

Your appeal hearing at the First-tier Tribunal

An appeal is a formal legal challenge of a Home Office decision.

On this page, you will find the following information:

- *What is an appeal hearing?*
- *Abbreviated appeals*
- *After submitting your appeal*
 - *Procedures and timeframes*
 - *Deadlines*
 - *Public hearings*
 - *Anonymity*
 - *New Matters*
 - *Evidence and translations*
 - *Adjournment*
 - *Change of address and representation*
 - *New evidence and information*
 - *Witnesses*
 - *Case Management Hearings*
 - *Childcare*
- *What you should bring to an appeal hearing*
- *Getting to your hearing*
- *What happens at the hearing, including*
 - *Making your argument*
- *The judge's decision (positive or negative)*
- *Actions you can take*

What is an appeal hearing?

If you are appealing a decision, you are asking a judge at an independent court (this means separate from the Home Office) to look at your application and overturn the Home Office refusal. To read more about what an appeal is and how to prepare for one, read our 'Preparing for Your Appeal' page. <https://www.righttoremain.org.uk/toolkit/appeals>

For the majority of people, the First-tier Tribunal is the first court you have access to if you are appealing a refusal by the Home Office.

Once you have submitted an appeal application to the First-tier Tribunal, you will have an appeal hearing. How long this takes can vary. Many people have to wait months, even a year, for their appeal hearing.

You can watch our video about Appeal Hearings to learn more about what happens on the day of your appeal at the First-tier Tribunal.

<https://www.youtube.com/watch?v=80hnE1K3qC8>

Abbreviated appeals

From 28 July 2022, as a result of the Nationality and Borders Act 2022, some people will need to appeal directly to the Upper Tribunal. <https://www.righttoremain.org.uk/toolkit/ut>

This is called an 'abbreviated appeal'. You can read more about this process here. <https://righttoremain.org.uk/toolkit/appeals/#PRNs>

If your appeal has been abbreviated, you should still read this page of the Toolkit because, although your appeal will be taking place at a different hearing centre (the Upper Tribunal), the process will be similar. You do not need to read the Upper Tribunal (Error of Law Hearing) page of the Toolkit, as people with abbreviated appeals are not entitled to error of law hearings.

After submitting your appeal

Tribunal Procedures & Timeframes

After you have submitted your appeal, you will be sent Directions from the First-tier Tribunal, telling you what to do next.

You will first be asked to provide the Tribunal and the respondent with your email address and phone number within 5 working days.

The respondent (the Home Office) will be given 14 days to provide a bundle which includes their refusal letter and any evidence that you submitted in support of your claim. This should include transcripts of your Home Office interviews.

You will be asked to provide an Appellant's Explanation of Case (AEC) 28 days after the Home Office provides their bundle or 42 days after the Notice of Appeal, whichever date is later.

The AEC is your opportunity to explain in detail why you think the Home Office refusal letter is wrong. The AEC can be typed or handwritten. You should try to respond to each paragraph of the Home Office refusal letter that you disagree with. You can read more about analysing Home Office refusal letters here. <https://www.ein.org.uk/bpg/chapter/1>

You should try and make the formatting and language as clear as possible so that the Judge can understand your arguments.

If your AEC refers to any evidence that is not already included in the respondent bundle, you should include it in your own bundle. You should paginate your bundle - this means numbering each page. You should also include an index at the beginning of the bundle, naming each document and writing the page number next to the name. You can read more about bundles here: <https://www.ein.org.uk/bpg/chapter/27>

Within fourteen days of the AEC being provided the respondent must undertake a

meaningful review of your case taking into account the AEC and appellant's bundle - and provide the result of that review and state any additional grounds of refusal to you in writing. This means that the respondent must take another look at your evidence. At this point, it is possible that they will withdraw their refusal of your claim and make a new decision. It is also possible that they will simply repeat the points that they made in your refusal letter.

If the respondent maintains their decision to refuse your claim, you will be sent a Notice of Hearing from the Tribunal. This will tell you the time and date of the hearing, and where the hearing will take place. There are a few different hearing centres, you will usually be allocated the one closest to the address you used in your application. You can find out which it is likely to be here: <https://courtribunalfinder.service.gov.uk/search/postcode?aoi=Immigration>

If you need an interpreter and did not say this in your appeal form, you must tell the Tribunal, informing them which language and dialect you speak. It is best to do this in writing, by emailing the Tribunal directly. You can find contact details for the court in your location by searching for it here: <https://www.find-court-tribunal.service.gov.uk/>

You can ask for a male or female judge if you think there are issues in your appeal that make it appropriate. The Tribunal will decide if it can do this.

Deadlines

All of your deadlines will be set out in the Notices that you receive from the Tribunal. You must try your very best to submit all your evidence within these deadlines. However, do not submit unfinished evidence (for example, a witness statement that hasn't been finalised) as this could have a negative impact on the outcome of your appeal. You must ask the judge for permission to rely on any evidence that is submitted late. Generally, judges will let you rely on late evidence if you have a good reason for missing the deadline.

If it becomes clear to you that evidence will not be ready in time, you can always write to the Tribunal asking for an extension and explaining your reasons.

Public Hearings

Hearings are in public, so when you have your hearing there may be members of the public in the room too. If you do not want your hearing to take place in public - for example, because you fear for your safety or because of the sensitive nature of your case - you can request that the hearing takes place in private. You should do this well in advance of the hearing. A private hearing is sometimes referred to as an 'in camera' hearing.

Anonymity

You can also request "anonymity directions" so that any materials about the hearing in the public domain (this means available for public viewing), including the written record of the court's decision, does not contain your name. You can find the application for anonymity and guidance here: http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=2877

Asylum appeals are automatically anonymised – you do not need to request this. You will still need to request if you do not want a public hearing.

New Matters

A new matter is defined as a new set of facts which, on their own, could give rise to the right of appeal. For example, a serious health condition, a relationship with a British

partner, or a religious identity that could trigger persecution in your country of origin. The matters are 'new' if they have not previously been disclosed to the Home Office.

New evidence, which supports claims already communicated to the Home Office, is not a new matter. For example, a letter from your doctor describing a health condition that the Home Office already know about.

You have an ongoing duty to keep the Home Office up-to-date with information relating to your immigration or asylum claim. This means you must try your best to avoid a situation where you are raising a new matter at the appeal stage.

If you do raise a new matter, the Tribunal cannot consider it without consent from the Home Office first. When raising the matter, you must explain, in as much detail as possible, the reasons for late disclosure. The Home Office may ask the Tribunal for more time to consider the new matter and write up a new decision, relating to the new set of facts.

If you raise a new matter that gives rise to an asylum or human rights claim, this may cause the Home Office to certify your new claim under section 96 of the 2002 Act and deny you the right to appeal on these new grounds.

You can read more about new matters here: <https://www.ein.org.uk/bpg/chapter/5>

Evidence and Translations

You need to bring the originals of the documents with you to the Tribunal. These documents must be in English. If the original documents are in a different language, you must have them translated by a certified translator. The translator must sign the translation and certify that it is accurate.

<https://righttoremain.org.uk/toolkit/evidence/>

Adjournment

If you are unable to attend the hearing, you must tell the Tribunal as soon as possible and ask for the hearing to be "adjourned" to a later date. If this is because you are ill or have a medical appointment, you need to send evidence of this when you apply for an adjournment. You may also wish to request an adjournment if you are obtaining important evidence for your case and you will not be able to get it by the time of the hearing. A judge will consider this and you will be told whether the hearing date has been changed or not.

Change of Address and Representation

If your address changes after you have submitted your appeal, you need to notify the Tribunal. You also need to notify the Tribunal if you no longer have a lawyer.

New Evidence and Information

It may be that, while preparing your appeal, you are able to find new evidence that supports your claim. For example, you may have reestablished contact with a friend from your country of origin who witnessed important events and can provide a supporting letter. If this is the case, you must explain why this evidence was not submitted at the application stage.

It may also be that you did not mention important information when being interviewed by the Home Office. If this is the case, you must explain why this information was not disclosed sooner. Was the information sensitive? Did you feel uncomfortable disclosing the information to your interviewing officer? If you do not have a good reason for disclosing

important information late in your case, the Judge may find that this goes against your credibility.

Witnesses

There may be people (friends, family, or acquaintances) who can confirm that important events in your life took place. For example, maybe there is somebody out there who witnessed some of the bad things that happened to you in your country of origin.

It might be helpful for these people to come to your hearing and speak to the Judge. They could come in person or via video link if they are abroad or unable to travel.

You should think very carefully about calling witnesses. Will their evidence help to prove a point that is in dispute? There is no need to call a witness who can only give evidence on an issue that has already been accepted by the Home Office. Can you be sure that your witnesses' account of events will match your own? Will they be able to answer difficult questions put to them by the HOPO? Has your witness previously given evidence in court and been disbelieved? Have they made their own asylum claim which has been rejected?

Case Management Hearings

In some asylum appeals, a judge may hold a pre-hearing of the appeal case called a Case Management Review (CMR) hearing. At this hearing, the judge decides whether you and the Home Office are ready to proceed with the full hearing a few weeks later.

It is now quite unusual for the judge to hold a CMR hearing in person. They may conduct the review by telephone or, most commonly, they will review the case by looking at the documents submitted.

Your "Notice of Hearing" letter will tell you if there is going to be a pre-hearing in person, and if you need to attend.

Childcare

You will not usually be allowed to take young children into the hearing with you – wherever possible, arrange childcare for the day of the hearing, and remember you may be at the Tribunal all day. Children are allowed to be in the waiting area of the Tribunal but you will need to arrange for an adult to look after them, and it could be a very long day.

What to bring to your appeal hearing

If you do not have a lawyer, remember to bring all the necessary documents with you. This includes your Notice of Hearing and any documents you want the judge to consider. You should already have sent copies of these documents to the Home Office and the Tribunal (see the Preparing for Your Appeal page).

You might want to bring some money with you in case you want to buy food or drink. You will usually be provided with water in the hearing room once your hearing has started, and there is usually water available in the waiting areas.

You might want to bring some paper and a pen or pencil, to write notes during the hearing if you think this would be helpful for you.

You may be feeling nervous about going to court. You can ask a few friends to sit in the courtroom in the public area, for moral support. They will not be allowed to speak or make any interventions in the proceedings, but it can help to have a friendly face in the room.

Getting to Your Hearing

The date and location of your hearing will be written on your Notice of Hearing.

If you are receiving asylum support, the Home Office will pay for your travel to the hearing. They will not do this automatically – you or your lawyer need to ask them to provide a travel ticket.

Everyone is told their hearing starts at 10.00am – the judge decides on the day which order they will hear the cases. You should arrive at the Tribunal in good time before 10.00am in case your hearing is listed first. At some Tribunals, they list cases at 10.00am or 2.00pm but this doesn't happen everywhere.

Make sure you look at where the Tribunal is and plan your journey in advance. If you are receiving asylum support, the Home Office will pay for your travel to the hearing, but you need to ask them to do this.

When you arrive at the Tribunal on the day of your hearing, go through security. You will need to go through a metal-detector gate and if you have a bag, it will be searched.

After going through security you should inform the Tribunal clerk that you have arrived, and check the list in the reception area to find out which hearing room your hearing will be held in. The Tribunal clerk will keep you informed during the day about how long you may have to wait. The judge may bring in all the people involved in the cases listed for the day into the courtroom at the start of the day to discuss the order in which the cases will be heard.

When the judge is ready to hear your case, the clerk will take you into the hearing room. If you have witnesses who will be giving evidence, make sure the clerk knows they are present. Witnesses will stay outside the hearing room until it is time for them to give their evidence.

The Hearing

If you had a solicitor or caseworker helping you to prepare your appeal, they will usually get another type of lawyer – a “barrister”, also called “counsel” – to represent you in court. Most people do not get a chance to meet their barrister before the day of the hearing, and you generally do not see them again after the hearing unless you are appealing at another court and they are continuing to represent you.

The hearing is usually held in a room with desks and chairs. The judge will sit at the front of the room (they will come in after you) at a desk or table and the other people sit at tables and chairs in front of them. The Home Office representative - called a Home Office Presenting Officer, or ‘HOPO’ - will usually sit on one side of the room, and you will sit on the other side (with your lawyer, if you have one). The Home Office does not always send a HOPO to attend. The hearing will usually go ahead even if the HOPO doesn't attend - the judge will instead ask more questions.

Your appeal hearing may be as short as 30 minutes, or if there are several issues to address or your case is complicated, it may last several hours.

You may turn up for your hearing and find out the Home Office is asking for an adjournment (this means delay) because they have not done something they needed to do. If this is granted by the judge, the hearing will take place at a later date. Your hearing may also be adjourned if, for example, the interpreter for your language is not available. You can also ask for an adjournment, but it is less likely to be granted.

Mobile telephones must be switched off whilst in the hearing room. You cannot record the proceedings or take any photographs. You can, however, write notes on paper.

If you have requested an interpreter they will sit next to you. They will interpret the proceedings to you in a low voice or whisper, either while people are speaking or after a statement has been given. Make sure you speak in short, clear sentences so that the interpreter can translate things accurately. If you do not understand the interpreter, or believe that they are translating information incorrectly, you should inform your lawyer (if you have one) or the judge if you are representing yourself.

You should call the judge Sir or Madam.

If your hearing runs through lunch time, there will be a 1 hour lunch break from around 1.00pm.

You will be asked to stand up when the judge enters the room. After that there is no need to stand until the end of the hearing when the judge leaves the room. You can stay sitting down when you address the judge.

The judge will make some introductory statements. They should ask the interpreter (if you have one) to speak with you and check that you understand each other. The interpreter is provided by the Tribunal.

Making your argument

If you have a lawyer, they will address the judge and give the legal arguments in support of your case, but you will also have to give evidence.

If you do not have a lawyer representing you, you will need to make the argument(s) to the judge about why your claim/application should be granted. This section is written for people who do not have a lawyer representing them in the hearing.

First, your turn: You will normally give your evidence first, before the HOPO. This will involve saying the reasons why your appeal should be allowed.

Then, the Home Office's turn: If the Home Office has sent a HOPO, that person will then "cross-examine" you. This means that they will ask you questions – often difficult questions – about your evidence and your case. This might last for around 30 minutes, maybe more. The judge may also ask questions if something isn't clear. If there is no representative from the Home Office, the judge will usually ask you quite a lot of questions instead.

The Home Office's turn again: The HOPO will then address the judge and say why they think the appeal should be dismissed. It may be useful to take notes while they do this as you may want to respond afterwards to what they have said.

Lastly, your turn again: You will then speak again to explain why your appeal should be allowed, responding to what the HOPO has said, if you can.

In advance, you might want to write down a summary of the key points of your argument to remind yourself what you want to say. You can give a copy of this to the judge if you want, as long as you give a copy to the Home Office Presenting Officer as well.

If you have several points to make, make this clear. You can say "my first reason is", "my second reason is", etc. Try to stick to one reason at a time, without mixing up different areas of argument (though if the areas of argument are connected, you can say this).

You can't interrupt the judge, the HOPO, or a witness if they are in the middle of talking. If

you think the judge is moving on to the next part of the hearing and you haven't finished what you wanted to say, you can raise your hand to let them know.

Watch this video from Asylum Aid about the appeal hearing – the video is specific to asylum appeals, but much of the information is relevant for other human rights / immigration appeals. <https://www.youtube.com/watch?v=9L1ecsEdoEw&feature=youtu.be>

The Judge's Decision

The judge usually does not decide whether or not your appeal has been allowed or dismissed at the hearing.

You will be informed of the outcome of your case in writing after about three or four weeks. The judge may say in the hearing when you can expect to receive the decision.

If you change lawyers, or cease to have a lawyer after the hearing but before you are notified of the decision, make sure you notify the Tribunal. This is because they are likely to send the decision to the lawyer they have on record for you, not to you directly.

If you are wondering what is happening with your case – for example, if you have been waiting a lot longer than four weeks for a decision – you can contact the Tribunal to find out what is happening. If you have a lawyer, they can do this for you.

Positive decision

If you receive a positive decision in your case, the Home Office may appeal this decision at the Upper Tribunal. They have 14 days to request permission to appeal.

If the Home Office does not appeal, or they appeal and lose, they should reverse their initial decision and take the necessary next steps.

For example: the court has given you a positive decision, overturning the Home Office's refusal of your asylum application. The Home Office did not appeal this decision. They should then proceed to grant status and issue you with the documents to show you have this status.

If the Home Office are not taking the necessary steps, or are being very slow about it, speak to your lawyer if you have one, and also consider asking your MP to intervene.

<https://righttoremain.org.uk/toolkit/politicians/>

Negative decision

If your appeal is refused by the judge at the First-tier Tribunal, you may be able to appeal that decision at an error of law hearing in the Upper Tribunal.

<https://righttoremain.org.uk/toolkit/ut/>

ACTION SECTION

- If you can, travel to the Tribunal a few days before your hearing so that you are familiar with the route. You might also find it helpful to sit in on someone else's appeal hearing on a different day to see what it will be like.
- Be prepared - bring copies of all the documents that you will be relying on in court and make sure that you have read and understood all the evidence. Make sure that you have thought carefully about, and practised, what you are going to say.
- If you can, bring snacks. You may be at the hearing centre all day.
- If you think it would help, you can ask a few friends to sit in the courtroom in the public area, for moral support. They are not allowed to speak or make any interventions in the proceedings, but it can help to have a friendly face or two in the room.
- If you have a friend sitting in the hearing with you, you can ask them to take notes during the hearing. Did anything go wrong with the procedure? Was there a problem with interpretation? Do they know your case and notice that you missed out something important, or didn't explain something clearly? This evidence might be useful for further legal options, such as a witness statement in a fresh claim.
- Visit our Legal Updates blog to read more about how you can prepare for an appeal hearing and what to expect during your day in court.