

Your appeal hearing at the First-tier Tribunal

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

If you are appealing a decision, you are asking a judge at an independent court (separate from the Home Office) to look at your application and overturn the Home Office refusal. The First-tier Tribunal (immigration and asylum chamber) 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.

If you have not yet submitted your appeal, read our page on making an appeal application.

Read this page to find out what happens after you have submitted your appeal application, what you should do in advance of your appeal hearing, what happens at your hearing, what happens after the hearing, and what happens if the Home Office appeal the judge's decision.

This page is about your appeal hearing at the First-tier Tribunal. *To learn about appealing at the Upper Tribunal, read our Upper Tribunal page.*

After submitting your appeal

- After you have submitted (or “lodged”) your appeal, you will be sent a “**Notice of Hearing**”. This will tell you the time and date of the hearing, and where the hearing will be heard. The hearing centre at which your hearing will be heard will usually be the one closest to the address you used in your application. You can find out where that is likely to be here:
<https://courtribunalfinder.service.gov.uk/search/postcode?aol=Immigration>
- If you need an interpreter and did not say this in your appeal form, you must notify the Tribunal, informing them which language and dialect you speak.
- 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.
- If you have **documents** you want the judge to look at, you should send copies to the Home Office and the Tribunal as soon as you can. The Notice of Hearing will tell you the deadline for doing this. You need to bring the originals of the documents with you to the Tribunal. These documents must be in English or be officially translated.
- 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. A judge will consider this and you will be told whether the hearing date has been changed or not.

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.

- 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.
- 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 change lawyer (or if you no longer have a lawyer).
- 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, 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.
- You can also request **anonymity directions** so that any materials about the hearing in the public domain including the written record of the court's decision (which may be published publicly including on the internet) 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).

- If you have included witness statements in your evidence, those witnesses should attend the appeal hearing if at all possible (if they are based in the UK). Read more here about witnesses in Article 8 appeals in the Toolkit section *Human Rights*.

Case Management Review Hearing

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 case management review 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.

The Appeal Hearing

Your case will be listed for hearing at 10am on the date you are given on your Notice of Hearing. The judge will decide on the day the order in which the cases will be heard so you may have to wait until later in the day for yours to be heard.

You should arrive early at the Tribunal - you may need to arrive more than 30 - 60 minutes early, depending on how busy the Tribunal is and how long it takes to get through security. You can ask someone at the Tribunal for advice about what time to arrive.

If you had a lawyer helping you to submit the 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.

If you are representing yourself (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 above).*

It's a good idea to visit the Tribunal location in advance, so you know how to get there and where you should go.

On the day of the hearing, once you have gone through the airport-like security, you should inform the Tribunal clerk when you arrive at the Tribunal, 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 court room at the start of the day to discuss in which order the cases will be heard.

You might want to bring some money with you in case you want to buy drinks or refreshments. 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.

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. They will stay outside the hearing room until it is time for them to give evidence.

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 him/her. The Home Office representative (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 do not always send a HOPO to attend. The hearing will usually go ahead even if a HOPO doesn't attend, with the judge asking more questions.

Your appeal will probably be heard by one judge. Occasionally, more than one judge will sit as a panel but this is unusual.

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 are asking for an

adjournment 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. You can also ask for an adjournment, but this is less likely to be granted. Your hearing may also be adjourned if, for example, the interpreter for your language is not available.

Mobile telephones must be switched off whilst in the hearing room. You cannot record the proceedings or take any photographs.

If you need 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.

You should call the judge 'Sir' (if they are a man) or 'Madam' (if they are a woman).

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 (speak to) the judge.

Making your argument

If you have a lawyer, they will address the judge and give the legal arguments, but you will also have to give evidence. If you don't have a lawyer representing you, you will need to make the argument 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*.

- You will normally **give your evidence first** as to why your appeal should be allowed.
- You will then be asked questions by the Home Office Presenting Officer and perhaps by the judge.
- The Home Office Presenting Officer 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.
- You will then speak again to explain why your appeal should be allowed, responding to what the Home Office Presenting Officer 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 Home Office Presenting Officer, 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.

ACTION SECTION

- It can be useful to find out where the Tribunal is in advance, and go and visit it. Find out the travel route you will need on the day.
- If you are destitute and on 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.
- If you need childcare, ask friends, family or your community if they can help with this. You may have people who can look after your children, or supporters may be able to help fundraise to pay for professional childcare.
- You may be feeling nervous about going to court. You can ask a few friends or supporters (not too many) to sit in the court room 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.
- You may even want to practice by doing a pretend hearing with friends/supporters, with someone playing the judge and someone else the Home Office Presenting Officer.
- 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.
- As hearings are public, you have the option to go and watch someone else's hearing in advance of your own. Think about whether you think this would be helpful or not. If you would like to do this, you can use this [website](https://courtribunalfinder.service.gov.uk/search/) <https://courtribunalfinder.service.gov.uk/search/> to find the Tribunal (court) closest to you - as this may not be the same as where your appeal hearing will be held. Choose "immigration" as the area of law you are interested in, then enter your postcode.

The Judge's Decision

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

You will be informed 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 lawyer, 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. If they do not appeal, or they appeal and lose, the Home Office should reverse their 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 do not appeal this decision. They should then proceed to grant you Refugee 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.

Negative Decision

If your case is refused ("dismissed"), you may be able to appeal that decision at the Upper Tribunal.

Also read: the Upper Tribunal page of this guide