

By email only

George Shirley and Gabi Monk
UK Visas and Immigration
Home Office

6 April 2023

Dear George and Gabi,

Delayed Implementation of Appeals

Members are continuing to report persistent delays with the implementation of successful appeals. We would be grateful if you could assist with this.

The delays primarily arise in two situations:

1. *Following the withdrawal of a refusal before an appeal hearing at the 'Respondent's Review' stage.*

Under the current standard appeal procedures, the Tribunal will direct the Home Office/Entry Clearance Officer to review the refusal. In many cases this leads to the refusal decision being withdrawn. In that scenario, the review will usually state that "It is anticipated" that a certain type of leave "will be granted, subject to any further checks which are required and the appellant providing any documents requested." However, once this happens successful appellants can then wait months and months for leave to be granted, despite no further documents being requested and there being nothing in the appellant's record which will cause a delay as a result of the checks.

2. *Following a successful appeal decision.*

Long delays are also standard after an appellant is successful following an appeal hearing at the Tribunal. This is the case despite the fact that, following an unchallenged Tribunal determination, the Home Office must, in essence, grant leave, so there is very little discretion needing to be exercised or practical decision-making which must take place at that stage.

It is our members' experience that implementation often occurs only after the appellant has chased the Home Office. This should not be necessary and puts unrepresented appellants at a clear disadvantage.

As you will appreciate, these delays can cause severe hardship to appellants and their families. For example, they extend periods of separation where the appellant is overseas and can prevent successful appellants from being able to earn an income, access NHS treatment without being charged (which they may have already paid for long before in the form of the Immigration Health Surcharge upon submission of the original application), or travel abroad.

It is clear that the Home Office is aware of the issue, as when members have attempted to chase the implementation of appeals, they receive emails stating, for example, "We are currently experiencing

delays in the implementation of allowed and withdrawn appeals.” However, it is not clear to us what steps are being taken to reduce these delays, nor whether there are any efforts to prioritise vulnerable appellants.

The House of Lords Justice and Home Affairs Committee report on Family Migration that was published on 28 February 2023 states:

*The Home Office should be required to ensure the prompt implementation of successful appeal decisions. The Home Office should routinely publish detailed statistics on its performance in meeting those standards.*¹

We would whole-heartedly endorse this recommendation. We would be very happy to meet to discuss the introduction of new procedures to enable the swift implementation of appeals. We would also be grateful if you could please introduce ILPA to colleagues in the Appeals, Litigation and Administrative Review (ALAR) team who would be well placed to discuss such issues.

Yours sincerely,

Zoe Bantleman

Legal Director
Immigration Law Practitioners’ Association (ILPA)

¹ House of Lords Justice and Home Affairs Committee, ‘All families matter: An inquiry into family migration’ (HL Paper 144, 1st Report of Session 2022–23) [108]
<<https://committees.parliament.uk/publications/34107/documents/188323/default/>> accessed 5 April 2023.