

BRITISH BROADCASTING CORPORATION

RADIO 4

TRANSCRIPT OF "FILE ON 4" – Immigration

CURRENT AFFAIRS GROUP

TRANSMISSION: Tuesday 21st June 2005 2000 - 2040

REPEAT: Sunday 26th June 2005 1700 - 1740

REPORTER: Gerry Northam

PRODUCER: Rob Cave

EDITOR: David Ross

PROGRAMME NUMBER: 05VY3017LHO

THE ATTACHED TRANSCRIPT WAS TYPED FROM A RECORDING AND NOT COPIED FROM AN ORIGINAL SCRIPT. BECAUSE OF THE RISK OF MISHEARING AND THE DIFFICULTY IN SOME CASES OF IDENTIFYING INDIVIDUAL SPEAKERS, THE BBC CANNOT VOUCH FOR ITS COMPLETE ACCURACY.

“FILE ON 4”

Transmission: Tuesday 21st June 2005

Repeat: Sunday 26th June 2005

Producer: Rob Cave

Reporter: Gerry Northam

Editor: David Ross

NORTHAM: Decisions about asylum – whether someone claiming to be a refugee genuinely deserves protection – are some of the most difficult and complex that the government is called on to make. Get it wrong one way and the country allows in someone who wasn't really in danger; while a mistake the other way could send an innocent victim back to face torture or death. Last year 40,000 claims were considered and just 4% were granted full refugee status, while the overwhelming majority, some 87%, were refused outright. How reliable are these judgments? As the government begins a 5-year plan of reform inside the Home Office Immigration and Nationality Directorate, File on 4 has uncovered cases which cast serious doubt on the clarity, expertise and fairness of the decision-makers.

SIGNATURE TUNE

ACTUALITY IN MANCHESTER

NORTHAM: It's early afternoon on a bright Friday on this quiet backstreet a couple of miles from Manchester city centre. Past these sturdy iron gates and through a small car park is an unmarked bland redbrick building which is visited by a succession of people living in a strange legal limbo – they've been refused asylum by the

NORTHAM cont: Immigration and Nationality Directorate but it would be too dangerous to return them home. So they have to turn up here to pick up the bare means of subsistence.

ACTUALITY WITH LUNCH VOUCHERS

KORSHID: These are the lunch vouchers.

NORTHAM: Luncheon vouchers?

KORSHID: Yes. These are £70.

NORTHAM: Little book of £5 worth, 50 pence luncheon vouchers and in total here you have £70. How long does this have to last you?

KORSHID: Two weeks.

NORTHAM: Two weeks, £70 for two weeks?

KORSHID: Yes.

NORTHAM: And where can spend these? Ah it says on the back.

KORSHID: In some markets like Asda, Tesco and Greggs.

NORTHAM: Sainsburys, Waitrose, Boots, Bella Italia or Café Uno or Coffee Republic or Pret a Manger. Do you ever go to those places?

KORSHID: No never.

NORTHAM: Like many of the 5000 people currently dependent on government handouts of luncheon vouchers, Korshid is an Iraqi - a Kurd from the north of the country. The difficulty for him and his fellow Kurds is that they live ten miles from Manchester in Oldham, and yet can't use their luncheon vouchers for necessities like the

NOTHAM cont: fortnightly bus journey to pick them up and the 20 mile round trip to report to the Home Office each month. Take Mala, for example, whose legs were both injured in an explosion in Iraq.

MALA (TRANSLATOR): I talked to them about my condition and my circumstance they told me that you are liable to report monthly.

NORTHAM: The authorities are still telling you that you have to report to Manchester every month?

MALA: Yes.

NORTHAM: Even though you've told them that you don't have anyway of getting there and you're disabled and so cant even walk it?

MALA: Yes.

NORTHAM: At the end of 2001, under David Blunkett, the Home Office scrapped a general scheme of vouchers for asylum seekers because it was found to create exactly this kind of problem and it encouraged a black market; trading vouchers for cash because people saw no alternative. Now that seems to be happening again for this minority of applicants, according to another Iraqi Kurd, Dara.

DARA (TRANSLATOR): I receive the vouchers which is valued £70 so I try and I sold my vouchers for £35.

NORTHAM: You got £35 cash on the black market for £70 worth of luncheon vouchers.

DARA: Yes.

NORTHAM: And how long will you have to live on this £35 in cash?

DARA: It's enough for me for about week or less than week so it's about 3 days I haven't got any foods in my home. It really sounds strange but sometimes when I'm walking down the town centre in Oldham I'd like to buy chips and curry or chips and fish, or chips and beans. Its not so expensive it's just about 50p so sometimes I feel sad because I can't buy even chips and beans for 50p.

NORTHAM: Dara and the other Kurds can't be sent home because the route to northern Iraq isn't safe and at the same time they are denied the rights of asylum. This is one of the more stark anomalies of the decision-making system. At Citizens Advice, the national policy officer on asylum, Richard Dunstan, sees the root of the problem as an apparent lack of clarity within the Home Office – between the section that decides they can't stay here and the section which decides it's not safe to return.

DUNSTAN: It doesn't make sense to me and I don't think it makes a great deal of sense to most people who think about it. It's the very same department that's made both decisions and one would have perhaps have expected some discussions within that department to consider the implications of a decision not to send people back to Iraq. For me it raises a question about that decision to refuse refugee status was right, at the very least it is arguable these people should have been given some temporary status to allow them to remain in the country, with such status they might for example have been allowed to work and support themselves rather than being on a support system at the expense of the tax payer.

NORTHAM: Have you drawn the position of these people to the attention of the government?

DUNSTAN: We have, we've had extensive correspondence and meetings with officials and the Home Office, to make them aware of our concerns, and I think they are themselves very aware of the problems that the lack of cash is causing.

NORTHAM: The government insists that it won't make any arrangement which would seem to give refused asylum applicants a further chance to remain lawfully in Britain. But since these people can't be safely returned home, the Home Office Minister Tony McNulty acknowledges the difficulty of their current position.

MCNULTY: We provide the accommodation, we provide other support mechanisms for people, they are supposed to be in a temporary situation rather than otherwise and we think it's the best way to work with them for the temporary duration of their stay.

NORTHAM: If you live in Oldham, ten miles away from the place that you pick up your luncheon vouchers every fortnight, how are you supposed to make that journey with no cash?

MCNULTY: Well we are giving all the support we can to them on a temporary basis.

NORTHAM: Well the position they end up in is that they have to sell their luncheon vouchers on the black market at about half value just to raise cash for the bus fares. You can't want that?

MCNULTY: No I don't want that and I want the temporary support to be in place in that temporary position. What we need to do far more readily in the international domain is get to a situation where less and less countries are in a position where there aren't safe routes back for these individuals.

NORTHAM: But these people are now in a position..

MCNULTY: Yes I know that.

NORTHAM: David Blunkett scrapped vouchers generally four years ago for precisely this kind of reason that it encouraged a black market and left people in difficult positions, now these people are back in the same position.

MCNULTY: If there are people in that position, then it's something I will look at but I do want to keep that as a temporary situation.

NORTHAM: You will look at the problems that they have?

MCNULTY: Yes I shall.

NORTHAM: Getting around on luncheon vouchers...

MCNULTY: Yes I shall.

ACTUALITY AT LUNAR HOUSE

NORTHAM: This is the place where these apparently contradictory decisions about asylum seekers are made. And in terms of political sensitivity, it's one of the government's hottest of hotspots. In the unlikely setting of a rambling 20-storey concrete building on a dual-carriageway in East Croydon, Lunar House is the headquarters of the Immigration and Nationality Directorate of the Home Office, whose thousands of civil servants also fill many of the surrounding tower blocks. It's just after 6 in the morning and already security guards are on patrol and queues have begun forming of quiet, anxious people waiting in the metal enclosure to seek work permits, renew visas or join their families already living here. Across the way, by a side door, is another queue waiting to take their chances as would-be refugees.

After years of fevered press coverage of long queues of people herded together in pens, and a string of complaints about bureaucratic incompetence at Lunar House, the government is acutely aware of its potential for damage to Britain's image. In recent years, as the Minister Tony McNulty is quick to point out, there's been an attempt to improve the conditions.

MCNULTY: We have got to a stage now where the physicality of the experience if you like, especially down in Croydon, has improved enormously in terms of the lay out of the floor, in terms of how people wait, in terms of breaks that interviewers can have between particular interviews, and its done in a far more measured way than this sort of scrum through the door, which I think is of benefit to the staff as well as individual applicants concerned. You'll remember the pictures of the sort of pig pen type process with everyone queuing up like mad outside Lunar House.

NORTHAM: It's still there.

MCNULTY: Yeah the pig pen is but the people aren't queuing up there in the quite the way they were.

NORTHAM: I saw them at 6 o'clock in the morning.

MCNULTY: By no means the way it was at the height of some of the levels of applications. Its not fair to say its exactly as it was 3 or 4 years ago where there was this queue outside every single day, its not that bad that any more.

NORTHAM: But what matters most to people seeking recognition as refugees is the quality not of their surroundings but of the decisions on their cases. File on 4 has spoken to some of them who have been treated in ways that produce incomprehension and fear. Hassan is a young professional from Iran. He's spoken out against the Islamic authorities there and fled to Britain when he committed the almost intolerable crime of becoming a Christian and could not declare his faith.

HASSAN: That was very difficult because I had to keep secret my faith when I was in Iran.

NORTHAM: What do you think would have happened to you if the authorities had discovered that you were a Christian convert?

HASSAN: In Islamic law in Iran converting from Islam to any other religion is considered as an apostasy and the punishment can be death. I couldn't practise my faith in Iran or talk about it. If I did I could have put not only my own life in danger but also my family's life became danger.

NORTHAM: Why would your family be in danger?

HASSAN: Because when I came to England and I got baptised, someone has reported to the secret police in Iran. They sent someone to my family house and upset them. They have been harassing my family. If something happened to my family, to them I never ever can forgive myself.

NORTHAM: Hassan applied to the Home Office for asylum on the grounds that he would be in danger as a Christian if returned to Iran. In Croydon, his new faith was put to the test by a civil servant who seemed to know less about the New Testament

PRIDDIN: Sometimes people have been asked a whole series of like test questions which to be quite honest a lot of British Christians wouldn't know the answer to.

NORTHAM: What sort of things?

PRIDDEN: What was Jesus' first miracle?

NORTHAM: And what's the answer to that?

PRIDDIN: It depends which Gospel you're reading, there's a number of possible answers. How many books are there in the Bible? Again that depends on what Christian tradition you're coming from. On another occasion I know somebody who's been asked about the season of Lent and what it was but the interpreter translated this as 'What is the season to borrow?'

NORTHAM: These are questions which people are being asked as a test of whether they genuinely are Christians or not, how fair a test are they?

PRIDDIN: Well I don't think they're a very fair test at all because it's absolutely vital that people get these questions correct because the whole of their asylum application and their so call genuineness is dependent on these sorts of questions.

NORTHAM: In April, the Home Secretary replied to the ecumenical group acknowledging their concerns and conceding that they were right. He apologised for these unfair lines of questioning but said he believed they only crept into 'a minority' of interviews. Among those who work daily in or alongside the asylum system, we've found a widespread lack of confidence in the care and rigour applied by Home Office caseworkers. We're told that some decisions – whether for or against the applicant –are well-argued and thoroughly-researched. But others seem ill-judged, cavalier, misinformed and in some cases almost breathtakingly perverse.

BARTLETT: This is the case of a child from North Korea who arrived unaccompanied in this country in February and claimed asylum very shortly afterwards.

NORTHAM: Over the past four months, the legal caseworker Eve Bartlett, has watched in disbelief as the Home Office refused to recognise this young girl already separated from her family as a genuine refugee.

BARTLETT: One of the submissions on her case was that the notoriously isolationist and repressive regime of North Korea would consider her act of claiming asylum in the United Kingdom as an act of betrayal.

NORTHAM: You mean she would be deemed a traitor?

BARTLETT: Yes exactly. It is well-known that North Korean citizens are prevented from speaking to any foreigners at all and here she is approaching the UK authorities claiming that she would be harmed if she were to return there.

NOTHAM: The civil servants in this case decided differently. Their letter of refusal said:

REFUSAL LETTER: “You have alleged that you would suffer harm were you to return to your home country. However, it is considered that you have failed to demonstrate that you would. In the light of all the evidence available, it has been concluded that you have not established a well-founded fear of persecution and do not qualify for asylum.”

BARTLETT: I was extremely surprised. I’ve hardly ever seen a clearer case for asylum than this. We had already sent to the Home Office a copy of the report by the US State Department on Human Rights practices in North Korea which states that many would be refugees who were returned involuntarily have been imprisoned under harsh conditions some have been executed.

NORTHAM: What was the effect on her of the way the Home Office handled this case?

BARTLETT: She was extremely distressed. It’s a very frightening prospect to be returned to possible execution, possible forced labour, certainly detention in life-threatening conditions.

NORTHAM: Eve Bartlett was able to back up the State Department warning with evidence from the UN and human rights groups that on return to North Korea, the girl could indeed face real peril. Last month, the case went to Appeal where the Home Office suddenly withdrew its objections and the immigration judge granted the girl indefinite asylum saying she had a well-founded fear of persecution. The Minister at the Home Office, Tony McNulty, won't comment on any individual case, which leaves the obvious general question to put to him.

Can you tell me in what circumstances it would be right to send somebody who has fled from North Korea back to their country?

MCNULTY: We'd have to look at each of the specific circumstances of each particular case. It's about in the end not an assessment of our particular view of the lack of democracy or otherwise in particular countries, but at one level the safety of returning someone to their country of origin in terms of the level of strife, conflict, war and everything else in that particular country.

NORTHAM: But the objective evidence from human rights groups is that someone who has left North Korea will be deemed a traitor if they return, will face at best starvation in a labour camp and at worst execution.

MCNULTY: And given that much of the intelligence behind the country of origin data and information that our IND people use to make their decisions come from human rights watch UNHCR and Amnesty International.

NORTHAM: So given that how can any case worker think it is safe to send somebody back to North Korea?

MCNULTY: In that context given what you've said, given what I know about what these organisations say about that particular country I think it would be hugely unlikely that anyone would be recommending someone's removal to that particular country.

NORTHAM: So if a case worker has done that, which they have within the past few months, what do you say?

MCNULTY: I would say if people are giving me the individual cases concerned then I would certainly look at them.

NORTHAM: This is not an isolated case, the Home Office say that last year 55 asylum applications were made by North Koreans, of which 45 were refused. In the past 3 years, though, nobody has actually been sent back to North Korea. There's a substantial proportion of asylum cases where, like the Iranian Christian and the girl from North Korea, an applicant is refused asylum by civil servants and this decision is subsequently overturned on Appeal. The government says the number is falling, but it's still 17% - about one case in six, representing thousands of hearings, millions of pounds in legal costs, which could have been saved if the Home Office got the initial decision right. At the publicly-funded Immigration Advisory Service, the former Conservative MP Keith Best, takes this as confirmation that the process is not working properly.

BEST: It's hovered round about one fifth of all decisions are being overturned, but its worse because that's the overall rate of success. When you look at individual countries and you look at for example Sudan and Somalia latest figures indicate 50% plus of people from that part of the world actually succeeding on their appeal which means that initial decision is fatally flawed.

NORTHAM: This is people who've been refused asylum in their initial decision from the home office and who then win on appeal?

BEST: Yes.

NORTHAM: That is 50% for some countries?

BEST: Yes indeed and of course that is absolutely unacceptable when you think that people's life's are at stake. But also of course, it's terribly important to get that right initially for the reasons of public money because it costs a lot of money for a case to go to appeal and have to get the right answer after a long and protracted process when it could be given in the initial stage. And frankly, if this was being done to British citizens or residents of this country rather than to foreigners there would be outrage and there would be a complete lack of confidence in the system.

NORTHAM: So why doesn't the Home Office get more cases right first time? Among those with detailed inside knowledge, there's concern over the level of expertise of some people making asylum decisions in Croydon. They are junior civil servants recruited with 2 A-levels on a starting salary of £18,000. Dr Heaven Crawley was the Home Office's own Head of Asylum Research until 2002 and became concerned about some caseworkers' proficiency.

CRAWLEY: Caseworkers who have just joined the Home Office are on a relatively low grade in terms of both their income and salary scale and in terms of the qualifications that they therefore have when they entered the Home Office. I've heard complaints about the quality of the training that people receive and people don't get any feedback on the quality of the work that they do and so what they see themselves as doing is trying to do a job in difficult circumstances, they feel that they make decisions which are of a high quality which are being subsequently overturned often don't understand why that is the case. There are other people who either are very cynical about the process as a whole and will say things like I've been here 30yrs and I've never seen a genuine asylum seeker, flying completely in the face of our own evidence and the Home Office own evidence about people who need protection. And there are those that treat the interview in a very cursory manner, so if an applicant is from a particular country or behaves in a particular way or perhaps has very little to say at the outset will have made a very quick decision that there's nothing really to this case and there's no substance to the application.

NORTHAM: And they might be right mighten they?

CRAWLEY: They might be right but without asking the questions we'll never know.

NORTHAM: In an unprecedented move by the government, the United Nations has been allowed to send a team into Lunar House and is currently conducting an audit of its decision-making. The UN's first report criticises the Home Office for 'flawed procedures', 'unsustainable reasoning', 'misuse of information about applicants' home countries' and 'failure to consider obvious human rights issues'. Another problem the head of the audit team, the UN's Jane Aspden, has identified is that the government doesn't seem to understand that the people who make asylum decisions are only human.

ASPDEN: It is very difficult, most normal people, as they're going into work on the bus or on the train, are not reading or listening to stories of tremendous horror. Maybe a baby's been thrown down wells or of somebody being multiply raped or very very badly tortured. If you hear those stories time after time after time it actually becomes easier to cope emotionally to say I don't believe you. It's a natural reaction and one that is recognised in this area of work. And we would encourage the Home Office to recognise that this is likely to happen to their caseworkers.

NORTHAM: Does the home office recognise that?

ASPDEN: There is little acceptance that this is a factor that can creep into refugee status determination work. Our recommendation is people are given breaks periodically from first instance decision making to prevent this kind of burnout.

NORTHAM: Does that happen within the home office?

ASPDEN: Not at the moment.

NORTHAM: But you think it should?

ASPDEN: Definitely, it was one of our strong recommendations in our first report to the minister.

NORTHAM: And this is because it can be easier for a caseworker just as a coping mechanism to say I don't believe you when they hear a terrible story?

ASPDEN: Of course it's a natural human reaction.

NORTHAM: But that means that the decision they make about that person may not be accurate?

ASPDEN: Entirely so.

NORTHAM: The government says it relies on the professionalism of Home Office caseworkers to see them through. And the Minister, Tony McNulty, rejects complaints of poor standards within the Immigration and Nationality Directorate, the IND, leading to some bad decision-making.

MCNULTY: Well I would say it's never good enough but I would say there are very very strong reasons to feel that there is a huge level of competence at IND we're never complacent.

NORTHAM: The word that has been used most frequently to us in making this programme by people who have direct experience of this system is lottery. Sometimes decisions are very good sometimes they are well the word people use is appalling.

MCNULTY: Well that's not a view shared by the United Nations High Commission for Refugees in the sense that they are now working very very closely with us on trying to improve quality we have...

NORTHAM: And here's what they said about you earlier this year, there are flawed procedures, unsustainable reasoning, misapplications of the law, failure to refer to country of origin information, misapplication of country of origin information and failure to consider obvious human rights issues. That's not a ringing endorsement.

MCNULTY: That's certainly not their position in the context of where we are at now. You'll know that UNHCR now have people sitting on our case worker floor working with them side by side.

NORTHAM: And when I asked the head of their team last week if there'd been any significant change or improvement she said there'd been no significant change and only fairly minor improvements in the 18 months they'd been working with you.

MCNULTY: Well I simply don't think I'd accept that. I think that's actually impugning much of the very good work that a lot of very dedicated professional people do down in Croydon.

NORTHAM: But the UN team auditing the quality of decision-making in asylum cases has uncovered another fundamental problem inside the Home Office. It concerns the so-called Country Reports, documents drawn up to give caseworkers official guidance on the state of danger in different countries from which asylum applicants may come. Jane Aspden, the head of the audit team, finds that the information in these reports can be unreliable.

ASPDEN: If they are trying to apply out of date country of origin information for example to assess the case and it's a country that they can see on the news everyday, maybe its about Darfur, then they can see that the two things don't match up and it puts them in a really hard dilemma.

NORTHAM: How do you mean the two things don't match up?

ASPDEN: The country of origin information that their reading in front of them which is maybe 2 or 3 years old doesn't equate with what they can see on the television news daily.

NORTHAM: Are they allowed to take into account what they see on the television news?

ASPDEN: No they have to source the information or they should source the information that they use and they're encouraged to use the official information because clearly that's something that has been cleared as being an objective source of information.

NORTHAM: Well it maybe objective but if it's 2 or 3 years out of date, how helpful is it?

ASPDEN: Well that is our very point. It is a glaring flaw in the system.

NORTHAM: It's the official Country Reports which lie at the centre of another case we've examined, that of a young man from the Ivory Coast in Africa, one of the

NORTHAM: What exactly was the wording?

MILLAR: The applicant has suffered no discrimination in Abidjan because of his religion or ethnicity and I can see no reason why he should suffer now if returned there.

NORTHAM: And what's wrong with that?

MILLAR: Well this view was completely out of date. A northerner returning to Abidjan would be immediately brought to the attention of the southern authorities and would be a suspect at the very least suspect rebel. The country was in full scale civil war and there had been a number of massacres documented already of northerners in different places and northerners committing massacres against southerners and so forth. I say that the Home Office clearly was not up to date with its information and the reasons why one can only guess at.

NORTHAM: So the Home Office again refused Diomande asylum and took steps to send him back to Africa. He was taken from detention to Heathrow, where his escort approached the Air France pilot, who then insisted on meeting Diomande.

DIOMANDE: I explained to him look I'm a northerner and you are French you know what's going on in Africa. He say yes I know and asked me where do you want to go, I said no I don't want to go. And then he said to the escort there I don't want to take him because he doesn't want to go.

NORTHAM: The pilot refused to take you on the aeroplane?

DIOMANDE: Yeah on that grounds.

NORTHAM: And what happened?

DIOMANDE: And then they put me back to the car again and then the escort start taunting me and...

NORTHAM: The escort was taunting you?

DIOMANDE: Yeah.

NORTHAM: Saying what?

DIOMANDE: Saying you stupid lad why you didn't board the plane, I didn't reply and I stayed quiet till they brought me back to detention again.

NORTHAM: They took you back to detention?

DIOMANDE: Yeah.

NORTHAM: Diomande believes that the pilot may have saved his life. When his case came to Appeal in January this year, evidence was produced from the US State Department, the United Nations, human rights monitors and even from the Home Office's own reports on the Ivory Coast, together confirming the risk he could run if returned to the south of the country. The Appeal overruled the Home Office and gave him asylum.

STATEMENT: "There is currently a real risk that he would be detained for questioning at the airport and that he would be mistreated by the authorities. I am satisfied that there is a real risk that he would receive treatment amounting to persecution."

NORTHAM: Diomande is now living and working and paying taxes in Britain as an office junior. The government has speeded up the asylum process. Cases that once could drag on over 2 or 3 years are now given a first decision in 2 months. And, since April, there's a tighter limit on access to Appeals. The Commons Home Affairs Select Committee insisted that this restriction on the right of Appeal should only be introduced once a significant improvement was demonstrated in caseworkers' initial decisions. So, has the former Head of Asylum Research in the Home Office, Dr Heaven Crawley, seen this significant improvement?

CRAWLEY: It is certainly the case that the speed of decision making has improved in so far as it has got quicker. It's also the case that the quantity of people in the

MCNULTY: No I've not said that. Throughout the interview thus far, I've said all decision making processes can and should be improved and there are steps where we're working very closely with UNHCR to seek that improvement.

NORTHAM: But we're in a position at the moment where the only person in step is you.

MCNULTY: I think it's terribly easy to knock down and attack decision making processes in the way that people do around particular cases but I don't accept that systemically the whole thing is still in absolute chaos the way that people reflect that I simply don't accept that.

SIGNATURE TUNE