I do not doubt that the UK Border Agency has a tough job. There is public and political pressure to reduce migration and, to be honest, it is only right that those people who should not be in the UK, and can safely return to their home country, should do so.

I also believe that there is a practical role to play for those advising and representing asylum seekers to work on a practical and professional level with the UK Border Agency to assess common ground (which can be conceded on either side) and narrow any differences. I am convinced that this would lead to far more effective decision making. It is not a new concept – the criminal courts do this all the time with the Crown Prosecution Service liaising with defence solicitors to amend charges or agree on evidence to expedite proceedings.

However, the case of Shamiso Kofi – whose removal directions to Zimbabwe were stopped yesterday – has demonstrated how culturally inflexible the UK Border Agency can be. I accept from the outset that Shamiso's case is not straightforward. However, every case should – at the very least – be considered on its merits.

The UK Border Agency is as aware as I am that there are hundreds of asylum cases that have already gone through the immigration tribunals but, upon closer scrutiny at a later stage, demonstrate that they are a perfectly legitimate claim. Indeed, applications for asylum fail for a number of reasons. Some are fake and contrived. In some cases, the asylum seeker could not afford or find representation. Sometimes cases are poorly handled. Given that there are a range of potential reasons – and given the potentially serious consequences if we remove someone to a place where they could be in danger – the UKBA has a duty to give proper and fair consideration to any new evidence.

But they do not. The tendency is to simply dismiss new evidence on the basis that an immigration judge, often years previously, had made a negative credibility finding. Rather than assessing the value of the evidence – which involves a degree of academic application – the submissions are refused on the basis that it was done so in the past.

This is not surprising given the culture of some (and I stress not all) UKBA decision makers. For example, I called the UKBA office dealing with Shamiso's case. I was instructed very late in the day and called to introduce myself. The officer wanted to speak with a colleague and asked to put me on hold. She forgot to press the mute button and I heard her say that my client had

“instructed yet another dodgy representative”. This is without even seeing the nature of the evidence I had to produce. It was clear that whatever I was to produce was not going to receive a fair hearing.

But the UKBA behaviour worsened. In the UKBA’s reply to my submissions (which, incidentally, arrived 48 hours after I made them and 5 hours before the scheduled removal) the UKBA dismissed my representations that my client may have physical and psychological health issues that could be relevant to her case (for which I had secured an appointment from a respected organisation) on the basis that: *“Whilst it is not in dispute that current UKBA policy is to defer removal when it is shown that an applicant has such a pre- assessment interview . . . it has been decided that discretion will be exercised and we will step away from our published policy.”*

Why does the UKBA feel that it has the right to exercise its discretion to simply unilaterally deviate from its own policy just to suit its own purpose? From any view, this behaviour has to be reprehensible and typical of the sort of regimes that many of my clients seek protection from. But it no longer surprises me. The cynicism, negativity and distinct lack of humanity demonstrated by some (and I again stress not all) UKBA officials has resulted in their losing any sense of perspective. It is almost as if their salary and lives of their children depended on enforcing a refusal come what may.

The only result of this is unnecessary distress and the generation of further costs – largely at the public expense. A simple, straightforward and honest discussion could have avoided further legal proceedings in this case. Where we did not agree (as is now to be the case), the matters could be put before a judge.

What is more worrying is that the culture of negativity appears to have permeated through to organisations working for the UKBA. Shamiso was treated dreadfully when a first removal was aborted. She made a complaint and was simply told that this would take 12 weeks to investigate. This is not the first time I have been involved in similar complaints. Whilst I accept that organising removals is not an easy task, the boundaries of human decency and respect seem to be all too often challenged. There is no need and it must not be tolerated.

I would much prefer to work positively and constructively with UKBA officers and have offered frequently to do so. However, until this over-riding culture of dismissing evidence come what may is overcome, we need to prepare ourselves.

There is simply no point in making applications without corroborative evidence. No matter how honest you are, if you have no supporting evidence your case will fail. In Shamiso's case it is the strength of her supporters, people who know her and (most importantly) evidence that will, at the end of the day, assist her case. I salute and thank them – although the battle, it seems, has only just commenced.

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