

Briefing paper on the detained fast track – March 2008

“Fast track is just a system to refuse people. There is no time to listen to you. Even the judge didn’t listen. When they put you in fast track there is [only] a very small chance to get out. I never heard [of] one person who won a fast track case in one year. How can everyone be lying?” - N, detained in Yarl’s Wood for 11 months

What is the detained fast track?

The detained fast track, sometimes called DFT, is a process where asylum seekers are held in detention while their asylum claims are decided within an accelerated legal schedule.

The government runs detained fast track processes in three detention centres in England. Since 2000, asylum seekers have been held at Oakington in Cambridgeshire for their asylum claims to be heard within seven days. The detained fast track at Oakington is sometimes referred to as the detained non-suspensive appeals process (DNSA) because many people held at Oakington do not have the right to appeal a negative decision on their claim before they are removed from the UK. A ‘super’ fast track process was introduced for men at Harmondsworth near Heathrow Airport in 2003. Claims at Harmondsworth are decided in three days. Most Harmondsworth cases have the right to appeal a negative decision from within the UK but can have come to the end of all appeal processes within 21 days. From 2005, women have been held at Yarl’s Wood near Bedford under the same ‘super’ fast track regime.

The detained fast track is not supposed to weed out weak or unmeritorious asylum cases. With only a small number of exclusion categories, any asylum claim can be routed into the detained fast track regardless of the complexity of the case or whether it can be heard properly within an accelerated legal schedule. Bail for Immigration Detainees’ (BiD) casework experience has shown that children, torture survivors and women who have been trafficked to the UK have all been wrongly detained while their asylum cases have been decided.

Since March 2007, asylum seekers in the UK have had their claims decided under the New Asylum Model (NAM). Most people are not detained but are subject to closer contact management, through a dedicated Home Office case owner, and have decisions on their asylum claims made to a faster schedule. The government remains committed to using the detained fast track as a policy tool despite the New Asylum Model offering accelerated decision making and increased contact with applicants without them being detained.

Key facts about the detained fast track

- In 2007, 1,605 asylum seekers had their claims decided in the detained fast track at Oakington, Harmondsworth or Yarl’s Wood.¹
- It costs £903 per week to detain someone at Harmondsworth and £546 per week at Oakington.²
- Home Office policy on cases unsuitable for detention is routinely breached. During an eight month period, 21 torture survivors and 7 children were detained at Harmondsworth for an

¹ Calculated from the Home Office’s Asylum Statistics published quarterly during 2007

² Taken from a Freedom of Information Act request released on 05/01/07 and based on information from 2005/2006 - figures unavailable for Yarl’s Wood

average of 6.8 days and a further 2 torture survivors and 2 children were held for an average of 39.6 days before being released.³

- In the last three months of 2007, 20% of all asylum applications decided in the UK were granted refugee status. During the same period only 2% of people who had their asylum claim decided at Oakington and nobody who had their claim decided at Harmondsworth or Yarl's Wood were recognised as refugees.⁴
- Nearly two-thirds of men held at Harmondsworth and one third of women held at Yarl's Wood are not legally represented for their asylum appeal.⁵
- 22% of asylum appeals heard in the UK during 2006 were allowed. During the same period only 4% of appeals heard at Harmondsworth and 6% heard at Yarl's Wood were successful.⁶
- People often spend long periods in detention after their appeal is heard – one woman BID knew was detained for 11 months.

Key concerns about the detained fast track

- **The process is too fast to be fair**

The accelerated legal process is too quick for applicants to disclose traumatic experiences and too fast for lawyers to gather evidence. The result is spectacular refusal rates for cases heard in detention – no case heard at Harmondsworth or Yarl's Wood in the fourth quarter of 2007 was granted refugee status. BID believes cases in the detained fast track are set up to fail because of the speed with which they are heard, and that people should not be detained whilst their asylum claim is being decided.

- **Unsuitable cases are routinely fast-tracked in detention**

Home Office safeguards to prevent unsuitable cases being detained are so weak that with a limited number of exceptions, all asylum cases are considered suitable dependent only on operational considerations such as bed space. Two-thirds of women whose appeals were observed at Yarl's Wood for research by BID in 2007 had experienced rape, female genital mutilation, domestic violence, trafficking, forced prostitution or sexual assault.⁷ BID believes that while the detained fast track continues, there must be a robust screening mechanism to prevent unsuitable cases being detained.

- **There is no automatic legal representation for asylum appeals in detention**

The majority of cases heard in detention are appealed before an immigration judge but publicly funded legal representation for appeals is not automatically available. While asylum seekers struggle to find publicly funded lawyers, the government is always legally represented. The impact of this inequality of arms is evident in the greatly reduced success rate for appeals in detention. BID believes that while the detained fast track continues, asylum seekers should automatically be provided with publicly funded legal representation for their claim and any subsequent appeal.

- **Length in detention**

The determination of asylum claims in the detained fast track is rushed through, only to leave people in indefinite detention for prolonged periods at the end of the process. People often spend months in detention after their claim has been refused because the government is not in a position to remove them from the UK. Many of the people BID has worked with have suffered serious

³ Taken from a Freedom of Information Act request released on 02/06/06 containing information from 01/10/2005 to 31/05/2006

⁴ Home Office, Asylum Statistics: 4th Quarter 2007 United Kingdom, March 2008

⁵ Based on research carried out by Bail for Immigration Detainees at Harmondsworth in 2006 and at Yarl's Wood in 2007 - see further information section for full details

⁶ Home Office, Asylum Statistics: United Kingdom 2006, August 2007

⁷ Based on research carried out by Bail for Immigration Detainees at Yarl's Wood in 2007 - see further information section for full details

mental and physical health problems as a result of their long term detention. Former Yarl's Wood detainees interviewed by BID for research in 2007 had spent an average of five months in detention.⁸ BID believes that the government's power to detain must be time limited and subject to automatic judicial oversight.

Case studies of the detained fast track

The experience of an asylum seeker at Yarl's Wood

S from Uganda claimed asylum in mid-2005, nine days after arriving in the UK. She was sent to Yarl's Wood and spent eight months there. Yarl's Wood health centre informed the Home Office three times that she was a victim of torture but no action was taken to get her out of the fast track. A privately-charging lawyer represented her at her asylum interview. No application to take her case out of the fast track was made, nor an application for bail. She represented herself at the asylum appeal. S suffered a serious breakdown in detention, and is permanently brain damaged as a result of being inappropriately re-fed by detention centre staff after a long period on hunger strike. She spent seven months in a psychiatric hospital after being in Yarl's Wood. Her treatment was the subject of a review of health care at Yarl's Wood by HM Inspector of Prisons, Anne Owers.

The view of a lawyer working at Harmondsworth

'... you are always flying by the seat of your pants. You are working against the clock... Outside the fast track you have time to go away and come back, which is better... You don't have to overload the client with information and then start taking instructions on a potentially traumatic history. In fast track you have to do this all at once. Any longer than the three hours [allocated for the meeting], you or the client are not thinking straight...I wouldn't advocate this system, it has huge problems. It would be better to have time to go away and clarify and have time to come back and take further instructions.'

What is Bail for Immigration Detainees doing about the detained fast track?

Bail for Immigration Detainees (BID) www.biduk.org is a small independent charity that exists to challenge immigration detention in the UK. We have been contacted by hundreds of men and women held at Harmondsworth, Yarl's Wood and Oakington looking for help after their claims have been refused in the detained fast track. We support people who are left in detention at the end of the fast track process to secure their release by making applications for bail.

In 2006 we conducted research with detainees and legal representatives at Harmondsworth to provide space for people to speak out about the injustice they were experiencing. In 2007 we conducted similar research at Yarl's Wood. We are now using this research as evidence to lobby government to change its policy on the detained fast track. We push for an end to asylum claims being heard in detention and argue that while it continues, the government must ensure that the most vulnerable are screened out and that all cases have legal representation throughout their claim and appeal.

Further information

For more information about the detained fast track at Yarl's Wood: Bail for Immigration Detainees, ['Refusal Factory': Women's experiences of the detained fast track asylum process at Yarl's Wood Immigration Removal Centre](#), September 2007

For more information about the detained fast track at Harmondsworth: Bail for Immigration Detainees, [Working against the clock: inadequacy and injustice in the fast track system](#), July 2006

⁸ Based on research carried out by Bail for Immigration Detainees at Yarl's Wood in 2007 - see further information section for full details

For more information about the legal process in the detained fast track: Immigration Law Practitioners Association, [The detained fast track process: a best practice guide](#), March 2008

For more information about the health impacts of detention: Bail for Immigration Detainees, [Fit to be detained?: Challenging the detention of asylum seekers and migrants with health needs](#), May 2005

For more information contact Amanda Shah on 07962460956 or amanda@biduk.org