

**CHAPTER 12
SECTION 7****WITHDRAWAL OF APPEALS****1. INTRODUCTION**

Under rule 17 of the Asylum and Immigration Tribunal (Procedure) Rules 2005 an appeal to the AIT can be withdrawn by the appellant (or by a representative on the appellant's behalf) at any time prior to it being determined. Once an appeal is properly withdrawn it is no longer pending and cannot be reinstated. Except when an appeal is withdrawn in person before the AIT, notice of withdrawal **must be given in writing**, although no particular form of words is prescribed in the Procedure Rules.

Sometimes we may invite an appellant to withdraw the appeal. This should only be done with great caution, since it can adversely affect the appellant's subsequent rights of appeal and leave us open to accusations of coercion.

An appeal shall also be treated as withdrawn if the Secretary of State notifies the Tribunal that he has withdrawn the immigration decision to which the appeal relates.

Where an appeal falls to be treated as withdrawn the AIT must serve a notice to this effect on all the parties. This process is designed to ensure that all parties are clear as to the position. A failure to provide this notice does not however mean that the appeal has not been withdrawn as withdrawal takes effect as soon as the party in question provides the relevant notice to the Tribunal.

2. ACTION FOLLOWING WITHDRAWALS

When the AIT has accepted in writing that the appeal has been withdrawn, the caseworker should:

- note stats; and
- Check which part of section 82 triggered the appeal and, where appropriate, send the file to the relevant section for enforcement or removal action. Where the appeal was brought under section 82(d), (e) or (f) the Appeals Group caseworker should send the file to IS Removals unless different instructions have been minuted on the file.

3. REOPENING WITHDRAWN APPEALS

Although a withdrawn appeal **cannot** be reinstated, it is possible for an appellant to argue that the appeal was not withdrawn properly, and therefore is still extant. Since the withdrawal will have been seen and accepted by the appellate authorities, it is up to them to consider re-opening the appeal. The appellant should therefore be advised to contact the Secretary to the Tribunal, and any enforcement action should be suspended until the outcome is known.