as well as self-defeating.

*James Packer is a director at Duncan Lewis Solicitors*

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