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History of asylum appeals in the United Kingdom

Immigration Appeals Act 1969

Summary

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In 2025, the government announced that it intends to make changes to asylum appeals.[1] These would include a new appeals body staffed by adjudicators, replacing the current First-tier Tribunal staffed by immigration judges.[2]

This briefing examines previous changes to the structure of asylum appeals over the years. A September 2025 briefing by Amnesty International captures the main shifts:

> In May 1969, Parliament created a two-tier system to deal with appeals against various Home Office decisions. Appeals were generally made to and decided by people called adjudicators. If permission was granted, an adjudicator's decision could be appealed, including by the Home Office, to the Immigration Appeal Tribunal. This two-tier appeals system was later formally constituted as the **Immigration Appellate Authority (IAA)**. The rules governing appeals procedures were made by the Home Secretary, a power which was later transferred to the Lord Chancellor.
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> On 4 April 2005, the IAA was replaced by the **Asylum and Immigration Tribunal (AIT)**. The change involved changing the title of the people who decided appeals from adjudicators to judges. The change gave the appearance of merging a two-tier system into one. However, the system remained two-tier. If permission was granted, a more senior judge could review a decision of the first tier of that system. This process was called reconsideration rather than appeal but was essentially the same.
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> On 15 February 2010, the AIT was abolished, and its functions passed to the current appeals body. The change involved moving the judges from the AIT to the current body. The second tier of this body (the **Upper Tribunal**) has a higher status making it more difficult to seek judicial review of its decision to refuse permission to appeal against a decision of the first tier (**the First-tier Tribunal**). This appeals body also has more independence from government, including over the rules that govern the appeals for which it is responsible.[3]

This briefing goes into more detail on all these developments. It does not cover changes to the substance of appeal rights over time; these are summarised in a 2019 report of the Joint Committee on Human Rights.[4]

For general context: claims for asylum are usually based on the United Nations Refugee Convention, which the UK has ratified.[5]

1 Home Office press release, Tribunal system reforms to speed up asylum decisions, 24 August 2025
2 Justice Committee, Letter from Home Secretary Shabana Mahmood to committee chair Andy Slaughter (PDF), 13 January 2026
3 Amnesty International, Immigration and Asylum Appeals, 4 September 2025 (footnotes omitted)
4 Joint Committee on Human Rights, Immigration detention, 7 February 2019, Annex II
5 Home Office, Immigration Rules part 11: asylum, accessed on 22 January 2026

1 Historical operation of immigration appeals

1.1 Immigration boards under the Aliens Act 1905

Meaningful immigration control in the United Kingdom began with the Aliens Act 1905.[6] Under the act, immigration officers were to refuse entry to non-Commonwealth citizens who appeared to be an "undesirable immigrant".

But there was an exemption for those "seeking admission… solely to avoid prosecution or punishment on religious or political grounds or for an offence of a political character, or persecution, involving danger of imprisonment or danger to life or limb, on account of religious belief". In other words, for asylum seekers (at that time Jews from the Russian empire).

There was a right of appeal against refusal of entry.[7] Appeals were heard by an immigration board local to each port. Between 10 and 30 people were appointed to each board, and each appeal panel was made up of three members.[8]

Members of the immigration board were required to be "fit persons having magisterial, business, or administrative experience". They were nominated by the "mayors of the various towns and other persons of representative position" and approved by the Home Secretary, who also had control over the general rules governing the boards.[9]

Historian Jill Pellew adds:

> in theory there was no appeal from decisions of the boards to higher authority, either judicial or administrative… The lack of a right of appeal to a court of law was one of the main grievances of the Board of Deputies [representing Jews in Britain]… which was highly suspicious of nameless officials wielding what it felt was arbitrary bureaucratic power.[10]

Despite the formal lack of recourse to higher authority, the boards referred some asylum cases to the Home Office for a decision.[11]

6 Harrison et al, MacDonald's Immigration Law and Practice, 11th edition, 2025, paragraph 1.4
7 Aliens Act 1905, section 1(2)
8 Aliens Act 1905, section 2; see for example the 22 named men on the Port of London board in 1913
9 As above and Home Office, Report of the Committee on Immigration Appeals, Cmnd. 3387, August 1967, Appendix II, paragraph 6
10 Jill Pellew, The Home Office and the Aliens Act, 1905, Historical Journal, vol 32, 1989, p376
11 As above, p377

The 1905 legislation and its apparatus were overtaken by the Aliens Restrictions Act 1914, a wartime measure which nevertheless provided the legal basis for immigration control of non-Commonwealth citizens until 1973.[12] Separate restrictions on the immigration of Commonwealth citizens were introduced in the 1960s.[13] None of this legislation made provision for appeals.

1.2 Post-war arrangements

There were nevertheless some appeal-like arrangements in place between the Second World War and the statutory appeal scheme instituted at the end of the 1960s. These are not necessarily relevant to asylum but are mentioned for completeness.

Deportation hearings before the Chief Magistrate

From 1956, "administrative arrangements" were put in place for a non-binding appeal process in the magistrates' court. These covered deportation appeals by non-Commonwealth citizens.

The process allowed deportees to make written or oral representations to the Chief Metropolitan Magistrate. These representations could be either to challenge the factual premise of the Home Office's deportation decision, or to highlight mitigating circumstances. The Chief Magistrate then conveyed a recommendation to the Home Office, which although not binding was always followed in practice.[14]

Ad hoc appeals against exclusion of East African Asians

In 1968, Parliament approved fast-track legislation to restrict the entry of British passport holders from Kenya. The Home Secretary, James Callaghan, agreed to set up a non-statutory appeals mechanism for some of those affected.[15]

Appeals against refusal of Commonwealth dependants

In 1969, the government imposed a new requirement for the dependants (immediate family) of Commonwealth citizens to get advance clearance before attempting to move to the UK. Again, "extra-statutory arrangements" were put in place to handle appeals.[16]

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12 Immigration Act 1971, schedule 6

13 Commonwealth Immigrants Act 1962; Commonwealth Immigrants Act 1968

14 Home Office, Report of the Committee on Immigration Appeals, Cmnd. 3387, August 1967, paragraph 53

15 HC Deb 27 February 1968 vol 759 cc1252-1254; HC Deb 13 November 1968 vol 773 c434

16 HC Deb 1 May 1969 vol 782 cc1630-1632; HC Deb 11 November 1969 vol 791 cc229-231

2 Creation of an immigration tribunal

2.1 Report of the Wilson Committee

In 1966, Home Secretary Roy Jenkins set up an expert committee to "consider the whole question of the right of appeal which should be available to aliens and Commonwealth citizens refused leave to land or required to leave the country".[17] The chair was Sir Roy Wilson, President of the Industrial Court, and so it became known as the Wilson Committee (unrelated to Harold Wilson).

The committee recommended that there be rights of appeal against refusal of entry at port; refusal of a visa or entry certificate; and deportation/removal of existing residents.[18] The report suggested a two-tier structure, balancing the concentration of demand at ports of entry against the need for consistency of decisions:

- Subordinate judicial officers should decide first-instance appeals. These should be appointed by the Home Secretary but expected to be "quite independent of the Immigration Service". To underline that independence, they might be called "adjudicators" rather than "officers". Legal qualifications should be advantageous but not essential.[19]

- A central Immigration Appeal Tribunal would hear appeals from decisions of the adjudicators.[20] Its members should be appointed by the Lord Chancellor. The tribunal should sit in panels of at least three members, of which one (the chair) should be legally qualified. The other members should not require legal qualifications.

The report devoted a single paragraph to appeals based on "political asylum" under the 1951 Refugee Convention, concluding that they could be "suitably dealt with under the appeal system we propose".[21]

17 HL Deb 3 November 1966 vol 277 c772

18 Home Office, Report of the Committee on Immigration Appeals, Cmnd. 3387, August 1967, Part V and paragraph 145

19 As above, paragraphs 110, 153 and 154

20 Paragraphs 110, 151 and 152

21 As above, paragraph 145

2.2 The Immigration Appeals Act 1969

Legislation providing for immigration appeals was introduced in 1969. Home Secretary Jim Callaghan said it was, in substance, the system proposed by the Wilson Committee.[22]

The act provided for the Wilson Committee's two-tier structure of adjudicators appointed by the Home Office and an Immigration Appeal Tribunal appointed by the Lord Chancellor.[23] The Home Office did not intend to appoint lawyers as adjudicators. Merlyn Rees, a Home Office minister, said "the whole purpose behind the Wilson Report, and the intention of the Bill… was that this sort of occasion should not be a legal one".[24]

The act did require some members of the tribunal – the chair of each three-member panel – to be a solicitor or barrister of seven years' standing.[25] The others could be 'lay' members.[26]

This basic structure of a first and second tier of appeals within a specialised system has remained in place, through many rebrands, down to the present day.[27] But the use of non-legal members has ceased in recent years (unlike in other tribunals).

The act made no explicit provision for appeals against refusal of asylum. As later described by Home Office minister Timothy Raison:

> … there is no formal right of appeal under the immigration appeals machinery in every case where a person claims refugee status. A would-be refugee has the same rights of appeal as anyone else. But a person does not have a right of appeal before removal if he arrives at a port without prior entry clearance and is refused leave to enter. Nor is there a right of appeal before removal in cases of illegal entry. A person loses his statutory right of appeal if he overstays.[28]

As a result, the appeal system was at first of limited value to asylum seekers. Those refused asylum often resorted to judicial review (a more formal and expensive process in the High Court or Court of Session).[29]

22 HC Deb 22 January 1969 vol 776 c489

23 Immigration Appeals Act 1969, section 1. The act only covered Commonwealth citizens, with corresponding appeal rights for non-Commonwealth citizens to be dealt with by an Order in Council.

24 HC Deb 22 January 1969 vol 776 cc555-556

25 Immigration Appeals Act 1969, schedule 1, paragraphs 7 and 12

26 Immigration Appeals Act 1969, schedule 1, paragraphs 12-14

27 Amnesty International, Immigration and Asylum Appeals, 4 September 2025

28 HC Deb 25 May 1979 vol 967 c1378

29 Commons Library briefing 03/88, Asylum and Immigration: the 2003 Bill, 11 December 2003, p49

3 Changes to appeal structures since 1969

3.1 The era of adjudicators

1 January 1973

The Immigration Act 1971 comes into force. This was, and remains, the statutory foundation for immigration law in the United Kingdom. It absorbs and repeals the Immigration Appeals Act 1969, providing for its adjudicators and tribunal to continue under the new legal regime.[30]

1 April 1987

The Home Secretary's authority over the appeals system, including the appointment of adjudicators and the making of procedure rules, is transferred to the Lord Chancellor.[31]

26 July 1993

The Asylum and Immigration Appeals Act 1993 comes into force.[32] This provides a specific right of appeal against refusal of an asylum claim for the first time since the 1910s.

Appeals involving the Refugee Convention are heard by a "special adjudicator" at first instance. These are chosen by the Lord Chancellor from among the pool of ordinary adjudicators.[33]

Onward appeals from decisions of the special adjudicator go to the Immigration Appeal Tribunal. This is unless the case is considered completely unfounded, in which case the special adjudicator's decision cannot be appealed.[34] The act also makes provision for appeals against decisions of that tribunal – challenging points of law (rather than factual conclusions) – at the Court of Appeal or Court of Session.[35]

30 Immigration Act 1971, part II and schedule 5 (as enacted). See also the relevant procedure rules.

31 Transfer of Functions (Immigration Appeals) Order 1987, SI 1987/465. In the 21st century, the appointment of judges is largely independent of government.

32 Asylum and Immigration Appeals Act 1993 (Commencement and Transitional Provisions) Order 1993, SI 1993/1655

33 Asylum and Immigration Appeals Act 1993, section 8

34 As above, schedule 2, paragraphs 4 and 5. See also Commons Library briefing 99/16, Immigration and Asylum, 19 February 1999, p16.

35 As above, section 9

13 July 1998

The Home Office and Lord Chancellor's Department publish a consultation following a review of asylum and immigration appeals. It identifies two high-level measures necessary to make the system more effective:

- replacing successive rights of appeal with a single right of appeal
- restructuring the appellate authority.[36]

The rationale for the proposed changes is explained in a white paper published later in July 1998:

> The Government's view is that the present two tier appellate system is not working well. The main reasons are:
>
> - differently constituted Tribunals of the IAA have produced determinations which are inconsistent and contradictory; and
> - the Tribunal has often remitted cases to adjudicators which it ought to have decided itself, thus prolonging rather than bringing finality to the process.
>
> There are two options:
>
> - to restructure the Tribunal by changing its status and powers; or
> - to consolidate the current two tier system into a single tier.
>
> The Government's view is that the role of the Tribunal should be enhanced by changing its status and powers so that it produces an effective lead to the lower tier. The Immigration Appeal Tribunal (IAT) could become a court of record with the ability to create binding precedents.[37]

14th February 2000

Sections 56 and 57 of the Immigration and Asylum Act 1999 come into force. These provide for the continuation of the two-tier system of adjudicators and Immigration Appeal Tribunal under a new appeals regime.[38]

References to "special" adjudicators are removed. Responsibility for assigning adjudicators to particular cases is transferred from the Lord Chancellor to a new Chief Adjudicator.[39]

Adjudicators are now required to be legally qualified: solicitors or barristers of seven years' standing, or with "such legal and other experience as appears

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36 As above , p49

37 Home Office, Fairer, Faster And Firmer - a modern approach to immigration and asylum, 27 July 1998, paragraphs 7.13 to 7.19 (paragraph numbers omitted in quote)

38 Immigration and Asylum Act 1999, Part IV; see also Immigration and Asylum Act 1999 (Commencement No. 2 and Transitional Provisions) Order 2000, SI 2000/168, article 3

39 Immigration and Asylum Act 1999, schedule 3, paragraph 6

to the Lord Chancellor to make him suited for appointment".[40] This new emphasis on legal qualifications for first-tier personnel reflects the fact that all adjudicators appointed since 1987 had such qualifications, despite not formally requiring them.[41]

The renewed Immigration Appeal Tribunal, meanwhile, has the same criteria for appointment as a legally qualified member but the Lord Chancellor can continue to appoint "other members" without such experience.[42] This means that legal qualifications are now required for appointment as an adjudicator, but not for the tribunal.

The 1999 act retains a specific right of appeal against removal of asylum.[43] It also introduces appeals on human rights grounds for the first time. From October 2000, people can challenge removal on the basis that it would be contrary to the European Convention on Human Rights.[44]

More generally, the act attempts to prevent "multiple and successive appeals" by implementing "a one-stop comprehensive appeal that will cover all appealable aspects of a case at one go".[45]

7 February 2002

The white paper Secure Borders, Safe Haven is published. It comes against a backdrop of rising asylum claims, with numbers rising from a then record 46,000 in 1998 to 84,000 in 2002.[46]

The document sets out some problems with the system introduced two years earlier:

> The Immigration and Asylum Act 1999 introduced a one-stop appeal system requiring an adjudicator considering an asylum appeal also to deal with any other appealable matters raised by the applicant. The principle has worked well but the provisions of the Act have not always been as easy to understand. The introduction of human rights appeals also meant that some of those who had exhausted all other appeal rights before the coming into force of the Act in October 2000 used them simply as a means to delay removal. This has led to the appeal system becoming clogged up and unable to deal effectively with the new appeals in a timely way.
>
> The Government proposes to re-structure the legislation to simplify the one-stop appeal provisions. We will remove the unnecessary repetition of processes, lack of clarity, inconsistencies and omissions. We will make it clear that there will be a single right of appeal, triggered by the service of listed decisions, subject to exceptions on listed grounds. We want to ensure that

40 Immigration and Asylum Act 1999, schedule 3, paragraph 2
41 Commons Library briefing 03/88, Asylum and Immigration: the 2003 Bill, 11 December 2003, p49
42 Immigration and Asylum Act 1999, schedule 2, paragraph 1
43 Immigration and Asylum Act 1999, section 69 (with limitations in section 70)
44 Immigration and Asylum Act 1999, section 65; see generally Commons Library briefing CBP-10376, Immigration and the ECHR
45 HC Deb 22 February 1999 cc40-41; Immigration and Asylum Act 1999, sections 74-78
46 Commons Library briefing SN1403, Asylum statistics, 4 December 2024, p40

human rights claims are dealt with in a timely fashion and do not frustrate the removals process.

It also proposes making the Immigration Appeal Tribunal into a superior court of record so that there would be no scope for judicial review of its decisions.[47]

1 April 2003

Part 5 of the Nationality, Immigration and Asylum Act 2002 comes into force. It repeals the 1999 act's provisions on adjudicators and the tribunal but replicates them along similar lines as before.[48]

As previously, adjudicators must be legally qualified, as do some but not all tribunal members.[49] The President of the Immigration Appeal Tribunal is now required to be someone "who holds or has held high judicial office" (High Court or above).[50]

A Home Office press release sums up the wider changes intended to streamline the process:

- making it clear someone can be returned to another EU country when they have already claimed asylum there, without the right to an appeal in the UK;
- a new five-day limit for detainees to lodge appeals and a closure date to prevent multiple adjournments of appeal hearings;
- streamlining appeals to prevent multiple appeals on grounds which could and should have been raised at an earlier stage [the one-stop process];
- a power for the Tribunal to certify a vexatious or unreasonable appeal as having no merit; and
- a paper-based, fast and final review (Statutory Review) by an Administrative Court judge - replacing Judicial Review for those refused permission to appeal to the Tribunal.[51]

27 October 2003

A short consultation paper, New legislative proposals on asylum reform, is issued. The Home Office and Department for Constitutional Affairs say "the changes made in the Nationality, Immigration & Asylum Act 2002 are already showing real improvements in the appeals process. However, more still needs to be done... The current appeals system is still too long and complicated. It

47 Home Office, Secure Borders, Safe Haven, 7 February 2022, paragraphs 4.61 to 4.68
48 Nationality, Immigration and Asylum Bill PBC Deb 21 May 2002 cc363-366
49 Nationality, Immigration and Asylum Act 2002, sections 81 and 100, schedules 4 and 5
50 Nationality, Immigration and Asylum Act 2002, schedule 5, paragraph 3 read with Appellate Jurisdiction Act 1876, section 25
51 Home Office press release, Major building blocks of immigration reform now in place, 1 April 2003

provides people with opportunities to abuse the system in order to cause delay or abscond".[52]

The consultation proposing replacing the two-tier system with a single-tier Asylum and Immigration Tribunal. The personnel of that tribunal would now be known as immigration judges.

This idea is taken forward in the Asylum and Immigration (Treatment of Claimants, etc.) Bill introduced a month later.

9 December 2003

The Home Affairs committee publishes a report on the bill. It suggests that the quality of Home Office decisions is more important than the appeal process: "the real flaws in the system appear to be at the stage of initial decision-making, not that of appeal".[53]

3.2 The era of the tribunal only

4 April 2005

Section 26 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 comes into force. It abolishes adjudicators and the Immigration Appeal Tribunal, replacing them with a single Asylum and Immigration Tribunal.[54]

The Lord Chancellor can appoint both legally qualified members (lawyers of seven years' standing or equivalent experience) and those with suitable "non-legal experience".[55] Legally qualified members are known as immigration judges or senior immigration judges.[56]

The government's original intention had been to abolish non-legal members from the new tribunal, but it accepts their retention in the face of House of Lords opposition.[57] It does not appear they are used regularly: most Asylum and Immigration Tribunal appeals are heard by a single, legally qualified immigration judge.[58]

Although the new institution gives the appearance of being a single-tier body, its procedure rules provide for "reconsideration" of decisions within the tribunal. If an appeal decision is found to include a material error of law, the

52 Home Affairs Committee, Home Affairs - First Report, 9 December 2003, Appendix
53 As above, Conclusions and recommendations
54 Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, section 26
55 Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, schedule 4
56 Asylum and Immigration Tribunal (Judicial Titles) Order 2005, SI 2005/227
57 HL Deb 7 June 2004 cc43-53; HL Deb 14 July 2007 cc1286-1288
58 HC Deb 30 October 2007 c813WA

tribunal can replace it with a fresh decision.[59] Amnesty International has commented:

> ... the system remained two-tier. If permission was granted, a more senior judge could review a decision of the first tier of that system. This process was called reconsideration rather than appeal but was essentially the same.[60]

Parties can ask the High Court or Court of Session for further review of the decision.[61]

19 July 2007

The Tribunals, Courts and Enforcement Act 2007 receives Royal Assent. The act seeks to rationalise the various administrative tribunals across the UK into a coherent structure of First-tier Tribunals and Upper Tribunals, all presided over by a Senior President.[62]

15 February 2010

The Asylum and Immigration Tribunal is abolished.[63] Asylum appeals are now part of the unified tribunal structure, with an explicit two-tier structure restored:

- The First-tier Tribunal (Immigration and Asylum Chamber) hears first instance appeals against Home Office asylum refusals.
- The Upper Tribunal (Immigration and Asylum Chamber) hears appeals against decisions of the First-tier Tribunal.[64] It is a superior court of record, on a par with the High Court.[65]

Eligibility for appointment as a First-tier Tribunal judge now depends on having five years' experience as a lawyer. This is a change from the previous requirement of being a lawyer of seven years' standing, without necessarily having practised.[66] The Lord Chancellor can also appoint a person who "has gained experience in law" equivalent to five years in practice.[67] For the Upper Tribunal, the requirement is seven years' in legal practice or equivalent.[68]

59 Asylum and Immigration Tribunal (Procedure) Rules 2005, SI 2005/230, part 3
60 Amnesty International, Immigration and Asylum Appeals, 4 September 2025
61 Memorandum from Rebecca Cooper to Mr Justice Hodge, AIT/High Court Opt-In Procedure (PDF), 2 January 2007
62 Tribunals, Courts and Enforcement Act 2007; for the background see Commons Library briefing 07/22, The Tribunals, Courts and Enforcement Bill [HL], 1 March 2007
63 Transfer of Functions of the Asylum and Immigration Tribunal Order 2010, SI 2010/21
64 First-tier Tribunal and Upper Tribunal (Chambers) Order 2010, SI 2010/2655, articles 5 and 11
65 Tribunals, Courts and Enforcement Act 2007, section 3
66 Now regarded as an "anomaly": Tribunals, Courts and Enforcement Act 2007, explanatory notes, paragraph 290
67 Tribunals, Courts and Enforcement Act 2007, schedule 2, paragraph 1 and section 52
68 Tribunals, Courts and Enforcement Act 2007, schedule 3, paragraph 1 and section 52

It remains possible (to this day) for non-legal members to be appointed to the tribunal.[69] This includes if the person has "substantial experience… in immigration services or the law and procedure relating to immigration".[70]

June 2011

The President of the First-tier Tribunal advises that non-legal members should be used in deportation appeals, sitting alongside a legally qualified judge, "wherever possible".[71]

April 2014

Following a consultation, the Senior President of Tribunals changes the guidance on use of non-legal members in immigration cases. They will now only be used if a senior First-tier Tribunal judge decides that it would be in the interests of justice.[72]

The Senior President also comments on the suggestion, made in one consultation response, that non-legal members could decide simple immigration cases alone. While this might be the case in certain tax tribunal appeals, "there are no legal issues in question. I can see no parallel within the Immigration and Asylum sphere".[73]

Use of non-legal members appears to have dried up entirely since then. In 2016/17, the number of non-legal member sitting days in the First-tier Tribunal (Immigration and Asylum Chamber) was just 13, compared to 56,000 in the social security chamber, according to the Ministry of Justice.[74]

1 December 2022

Tribunal judges are now to be addressed exclusively as "judge", instead of "sir/madam" or "judge" being acceptable. While symbolic, this reflects the evolution of the tribunals away from the relatively informal setting once envisaged.[75]

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69 Tribunals, Courts and Enforcement Act 2007, schedule 2, paragraph 2 and schedule 3, paragraph 2

70 Qualifications for Appointment of Members to the First-tier Tribunal and Upper Tribunal Order 2008, article 2(4)(j)

71 Senior President of Tribunals, Consultation on the deployment of non-legal members in FtTIAC and UTIAC, 30 April 2014, paragraph 7

72 As above, paragraph 63

73 Senior President of Tribunals, Consultation on the deployment of non-legal members in FtTIAC and UTIAC, 30 April 2014, paragraph 59

74 Ministry of Justice, Impact assessment MoJ021/2016, February 2018, paragraph 26. In addition, brief Library searches in the database of available immigration and asylum appeal decisions reveal no references to non-legal members on a panel later than 2015.

75 See Free Movement, Tribunal judges are now addressed as "judge" not "sir", "madam" or "ma'am", 5 December 2022

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