

Submitting an Appeal

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 is the first court you have access to if you are appealing a refusal by the Home Office.

Read this page for information about: the right of appeal; grounds for appeal; how to submit an appeal application after a refusal of an asylum, immigration or human rights application; fees; and what to do after submitting your appeal.

An appeal is a different legal process from a judicial review. *To find out more about judicial reviews, read the Judicial Reviews page of this guide.*

This page is about the first appeal you can make, to the First-tier Tribunal (immigration and asylum chamber). *To learn about appealing at the Upper Tribunal, read the Upper Tribunal page of this guide.*

Do you have the right of appeal?

Not all immigration decisions have the right of appeal.

You only have the right of appeal within the UK if the Home Office refuse your application and it is:

- a claim for international protection (meaning, an application for Refugee Status or Humanitarian Protection, usually called an asylum claim)
- an EU Settled Status application made after 31 January 2020
- a human rights claim.

Not all applications based on human rights or international protection have a right of appeal.

For example, you do not have the right of appeal in the UK if your asylum or human rights claim is certified by the Home Office because they think it is “clearly unfounded”.

If you are making a human rights claim when you are subject to deportation after a criminal sentence, the Home Office may certify the claim unless you can show that “serious and irreversible harm” would occur if you had to appeal outside of the UK. The Home Office is less likely to certify your claim if your child is a British citizen.

Read also: the Deportation page of this guide

If your claim is certified, you may be able to appeal the negative decision on your application from outside of the UK. It may also be possible to challenge the certification of your claim through a judicial review.

Read also: the Judicial Reviews page of this guide

If you made another type of application (that isn't in the list above) before 6 April 2015 you may still have the right of appeal if you are refused.

You do not need to apply for permission to appeal at the First-tier Tribunal – if you have the right of appeal, you can go ahead and appeal.

Grounds for appeal

When you apply to appeal, you need to state which “grounds” you are relying on. The grounds are the legal reasons or legal basis for your appeal and are limited to:

- that your removal or the revocation of your protection status would breach the UK's obligations under the Refugee Convention, in relation to persons eligible for a grant of Humanitarian Protection, or under the Human Rights Act;
- that the decision is unlawful under section 6 of the Human Rights Act
- if it's a decision regarding EEA nationals, that the decision is not in accordance with EU law (this only applies to decisions made before Brexit, or applications under the EU Settled Status scheme made after 31 January 2020).

No right of appeal

If you do not have the right of appeal, you may be able to apply for administrative review from the Home Office (*see the After a Refusal page of this guide*) and/or apply for permission for a judicial review of the decision.

A judicial review is not the same as an appeal – an appeal looks substantively at the issues of your case. A judicial review looks only at how the decision on your case was made. *See the Judicial Review page of this guide*

Making your appeal application

This section contains information assuming you are representing yourself (without a lawyer). If you have a lawyer, they will submit the appeal for you, using the online application service.

Time limit

If you are in the UK, your completed appeal form (and accompanying documents and evidence) must be received at the Tribunal no later than 14 calendar days after you are sent the notice of the decision by the Home Office. (In the past, the deadline was ten “working” days.)

If you miss this deadline, you may be able to apply for an 'out-of-time' appeal but you would have to have good reasons for doing so, and explain these to the Tribunal. The Tribunal may refuse to consider your appeal.

The appeal form

To appeal a Home Office decision, you need to submit an application form to the First-tier Tribunal.

You can find the appeal form online:

www.gov.uk/immigration-asylum-tribunal/appeal-from-within-the-uk

You can submit the completed appeal form by post, fax, or online. If you are filling in the hardcopy (on paper) appeal form, you can either fax it to 0870 739 4053 or post it to: First-tier Tribunal (Immigration and Asylum Chamber), PO Box 6987, Leicester, LE1 6ZX.

If you are posting your appeal, you should try and send it by recorded delivery or another service that shows proof of postage and acknowledgement of receipt. Make sure you have signed and dated the appeal form.

Note: these details were correct at the time of writing. Before you submit your form, check where you should be submitting (“lodging”) the completed form by looking at contact details on the appeal form.

If you are hand writing on a printed off paper-version of the appeal form, you should write your answers in BLOCK CAPITALS. You can also fill in the form as a pdf on a computer, depending on which software you have.

Make sure you make a copy of the completed form before posting it.

The online application form is a quick way to submit your appeal form. You may want to look at the pdf version of the form as well, because the online version doesn't tell you what questions are coming next. It is best to prepare your answers beforehand.

Some questions are mandatory, which may be useful for making sure you don't leave out important information, but may also require an answer you cannot give. For example, one mandatory question is “If you have chosen to have an oral hearing, please say who will be attending your hearing” with options of “sponsor”, “witness” and “representative”. It may be that none of these options may apply to you. It is also not very obvious when you are at the point of finally submitting the form so be careful not to send it before you have finished! If you click the button “Finish submission”, this will submit your appeal form.

If you are **detained** and have the right to appeal a refusal, you cannot use the online form to submit your appeal. You should be given an appeal form called IAFT-5(DIA) when you are given written details of your refusal. The instructions with this form will tell you how to submit your appeal application.

ACTION SECTION

If you find writing English difficult, a friend or volunteer may be able to help you to fill out the appeal form. You need to tell them what to write, and they write it on the form. They should read back everything they have written for you, to check it is correct.

You must send a copy of your Reasons for Refusal Letter and the accompanying Notice of Decision document with your appeal form. You may also want to submit further evidence, witness statements or a detailed explanation of what you are challenging in the Home Office decision. *See the After a Refusal page of this guide.*

If you are submitting documents with your appeal, all documents in other languages have to be officially translated into English. The documents should be signed by the translator to certify that the translation is accurate and the translation attached to the original document.

You do not necessarily need to send all of your **evidence** at the point of submitting your appeal application, as it may be many months until your appeal hearing, during which time you may get new evidence.

You may find it useful to look at the 'Best Practice Guide to Asylum and Human Rights Appeals': www.ein.org.uk/bpg/contents This is a guide written by lawyers for lawyers, but you may find parts of it helpful or be able to ask someone with legal knowledge to help you go through the relevant sections about process and good practice (some of the information is only relevant to lawyers).

Questions in the form

- The form asks for payment details for paying the appeal fee. You do not need to fill this out if you do not need to pay the fee (see below).
- “Do you want to have your appeal decided at an oral hearing or on the papers?”. “On the papers” means the judge will read all the documents and make a decision without you being present/speaking in the court. If you have an oral hearing you will be able to give evidence and speak to the judge who will be deciding your case – this is almost always a better option than having your appeal decided on the papers.
- When the form refers to the “appellant”, this is you! The appellant is the person appealing a decision.
- You need to give your various reference numbers. You will find these on your Reasons for Refusal Letter from the Home Office.
- The “date of application to Home Office” means the date you made the asylum, human rights or other application for which you have now received a refusal.
- “Have you been served with a deportation decision?”. This is referring to deportation after a criminal sentence, not just “removal” (which there are questions about before this question).
- Grounds of your appeal – the form asks you to explain why your removal from the UK would breach the UK’s obligations under the Refugee Convention; and the UK’s obligations in relation to persons eligible for a grant of Humanitarian Protection. If you would be at risk of specific, individual persecution *and* serious harm that affects people more broadly, you can fill in both sections.
- If you have made an application for leave to remain on human rights grounds, or have made an asylum/protection claim and you also have human rights grounds to stay in the UK, you need to fill in the section on “Human Rights Decision”.
- There are boxes relating to “Revocation of Protection Status Decision”. You only need to fill these in if the decision you are appealing is the Home Office revoking (taking away) Refugee Status or Humanitarian Protection that they have previously given you.
- “New matters” – the form so far has been asking you to give your reasons why you

disagree with the Home Office decision on the application you made. New reasons why you should be given the right to remain in the UK may have arisen since you made that application. You should explain these in the “new matters” section.

This should be information you have already notified the Home Office of, as there is now an “ongoing duty to inform the Secretary of State as soon as reasonably practicable of any new or additional reasons the person should be permitted to remain or should not be removed.” This is sometimes called a “Section 120 one-stop notice” after the law that governs it. If you have not done this, the Home Office may certify your claim, meaning you lose the right to appeal in the UK.

You do not need to fit everything you want to say into the boxes on the form. If you have a lot of information or need to give a long explanation, you can write “see attached statement” and write your information/explanation on a separate sheet. Make sure you put the heading of the form section/the question you are answering at the top of your extra information.

Make copies of the completed form and all documents that support your appeal, keep the original documents and send copies with the completed form.

Fees

You **do not have to pay a fee** for your appeal if:

- your legal case is being paid for by legal aid
- you are in receipt of asylum support payments from the Home Office
- you are the parents of, or have parental responsibility for, children receiving support from local authorities
- you are a child in local authority care
- you are appealing a decision that involves deprivation of British citizenship; a decision where you’ve been detained and your decision letter was sent by the Detained Asylum Casework team; or a revocation of protection (Refugee Status or Humanitarian Protection)

There are other circumstances in which you may be exempt from paying a fee. See the online Toolkit for more information.

If you do have to pay a fee, it is currently £80 without a hearing (decision made “on the papers”) or £140 with an oral hearing.

As was noted above, if you have your case heard in court you will be able to give evidence and speak to the judge who will be deciding your case – this is usually a better option than having your appeal decided on the papers.

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 Human Rights page of this guide.*

Now read: Your Appeal Hearing page of this guide