Back to Skool 2026! An Immigration Law Update For The Start Of A New Term

Thursday 3 September 2026

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The Immigration and Asylum Bill

A New Tribunal and an Article 8 Wrecking Ball

For my upcoming webinar looking at the Bill in detail see: https://www.formediagroup.co.uk/forlegal/events/live-webinar-the-immigration-and-asylum-bill-2026-what-practitioners-need-to-know

Immigration and Asylum Bill

The Government has published its Immigration & Asylum Bill which makes significant changes.

The Bill covers the establishment of a new Independent Immigration Appeals Authority, reform of the interpretation of Article 8 of the European Convention on Human Rights and changes to the Modern Slavery regime. Further elements cover the recovery of asylum support costs and ‘core protection’.

The Bill is currently working its way through Parliament.

Immigration and Asylum Bill

According to the Government the aims of the Bill are:
a) the creation of a new Independent Immigration Appeals Authority;
b) tightening of the application of Article 8 of the European Convention on Human Rights;
c) reforming the modern slavery legislative framework to set out the Government's obligations;
d) create new law enforcement measures to tackle exploitation and provide for the identification of and support for children.
e) replace asylum/refugee and humanitarian protection claims and grants of leave with a single 'core protection' model; and
f) establishing a mechanism to require asylum seekers receiving publicly-funded accommodation and other support to contribute once they are able to do so.

Immigration and Asylum Bill

1 The Independent Immigration Appeals Authority

(1)A body corporate called the Independent Immigration Appeals Authority (the "IIAA") is established.

(2) The primary function of the IIAA is to decide—

(a) appeals against decisions of the Secretary of State relating to protection claims and human rights claims (see Part 5 of the Nationality, Immigration and Asylum Act 2002),

(b) certain applications for immigration bail (see Schedule 10 to the Immigration Act 2016),

(c) appeals against decisions of the Secretary of State relating to deprivation of citizenship (see section 40A of the British Nationality Act 1981),

(d) appeals against decisions of the Secretary of State under the Immigration (European Economic Area) Regulations 2016 (S.I.

2016/1052) as they continue to have effect following their revocation, and

(e) appeals under the Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020 (S.I. 2020/61).

(3) Schedule 1 contains amendments consequential on subsection (2) (transferring functions from the First-tier Tribunal to the IIAA).

(4) The IIAA must exercise its primary function with a view to ensuring that justice is done.

Immigration and Asylum Bill

(5) In the exercise of its functions, the IIAA must—

(a) aim to be accessible, fair and independent,

(b) aim to handle its cases quickly and efficiently, and

(c) have regard to the public interest, and in particular to the fact that the IIAA operates as a key part of the immigration and asylum system.

(6) Every Minister of the Crown must uphold the independence of the IIAA and, in particular, must not seek to influence particular decisions of the IIAA through any special access to IIAA adjudicators.

(7) The IIAA may do anything it considers appropriate for the purposes of, or in connection with, its primary function.

(8) A decision of the IIAA in the exercise of, or in connection with, its primary function may be questioned in legal proceedings only in accordance with section 6 (power of IIAA to review own decisions) or section 7 (right of appeal to Upper Tribunal).

Immigration and Asylum Bill

2 Membership of the IIAA

(1) The IIAA is to consist of—

(a) the following non-executive members—

(i) the Chair;

(ii) the Professional Standards Officer, and

(b) the following executive members—

(i) the Chief Executive;

(ii) the Chief Appeals Officer;

(iii) the IIAA adjudicators.

(2) The non-executive members are to be appointed by the Secretary of State.

(3) The first Chief Executive and the first Chief Appeals Officer are to be appointed by the Secretary of State.

(4) Subsequent Chief Executives and Chief Appeals Officers are to be appointed by the Chair, following consultation with the Professional Standards Officer.

(5) The IIAA adjudicators are to be appointed by the Chief Executive.

(6) An IIAA adjudicator may be appointed either as a senior adjudicator or as an executive adjudicator.

Immigration and Asylum Bill

(7) A person may not be appointed as the Professional Standards Officer or the

Chief Appeals Officer unless—

(a) they are—

(i) a barrister in England and Wales,

(ii) a solicitor of the Senior Courts of England and Wales,

(iii) a person authorised by the Chartered Institute of Legal Executives to practise as a chartered legal executive,

(iv) an advocate or solicitor in Scotland, or

(v) a barrister or solicitor in Northern Ireland,

and have practised as such for at least five years, or

they have experience in law-related activities which, in the opinion of

the Chief Executive, makes them as suitable for appointment as if they fell within paragraph (a).

(8) A person may not be appointed as a senior adjudicator unless—

(a) they are—

(i) a barrister in England and Wales,

(ii) a solicitor of the Senior Courts of England and Wales,

(iii) a person authorised by the Chartered Institute of Legal Executives to practise as a chartered legal executive,

(iv) an advocate or solicitor in Scotland, or

(v) a barrister or solicitor in Northern Ireland,

Immigration and Asylum Bill

and have practised as such for at least two years, or

(b) they have experience in law-related activities which, in the opinion of the Chief Executive, makes them as suitable for appointment as if they fell within paragraph (a).

(9) Section 52(4) and (5) of the Tribunals, Courts and Enforcement Act 2007 (meaning of "law-related activities") apply for the purposes of subsections (7)(b) and (8)(b), but as if section 52(4)(i) referred to the Chief Executive instead of to the relevant decision-maker.

(10) Schedule 2 makes further provision about the membership and proceedings

of the IIAA.

Immigration and Asylum Bill Explanatory Notes

Clause 2: Membership of the IIAA

61. Clause 2 makes provision for the membership of the IIAA. It sets out the non-executive members (Chair and Professional Standards Officer (PSO)) and executive members (Chief Executive (CE) and

Chief Appeals Officer (CAO) and IIAA adjudicators) that the IIAA will consist of, how they will be appointed, and the eligibility requirements that specific roles will have.

62. The clause also sets out the eligibility requirements for roles in the IIAA requiring legal experience which are the Senior Adjudicator, the CAO and the PSO. The definition of 'law-related activities' in the Tribunal Courts and Enforcement Act (TCEA) 2007 is used here so that the CE can consider any of the activities set out in Section 52 (4) and (5) of the TCEA 2007 as making someone eligible for these roles. The senior adjudicator role requires two years of relevant legal experience and the CAO and PSO require five years of relevant legal experience. The requirement is sufficiently broad to allow experience as an adjudicator to make someone eligible for these positions.

63. Responsibility for appointment of the non-executive members (the Chair and the PSO) sits with the Secretary of State. Responsibility for executive appointments (the CE and CAO) sits with the Secretary of State in the first instance, with the Chair taking on responsibility for appointment of those officers subsequently, to reinforce the IIAA's independence from Government insofar as possible. The Chair will also be expected to consult the PSO when making these appointments in future. All appointments to the IIAA will be on the basis of merit and subject to fair and open competition principles. (as set out at paragraph 2 of Schedule 2).

64. The clause establishes that IIAA adjudicators are to be appointed by the Chief Executive of the IIAA.

65. Clause 2 also introduces Schedule 2 which makes further provision about the membership and proceedings of the IIAA.

https://publications.parliament.uk/pa/bills/cbill/59-02/0105/en/260105en.pdf

Immigration and Asylum Bill Explanatory Notes

25. The Government committed in the Restoring Order and Control statement to reform the domestic application of Article 8 ECHR to ensure the framework remains fair, robust and capable of supporting effective immigration control. Evidence published in the impact assessment indicates that aspects of the current framework allow individuals to remain in the UK in circumstances that are not aligned with the intended operation of the Immigration Rules. This can weaken confidence in the system and place sustained operational and financial pressures on public services. The legislation intends to provide a clear statutory framework that reflects established Strasbourg and domestic case law, constrains overly expansive interpretations, and enhances consistency across decision-making.

26. A central element of the reform package is to define and codify the concept of “family life” in primary legislation. At present, the absence of a clear statutory definition allows for a broad and evolving interpretation, including reliance on extended family relationships and loosely evidenced dependency. The reforms will clarify that, in most cases, family life is to be understood as existing between spouses, partners, and parents with their minor children, with a stronger emphasis on cohabitation and demonstrable ongoing relationships. Provision will be made for exceptional cases, but within a clearer statutory framework that sets out relevant factors for assessing dependency where relationships fall outside the core model.

Immigration and Asylum Bill Explanatory Notes

27. The reforms also address the treatment of socio-economic and wider public interest considerations within the proportionality assessment that is undertaken in Article 8 cases. Section 117B of the Nationality, Immigration and Asylum Act 2002 currently provides only limited clarity on how decision-makers should weigh factors such as public costs and conduct, which can lead to disproportionate emphasis on individual circumstances. This Bill will therefore strengthen and clarify how these factors are taken into account, by identifying key underlying components of financial independence including the ability to adequately accommodate oneself and any dependents without reliance on state support and the requirement to not be, or become, reliant on public health or social care services (in particular) in the long term. These reforms support a more consistent and balanced application of the public interest test.

29. The qualifying child provisions are also being amended to clarify what factors should be considered when determining whether it is in the public interest to remove the parent of a qualifying child from the UK. These factors focus on assisting decision makers to determine whether it is reasonable to expect that a child would be able to join a parent abroad should that parent be removed. The framework will also include provision for assessing the proportionality of removing a parent where a child remains in the UK. These changes are intended to maintain appropriate protections for children while ensuring that the approach reflects the wider public interest.

Immigration and Asylum Bill Explanatory Notes

31. This Bill clarifies that where a person is liable to deportation, the public interest requires their deportation unless the effect would be disproportionate. The effect will only be disproportionate if it is established that there has been a significant interference with Article 8 rights, and that interference cannot be justified by the public interest in favour of deportation. This ensures that a person's criminal and immigration history is considered in every case and weighed against the interference before a breach of Article 8 can be established

32. This Bill clarifies that the public interest in deportation increases with the seriousness of the person's offending or misconduct, the nature and circumstances of that offending or misconduct, and its impact on society as a whole.

33. The application of Section 117C of the Nationality, Immigration and Asylum Act 2002 is extended so that it applies to deportation cases generally, rather than only to cases involving the deportation of foreign criminals.

34. Finally, the Bill will require out-of-country applications that engage Article 8 to be made by the UK-based sponsor and will entitle the UK-based sponsor to appeal the refusal of any such application. This will ensure that the focus is on the Article 8 rights of the sponsor and how the decision to refuse entry to their overseas family member will impact them, aligned with European Court of Human Rights case law.

The new Immigration and Asylum Bill, a broken time machine

After a costly period of unclear scale or duration during which the two appeals bodies will run in tandem, [4]the Government would completely do away with our current specialist and expert First-tier Tribunal (Immigration and Asylum Chamber) and have it wholly replaced by the new Independent Immigration Appeals Authority (IIAA).

The IIAA will decide immigration bail applications and determine and publish appeal decisions, not only in relation to asylum, but across human rights, EEA and EU citizens' rights, and deprivation of citizenship. [5]

Where it errs, the only options will be for either side to ask adjudicators to review the decision, for the adjudicators to do so of their own accord, or to seek permission to appeal to the Upper Tribunal. [6] As for the former, there is always the risk, after a decision has crystallised, 'human nature being what it is, the decision-maker may unconsciously and in good faith tend to be defensive over the decision to which he or she has previously come', [7] particularly if without the legal or judicial training and experience necessary to approach the matter with an open mind. Any concerns the legal community had, [8] regarding salaried First-tier Tribunal judges deciding permission applications against their own decisions, are only multiplied when one imagines non-judges undertaking this task. This places great responsibility on the shoulders of a judge of the Upper Tribunal, to recognise every error pleaded. If they and the adjudicators fail to do so, despite the very real human consequences, there is intended to be no further recourse: judicial review is unavailable, even for challenging preliminary, procedural, and ancillary matters. This reduces the possibility of curing a deficiency in the effectiveness of an adjudicator's remedy, to a breach of human rights, through the aggregate effect of remedies under domestic law. [9]

https://www.ein.org.uk/blog/new-immigration-and-asylum-bill-broken-time-machine

The new Immigration and Asylum Bill, a broken time machine

As for the future of First-tier Tribunal (IAC) judges, they hold lifetime appointments and are liable to be paid their salaries and pensions. They may be reassigned to other chambers, hear cases in the Upper Tribunal (of which they are judges), [14] or may opt to be appointed as adjudicators. What is clear is that those who choose to be involved in the new appellate body may form a minority of experienced legal professionals, among a sea of junior or non-lawyers. Where a judge must have at least five years of post-qualification experience, [15] and be appointed in a rigorous merit-based competition by an independent commission, [16] senior adjudicators likely to be responsible for training and case allocation require a mere two years, and executive adjudicators none at all. [17] They will be appointed by the Chief Executive, who may be an unqualified person appointed either by the Secretary of State, or by the Chair who is in turn appointed by the Secretary of State. [18] Where there was judicial independence from there is now appointment and involvement by the Secretary of State.

Statutory Time Limits for Appeals

See you in 24 weeks!

Border Security, Asylum and Immigration Act 2025

- Sections 49 & 50 introduce sections 86A & 86B NIAA 2002
- Appellants receiving accommodation support and non-detained deportation appeals.
- The Tribunal must, except where the Tribunal considers that it is not reasonably practicable to do so, determine the appeal and give notice of its determination to the parties before the end of the period of 24 weeks beginning with the day after that on which the appeal is instituted.

https://www.legislation.gov.uk/ukpga/2025/31

Border Security, Asylum and Immigration Act 2025 Explanatory Notes

Section 49: Timeframe for determination of appeal brought by appellant receiving accommodation support

Section 49 will introduce a statutory timeframe for the determination of supported asylum appeals in the Tribunal, where that support is being provided in the form of temporary asylum accommodation.

This section will insert section 86A ‘Timeframe for determination of appeal under section 82(1)(a) where appellant is receiving accommodation support’ after section 86 of the Nationality, Immigration and Asylum Act 2002 ("NIAA 2002").

Section 86A(1) specifies that the statutory timeframe applies to appeals against asylum and humanitarian protection refusal decisions brought by a person to whom, at the time the appeal is instituted, accommodation is being provided by the Home Office under section 95 or 98 of the IAA 1999.

Section 86A(2) sets out that the Tribunal must, except where the Tribunal considers that it is not reasonably practicable to do so, determine the appeal and give notice of its determination to the parties before the end of the period of 24 weeks beginning with the day after that on which the appeal is instituted.

Section 86A(3) stipulates that the statutory timeframe does not apply or, as the case may be, ceases to apply, if the appeal must be brought, or must be continued, from outside the United Kingdom.

Border Security, Asylum and Immigration Act 2025 Explanatory Notes

Section 50 will introduce a targeted statutory timeframe for the determination of appeals in the Tribunal from non-detained persons who have been convicted of an offence and who are subject to a deportation decision.

This section will insert section 86B ‘Timeframe for determination of appeal brought by certain non-detained appellants liable to deportation’ after section 86A of the NIAA 2002.

Section 86B(1) specifies that the statutory timeframe applies to appeals against a refusal of a protection claim or a human rights claim or a decision to revoke a person's protection status, as specified by section 82(1) and 82(2) of the NIAA 2002.

Section 86B(2) outlines that the statutory timeframe will apply if, at the time the appeal is instituted, the appellant is not detained, has been convicted of an offence (whether in or outside the United Kingdom) and is liable to deportation under section 3(5)(a) of the Immigration Act 1971.

Section 86B(3) sets out that the Tribunal must, except where the Tribunal considers that it is not reasonably practicable to do so, determine the appeal and give notice of its determination to the parties before the end of the period of 24 weeks beginning with the day after that on which the appeal is instituted.

Section 86B(4) stipulates that the statutory timeframe does not apply or, as the case may be, ceases to apply, if the appeal must be brought, or must be continued, from outside the United Kingdom.

Section 50(2) and (3) amend the Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020 (S.I. 2020/61) and the Immigration (European Economic Area) Regulations 2016 (S.I. 2016/1052) to apply the new section 86B in circumstances where an appeal is brought under those Regulations by a non-detained person who has been convicted of an offence and who is liable to deportation.

Letter from Resident Judges to Court Users (February 2026)

I write to provide you with information about the way the Taylor House hearing centre will implement the provisions of the Border Security, Asylum and Immigration Act 2025. The Act requires the Tribunal to determine appeals brought by appellants receiving accommodation support (section 49) and non-detained appellants liable to deportation (section 50) within a period of twenty-four weeks, running from the date on which the appeal is instituted to the date on which the decision is issued by the Tribunal. Appeals falling into this category will be clearly marked on the online portal and will be easily identifiable. We expect to see the first such appeals from May 2026.

To discharge these statutory obligations, the Tribunal will modify its procedures and will provide the parties with the hearing date and a full timetable of directions at the start of the appeal journey. We have taken this step as it is important that both parties have clear notice of what is required and can prepare their cases accordingly. Historically, compliance with directions has been a matter of concern. I therefore take this opportunity to remind parties of the unequivocal terms of the Practice Direction, the provisions of which make plain that failures to comply with directions will not be tolerated. I should mention at this stage that a new Practice Direction will replace the Practice Direction of the Immigration and Asylum Chamber of the First-tier Tribunal issued in November 2024 and will be issued in the coming weeks. The parties should take the opportunity to familiarise themselves with the changes and in particular the additional references to the 24 week statutory timetable and the position on adjournments and costs.

Letter from Resident Judges to Court Users (February 2026)

In respect of the latter, the Tribunal has reviewed its approach to costs. The previously- issued Practice Statements and Guidance Notes will be rescinded. The Tribunal has the power to order a party to pay the costs of another party in certain circumstances. Those circumstances include where a party's conduct has been unreasonable. Failure, without good reason, to comply with case management directions is a serious matter, which undermines the good administration of justice and is inconsistent with the Overriding Objective, and may cause the Tribunal to consider whether to exercise its powers to make a party pay the costs of another party. Costs will also be considered where there have been late adjournment applications. Parties should note that the Tribunal will make full use of the costs powers available to it.

To support the expeditious listing of cases, we will maintain a float list (now known as a standby list so it can be more readily understood by appellants in person) comprising asylum appeals. Asylum appeals have been included within our standby lists for some months and our approach to these lists is set out in the attached document. The Tribunal will make every effort to deal with such appeals and parties should always attend prepared and ready to make progress however there can be no assurance that the appeals will be heard on the day.

IAC 24-week Statutory Timeframe — Announcement of Commencement

I am writing further to my letter of 6 March 2026 to confirm that the 24-week Statutory Timeframe for determining appeals in the First-tier Tribunal of the Immigration and Asylum Chamber (IAC) will come into force on 12 August 2026. This applies to all qualifying appeals lodged from 12 August 2026, covering appellants in supported accommodation and non-detained foreign national offenders.

As a reminder, the Border Security, Asylum and Immigration Act 2025 requires the Tribunal to apply this new timeframe to in-scope appeals. We have made some changes to our operational systems and processes to manage these cases more efficiently.

You can find the contents of the Border Security, Asylum and Immigration Act 2025 under the following link: https://www.legislation.gov.uk/ukpga/2025/31

IAC 24-week Statutory Timeframe — Announcement of Commencement

We have taken steps to improve our verification of appeals following submission. The Tribunal will use the unique reference number from the Home Office refusal letter to recognise in-scope appeals on the date they are lodged. Please ensure you enter this reference number and any biometric data accurately when submitting an appeal. Appeals that are lodged without the core information required under rule 19 are likely to be returned to the Appellant.

Hearing dates for in-scope appeals will be scheduled from the outset. This will support more predictable timetables and help ensure cases can be determined within 24 weeks where reasonably practicable.

If you have any questions or concerns about this policy and how it may affect your work, please contact our team at: ImmigrationJurisdictionalSupportTeamInbox@Justice.gov.uk

Asylum appeals target launched for faster removals

Individuals with no right to be in the UK will be able to be deported faster as the government looks to cut waiting times for asylum and immigration appeals by over a third.

As of 12 August 2026, the First-tier Tribunal will be expected to hear new asylum and immigration appeals from non-detained foreign national offenders (FNOs) and individuals in receipt of asylum support and accommodation within 24 weeks of being received by the tribunal. Currently, the average wait time for a case to be decided by a judge is 67 weeks.

This will speed up the removal of those who are unsuccessful at appeal and have no right to be in the UK, free up space in accommodation and cut costs, contributing to taxpayer savings of an estimated £6.9 billion.

https://www.gov.uk/government/news/asylum-appeals-target-launched-for-faster-removals

Court User Meeting Gleanings

- Statutory time limit cases listed by CTSC
- 85% of Birmingham lists for statutory time limit cases
- Impact on legacy appeals
- Aim to list at week 18 therefore if adjourned be listed at week 22
- New stricter costs guidance coming as well as an updated Practice Direction
- Current appeals backlog circa 150,000 (https://www.gov.uk/government/news/asylum-appeals-target-launched-for-faster-removals)

Publishing FTT (IAC) Decisions

Pilot underway

Publishing FTT (IAC) Decisions

Announced by LCJ in her November 2025 annual report:

"Work on publishing judgments from the First-tier Tribunal (Immigration and Asylum Chamber) has moved from setting principles to planning how it will work in practice. In partnership with HMCTS, the Board is reviewing the best platforms and processes to make all judgments publicly available. As an interim step, a request process for media organisations was introduced in summer 2025. A scoping exercise to guide the full rollout of judgment publication is expected to finish within the next three to six months."

Pilot scheme now in operation: Hatton, Taylor & Birmingham

Published on National Archives & Bailii

Articles already published https://rozenberg.substack.com/p/no-show-no-stay?r=4a1gpd&utm_medium=ios

Should be raised by Judge at start of the hearing and given opportunity to raise any objection

Consider anonymity very carefully

Remote Hearings

CVP anyone?

Judiciary publishes new remote hearing guidance for First-tier and Upper Tribunal of the Immigration and Asylum Chambers

https://www.ein.org.uk/news/judiciary-publishes-new-remote-hearing-guidance-first-tier-and-upper-tribunal-immigration-and

Remote Hearings in the First tier Tribunal Immigration and Asylum Chamber Jurisdiction

3.3 Decisions whether to hold a remote hearing are to be taken on a case-by-case, basis based on the interests of justice. Responsibility for choosing the appropriate mode of hearing is a matter of judicial discretion, subject to the power to delegate such discretion to HMCTS' Legal Officers. Decisions are taken on a case-by-case basis in order to meet the demands of the Overriding Objective. All relevant circumstances will be taken into account.

5.3 The following is a non-exhaustive list of factors that will be considered when exercising discretion to direct a remote hearing:

5.3.1 Whether an appellant is represented;

5.3.2 Whether the hearing is concerned with case management or with contested issues requiring the hearing of witness evidence. Hearings involving contested issues requiring evidence from numerous witnesses may be less likely to be suitable for a remote hearing;

5.3.3 Whether the parties consent or object to the hearing being conducted remotely. A party's views on whether a hearing should be remote are an important factor;

5.3.4 Whether the parties are able to engage with and follow remote proceedings meaningfully, including access to and familiarity with the necessary technology. Where a party has a disability, vulnerability or need for special measures this will be relevant to the decision whether or not to proceed with a remote hearing;

5.3.5 Whether there are suitable facilities for a video hearing.

5.4 Resource issues and other administrative difficulties cannot by themselves justify the use of remote hearings.

Judiciary publishes new remote hearing guidance for First-tier and Upper Tribunal of the Immigration and Asylum Chambers

Remote Hearings in the Upper Tribunal (Immigration and Asylum Chamber) ("UTIAC") Jurisdiction

4.2 The presumption is that hearings before UTIAC will be conducted with all participants in attendance at a hearing centre.

...

5.3 The following (non-exhaustive) factors are relevant when a judge or UTIAC Lawyer decides the mode of hearing and/or considers whether the default approach for listing a case should be disapplied. It will be for the judge or UTIAC Lawyer to decide how they weigh these (or other) factors in the balance in the circumstances of each case.

5.3.1 The views and preferences of the parties.

5.3.2 The availability of enough space in suitable premises, having regard to the health, safety and security of all participants.

5.3.3 The availability of technical facilitates that enable a hearing to take place fully or partly remotely.

5.3.4 Whether the choice as to mode of hearing is likely to speed up or delay the progress of the case.

Asylum changes
Statement made on 2 March 2026
Statement UIN HCWS1373

https://questions-statements.parliament.uk/written-statements/detail/2026-03-02/hcws1373

Asylum changes Statement made on 2 March 2026

Under these changes, adults and accompanied children claiming asylum from today will receive a 30-month period of protection, if granted. At a 30-month review, refugees with a continuing need of sanctuary will have their protection renewed, while those whose countries are now deemed safe will be expected to return home.

Under the previous system, refugees were granted 5 years of protection and allowed to bring their families – followed by near-automatic, fee-free permanent settlement with continued access to benefits and housing. This was amongst the most generous offers to refugees in any country in Western Europe. This has become a pull-factor that has seen asylum claims in Britain rise steeply, including tens of thousands of illegitimate claims each year, as they fall across the rest of the continent.

Refugees under the reformed system will need to renew their permission to stay or apply for a legal visa route. Family reunion remains paused while new rules are designed that bring financial and integration requirements in line with those expected of British citizens.

Asylum changes Statement made on 2 March 2026

New routes will be created as an alternative to “core protection” for those who can contribute through work or study, encouraging use of the legal migration system and contributing to better social cohesion. Further details of these will be set out in future Immigration Rules changes.

Unaccompanied children will continue to receive 5 years’ leave, while the Government considers the appropriate long-term policy for this group. Further details will be set out in due course.

Robust age assessment measures are already in place to root out false claims by migrants claiming to be under 18. AI technology currently being tested will strengthen this further.

There will be transitional provisions for people who submitted an asylum claim before today, so that existing rules continue to apply.

Permission granted on JR to reduce length of refugee permission to stay

‘We’re thrilled to share a major victory in our legal challenge to the government’s decision to cut refugee leave from five years to just 30 months: permission has been granted on all grounds. This means we’ve cleared the first legal hurdle and can now start preparing for our case to be heard.

We’ve requested an expedited hearing so the case can be heard as soon as possible – hopefully before Christmas!

We have been appointed lead claimant, giving us a central role in shaping the case and presenting the arguments.

This is a significant step forward and gives us a real opportunity to see these harmful rules overturned. Thank you for standing with refugees and helping make this challenge possible!

Solidarity has never been more important. If you or someone you know can support this fight, please consider sharing or donating to our Crowdfunder:

👉 www.crowdjustice.com/case/fight-the-attacks-on-refugees’

See also: https://www.ein.org.uk/news/court-grants-permission-legal-challenge-reduction-refugee-protection-five-years-30-months

Visa brake imposed on 4 countries after widespread visa abuse

Government to end study visas from Afghanistan, Cameroon, Myanmar and Sudan, and work visas for Afghans.

https://www.gov.uk/government/news/visa-brake-imposed-on-4-countries-after-widespread-visa-abuse

Visa brake imposed on 4 countries after widespread visa abuse

An ‘emergency brake’ on visas has been imposed for the first time on nationals from 4 countries following a surge in asylum claims from legal routes.

By the year ending September 2025, asylum applications by students from Afghanistan, Cameroon, Myanmar and Sudan had risen to over 470% of their 2021 level – making them among the most likely nationalities to claim.

Meanwhile the number of Afghans on work visas claiming asylum is now outstripping the number of visas issued.

In an unprecedented step, the Home Office will end sponsored study visas from all 4 countries and skilled worker visas for Afghan nationals.

…

The visa brake will be introduced through an Immigration Rules change on 5 March 2026 and come into force on 26 March 2026.

Student Visa Break JR Challenge Unsuccessful: Sadat & Ors, R (On the Application Of) v Secretary of State for the Home Department [2026] EWHC 2157 (Admin) (12 August 2026)

The claimants challenged the “Student Visa Brake”, a change to the Immigration Rules which made nationals of Afghanistan, Cameroon, Myanmar and Sudan ineligible to obtain entry clearance as students ([1]). The Student Visa Brake was introduced by the Statement of Changes in Immigration Rules (HC 1691), laid before Parliament on 5 March 2026, and came into effect on 26 March 2026 ([2], [26]-[28]).

…

The Court granted permission to apply for judicial review on all grounds except Farah ground 3 and Sadat ground 5. Both claims were dismissed ([171]).

https://www.bailii.org/ew/cases/EWHC/Admin/2026/2157.html

Statement of changes to the Immigration Rules: HC 1691, 5 March 2026

https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-1619-5-march-2026

Helpful Article: https://freemovement.org.uk/statement-of-changes-hc-1691/

See also: https://plus.lexis.com/api/permalink/abb9ea4c-0615-4e94-8d3b-83c17edc1ba4/?context=1001073

HC 1691, 5 March 2026

4.2 The changes being made relate to:
- Introduction of the Visa Brake
- Reducing the duration of refugee and humanitarian protection, permission to stay
- Procedure and Rights of Appeal changes for Failed Asylum Seekers
- Disclosure of information relating to asylum claims when cases are subject to public interest
- Introduction of a visit visa requirement for nationals of Nicaragua and St Lucia
- Changes relating to working restrictions in Part 11B
- Changes relating to prison officers in the Skilled Worker route
- Clarifying the specific circumstances in which a child can be granted settlement to join a ‘relative’ in the UK
- Change to the criminality provisions in Part Suitability
- Further extension of the Ukraine Permission Extension (UPE) Scheme
- Update to the Appendix Visitor: Permit Free Festival List
- Global Business Mobility – Service Supplier: making changes to include provisions for Indian nationals
- Global Business Mobility – Secondment Worker: reducing qualifying overseas employment period from 12 to 6 months
- Appendix EU changes
- Appendix EU (Family Permit) changes – additional validity requirements
- Youth Mobility Scheme: changes to partner country quotas for 2026
- Identity requirements – updating the identity rules about making a valid application to support identity reuse
- Changes to Appendix Victim of Domestic Abuse
- Change to English language requirements

Statement of changes to the Immigration Rules: HC 259, 9 July 2026

https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-259-9-july-2026

Explanatory Memorandum: https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-259-9-july-2026/explanatory-memorandum-to-the-statement-of-changes-in-immigration-rules-hc-259-9-july-2026-accessible

Helpful Summary: https://www.ein.org.uk/news/new-statement-changes-immigration-rules-amends-graduate-route-appendix-fm-and-part-8-family

Statement of changes to the Immigration Rules: HC 259, 9 July 2026

According to the explanatory memorandum, the main changes include:

- Appendix Graduate: allows a child born in the UK during a parent's Graduate route permission to apply as a dependant and be granted permission in line with the parent.
- Diplomatic Visa Arrangements: extends the Diplomatic Visa Arrangement visitor visa to eligible Indian diplomatic passport holders.
- Part 8 children provisions: aligns the rules for children joining relatives in the UK with the approach under Appendix Child Relative.
- Appendix FM partner leave: provides that partners of those with temporary protection status will receive permission in line with the remaining permission of the protection sponsor.
- Suitability requirements: ensures eligible applications under the Exception for Overstayers are not refused solely because the applicant is on Immigration Bail.
- EU Settlement Scheme: removes the fingerprint biometric requirement for EUSS travel permits and clarifies the deadline position for certain family members of qualifying British citizens.
- Care requirement: applies the Appendix Children care requirement to the Appendix FM child route.
- Armed forces provisions: allows certain children of serving personnel exempt from immigration control to be granted permission under the Rules.

...

The changes take effect on 30 July 2026 or 3 August 2026.

https://www.ein.org.uk/news/new-statement-changes-immigration-rules-amends-graduate-route-appendix-fm-and-part-8-family

Statement of changes to the Immigration Rules: HC 259, 9 July 2026

Part 8: Changes to provisions for children

5.9 The Immigration Rules currently allow a child to come to or stay in the United Kingdom to live with a relative in certain circumstances.

5.10 Under Part 8 of the Immigration Rules, a child can join or stay with a relative who is settled in the United Kingdom where there are “serious and compelling circumstances”. The broad drafting creates a lack of clarity on when a child should join a relative in the UK, and is inconsistent with the approach on similar routes.

5.11 Appendix Child Relative (Sponsors with Protection) allows a child to join a relative with protection status in the UK if the child has no parent or other family member who can reasonably care for them. This amendment aligns Part 8 with the clearer approach in Appendix Child Relative to provide consistency across the immigration system.

5.12 In addition, we are making a minor change to clarify when a child can join a settled parent in the United Kingdom when their other parent is in the United Kingdom with limited leave (or being granted leave). This minor amendment aligns Paragraphs 297 and 298 with CHI 4.3.(b) of Appendix Children and provides consistency of approach across Part 8 and Appendix Children.

Statement of changes to the Immigration Rules: HC 259, 9 July 2026

Extract from the amended §297 (See §298 for in-country):

(e) one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement and has had sole responsibility for the child's upbringing; or

(f) one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement, their other parent does not have (and is not being granted) limited leave in the UK, unless there are serious and compelling reasons to grant the applicant settlement; or

(g) a close relative is present and settled in the United Kingdom and the applicant has no family other than the close relative in the UK that could reasonably be expected to support or care for them;

"Close relative" means a grandparent, brother, sister, step-parent, uncle (brother or half-brother of a child's parent) or aunt (sister or half-sister of a child's parent) who is aged 18 or over.

Statement of changes to the Immigration Rules: HC 259, 9 July 2026

Asylum Interviews: Additional circumstances when interviews may be omitted

...

5.23 The Restoring Order and Control Policy Statement published in November set out the policy intention of efficiently determining unmeritorious protection claims that are often lodged to frustrate removal. [footnote 3]

5.24 This process will be known as ‘merged registration’ and will involve one interview, covering the registration of the asylum claim, screening of the individual, and the establishment and assessment of the basis of claim. The interviewing officer will ask relevant and appropriate questions to establish whether an individual has protection needs and, if not, whether they can be removed from the UK without the need for a further asylum interview. This will truncate the current process which involves a screening interview, followed by a separate asylum interview, which may be scheduled for weeks or months later. As part of the merged registration process, individuals will continue to have the opportunity to seek legal advice, provide relevant evidence, and raise all the reasons why they cannot be removed from the UK prior to their asylum decision. Claims will continue to be assessed on an individual, case by case basis.

5.25 Asylum claims which cannot be assessed as part of the merged registration process will be triaged out and continue through the business-as-usual process. Where further information is required to make a decision, there is discretion for further interviews to be conducted.

Illegal Working & Right to Work Checks

Changes from 1st October 2026

Section 48 Border Security, Asylum and Immigration Act 2025 comes into force on 1st October 2026

Section 48 BSAIA 2025 amends the IANA 2006 and widens the right to work regime beyond conventional employment relationships. The provisions comes into force on 1st October 2026.

These changes will mean that responsibility for RTW compliance is no longer limited to traditional employment. A wider range of working relationships, including labour supply chains, subcontracting, and some online matching platforms will now be captured.

On 30th June 2026 the Home Office published a draft revised Code of practice on preventing illegal working, which is also due to come into force on 1st October 2026. The Code sets out how the illegal working civil penalty scheme will operate in practice under the expanded framework.

Wider scope of ‘employers’ under the right to work scheme

Section 48 of BSAI 2025 inserts a new section 14A into IANA 2006. This provision extends the scope of ‘employers’ who may be subject to an illegal working civil penalty or criminal sanction.

For the purposes of the right to work scheme, from 1 October 2026 references to an ‘employer’ of an ‘individual’ will include:

- *Employing an individual under a contract of employment (contract of service or apprenticeship);*
- *Engaging an individual under a ‘worker’s contract’;*
- *Engaging an ‘individual sub-contractor’; and*
- *Operating an ‘online matching service’ and providing details of an individual ‘service provider’ to clients or customers.*

This wide definition goes well beyond the traditional direct employer. It is also important to understand what each defined term (e.g. ‘worker’s contract’) means when interpreting who an ‘employer’ is. Some of the key new definitions are discussed below.

Extract from: https://www.lewissilkin.com/insights/2026/07/02/preventing-illegal-working-and-right-to-work-checks-what-changes-from-1-october-2026

See also: https://www.davidsonmorris.com/uk-right-to-work-changes-2026/

Key Recent Immigration Caselaw

My Subjective Selection

Naturalisation Good Character Policy

Updated Policy; Unsuccessful Challenge

Naturalisation 'Good Character' Policy
Alibiari, R (on the application of) v Secretary of State for the Home Department [2026] EWHC 1623 (Admin)

Version 6 of the Good Character policy guidance was introduced on 10th February 2025 and provided that a person applying for citizenship after that date would normally be refused citizenship if they (1) entered the United Kingdom illegally or (2) arrived in the United Kingdom without entry clearance or travel authorisation having made a dangerous journey (which included travelling by a small boat or concealed in a vehicle).

On 30th April 2026 the SSHD published version 7 of the policy which includes an amended section entitled 'Considering the balance of probabilities' directing caseworkers to consider all circumstances in the round; a section stating that it will normally be appropriate to disregard illegal entry or arrival where this was outside the person's control, such as for children or people under the control of traffickers; and a section addressing Article 31, confirming that those with a valid defence must not be refused citizenship on the sole basis of the illegal entry.

This amended policy led the SSHD to withdraw her decisions in three of the test cases and a fourth Claimant to withdraw his application for Judicial Review.

Naturalisation 'Good Character' Policy
Alibiari, R (on the application of) v Secretary of State for the Home Department [2026] EWHC 1623 (Admin)

Alibiari was therefore the remaining Claimant in the test case which was heard over two days before a Divisional Court (Lewis LJ and Farby J) the parties having agreed that the claim was not now academic [5]. The Claimant is an Egyptian national who had entered the United Kingdom illegally by lorry and was subsequently granted asylum [3]. The Claimant challenged the lawfulness of the policy [4] on three grounds: '(1) it rests on a misinterpretation of, or irrational guidance as to, the requirement of "good character" and therefore directs caseworkers to take unlawful decisions; (2) it leads to a real risk of a breach of Article 14, read with Article 8, of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention"); and (3) it was adopted in breach of the duty in section 149 of the Equality Act 2010 ("the 2010 Act").' The Court dismissed the claim on all grounds. At [39] Lewis LJ said:

The question that arises on this appeal is whether version 6 of the policy misstates the law, or gives a misleading impression by omitting to explain the true legal position. Version 6 does not do either of those things. It correctly states the law, indicating what conduct (including illegal entry and irregular arrival) would normally result in a person being refused citizenship because such conduct indicates a lack of good character. It provides for exceptional cases where the applicant "would normally be refused citizenship but there are mitigating circumstances which mean it would be appropriate to grant" citizenship. It is clear, therefore, that a person will normally – not inevitably – be treated as lacking good character if he entered illegally or arrived irregularly. He can seek to explain why, notwithstanding the fact of his illegally entry or irregular arrival, he should be granted citizenship. The absence of any express reference to the circumstances in which a person who entered illegally or arrived irregularly may nonetheless be seen as having good character, does not render the policy misleading when it is read as a whole.

Naturalisation ‘Good Character’ Policy
Alibiari, R (on the application of) v Secretary of State for the Home Department [2026] EWHC 1623 (Admin)

The court concluded [76] that the SSHD was entitled to take into account the fact that a person applying for British citizenship had entered the United Kingdom illegally or had arrived irregularly and to treat that as indicating that, normally, the individual was not of good character for the purpose of satisfying the requirements of the Act. Version 6 of the policy was not incompatible with Article 14, read with Article 8, of the Convention. It did not require decision-makers to treat refugees less favourably than other applicants for citizenship. The evidence did not demonstrate that the policy had a disproportionately adverse effect on refugees applying for citizenship who had entered illegally or arrived irregularly in the United Kingdom. In any event, the SSHD had established that version 6 of the policy was objectively justified. The SSHD had complied with her duty under section 149 of the Equality Act 2010.

Practitioners with clients who were awaiting this decision should now consider their position and the best way forward in the light of version 6 being found to be lawful and the amended version 7.

https://www.bailii.org/ew/cases/EWHC/Admin/2026/1623.html

Version 7: https://www.gov.uk/government/publications/good-character-caseworker-guidance/good-character-requirement-accessible

Wilson's Article: https://www.wilsonllp.co.uk/news/wilson-solicitors-lead-claims-challenging-the-home-offices-good-character-nationality-policy-resolved

The updated Nationality Guidance now has a 6-month ‘deadline’ for reconsideration requests

Reconsiderations

This page tells you about when an application can be reconsidered.

Reconsideration is where an application is reviewed to see if the application has been decided correctly. If it is decided that the correct decision was not made, in accordance with the law and the policy in place at the time the decision was made, based on the evidence provided, the application will be re-opened and a fresh decision made.

An application for reconsideration is made on Form NR. The fee payable for reconsideration of an application can be found on Gov.UK. A case may also be reconsidered if we are made aware of an incorrect decision, such as through quality assurance or correspondence.

We expect an application for reconsideration to be submitted within 6 months of the date that the decision was made.

https://www.gov.uk/government/publications/british-nationals-nationality-policy-guidance/general-information-all-british-nationals-accessible--2#reconsiderations

Family Life

Squeezing the Circle

Article 8 and Adults 'Doubling Down on Dependency': IA & Ors v Secretary of State for the Home Department [2025] EWCA Civ 1516 (26 November 2025)

In the immigration white paper and in other recent policy statements the Government has said that it will set out in primary legislation, a definition of family life for the purposes of Article 8. In *IA & Ors v Secretary of State for the Home Department [2025] EWCA Civ 1516 (26 November 2025)* a senior panel of the Court of Appeal has weighed in providing guidance on the correct approach to Article 8 family life between adult siblings.

The appeal concerned a family of 6 resident in Gaza who had applied to join the Sponsor in the United Kingdom. The Sponsor was the younger brother of the lead Appellant. It was accepted that the Appellants could not meet the requirements of the Immigration Rules. The Upper Tribunal had upheld a finding of the FTT that there was family life and had gone on, after finding an error of law in the approach of the FTT to Article 8(2), to find that the decision disproportionately interfered with the Appellants' family life.

The Court of Appeal allowed the SSHD's appeal finding that the consistent jurisprudence of the European Court of Human Rights (the ECtHR) has been that family life for the purpose of Article 8 is normally limited to the core family and that there will be no family life between parents and adult children or adult siblings unless they can demonstrate "additional elements of dependence, involving more than the normal emotional ties" [10].

Article 8 and Adults: Doubling Down on Dependency: IA & Ors v Secretary of State for the Home Department [2025] EWCA Civ 1516 (26 November 2025)

The FTT had erred in applying the lower test of whether the Sponsor provided the Appellants with provided "real, effective or committed support". Applying the correct test family life had not been shown between the Appellants and the Sponsor.

The Court went on [11] to say that had family life been shown then it would have been appropriate to consider the unitary nature of family life (*Beoku-Betts v. SSHD [2008] UKHL 39, [2009] 1 AC 115*) however in undertaking the proportionality balance the court is looking primarily at the Article 8 rights of those persons within the jurisdiction of article 1 of the ECtHR, in this case, the Sponsor.

The Court further found [12] that the UT made several errors in conducting the proportionality balance: very exceptional circumstances had not been found; insufficient regard had been paid to the immigration policies of the SSHD; and the UT had overstated the importance of the family's short-lived family life with the sponsor, the best interests of the children of the family and the admittedly serious risks faced by the family in Gaza.

At [116] to [125] the Court sets out the correct test to apply to determine if there is family life between adult siblings under Article 8(1) namely whether there are "additional elements of dependence, involving more than the normal emotional ties".

Entry Clearance Officer v BB & Ors [2026] EWCA Civ 973 (31 July 2026)

1. The main issue in this appeal concerns the meaning of "family life" between adults in Article 8 of the European Convention on Human Rights ("ECHR"), particularly in the immigration context. Article 8 is one of the Convention rights set out in Schedule 1 to the Human Rights Act 1998. As the case law on Article 8 demonstrates, the "core" of the right to respect for family life concerns the relationship between a parent and a child in the strict sense, that is a person under the age of 18, but the scope of the right is not limited to that core and may extend, for example, to the relationship between a parent and an adult child or that between adult siblings.

2. The Respondents to this appeal were refused entry clearance to the United Kingdom ("UK") to join their sponsor, S, as members of his family. Their appeal was dismissed by the First-tier Tribunal (Immigration and Asylum Chamber) ("FTT"), in a decision of FTT Judge Bennett, promulgated on 23 July 2024. In the Upper Tribunal (Immigration and Asylum Chamber) ("UT"), in a decision promulgated on 14 February 2025 ("the error of law decision"), UT Judge Bruce concluded that the FTT had erred in law and set aside that decision. By a further decision of 27 August 2025 ("the remade decision"), the UT allowed the appeals on human rights grounds.

...

68. In my judgment, in those detailed and lengthy reasons, when they are read fairly and as a whole, the FTT did not fall into error as a matter of law. The FTT did not misdirect itself, save in so far as it applied a legal test (set out in the dicta of Sedley LJ in *Kugathas* which have now been disapproved by this Court in *IA*) which was in the Respondents' favour rather than in favour of the Secretary of State. As this Court has now made clear in *IA*, the test is one of dependency and not simply one of effective, real or committed support.

69. In my judgment, the UT also fell into error in concluding that there was only one reasonable answer available to the question before the FTT. Applying the judicial restraint which is incumbent on an appellate tribunal in this context (see *Ullah*) the UT should have resisted the temptation simply to interfere with the conclusion of fact and evaluation which was for the FTT to make in this case. In that context, I would emphasise that the FTT referred in its judgment to all the medical and other evidence which was before it, and had the advantage of hearing oral evidence from the Sponsor and Mr Perkins.

https://www.bailii.org/ew/cases/EWCA/Civ/2026/973.html

Visit Visas & Article 8 Family Life: Entry Clearance Officer v FA [2026] EWCA Civ 1014 (30 July 2026)

Court of Appeal allow ECO's appeal. UT was correct that the refusal was a refusal of a human rights claim but had erred in applying the wrong test as to the engagement of Article 8 - the correct test being that in IA. Important to note the obiter comments at §§76-78 about the correct approach to Article 8 on appeal and meeting the Immigration Rules.

58. For those reasons, I am satisfied that the entry clearance officer did decide to refuse a human rights claim. The Upper Tribunal was correct to conclude that the First-tier Tribunal erred when it said it had no jurisdiction to hear the appeal. It did, pursuant to section 82(1)(b) of the 2002 Act. I would refuse ground 1 of the appeal.

...

69. I have no doubt that the Upper Tribunal did err in the present case. On a fair reading of the whole of the decision, it is clear that the Upper Tribunal did apply the wrong test. It applied the real, committed and effective support test. It conflated that test on occasions with issues of additional dependency. But the test it identified at paragraph 16 was the one it applied, namely was there real, effective and committed support between the daughter and FA and if so, it regarded that as demonstrating the existence of a family life within the meaning of Article 8 of the Convention. Having reviewed the evidence, it then applied that test as appears from paragraphs 107 and 108 of its reasoning. That test, however, is not the correct one and is different from, and lower, than the test that needs to be applied, namely whether there are additional elements of dependency in the sense referred to in IA.

https://www.bailii.org/ew/cases/EWCA/Civ/2026/1014.html

Visit Visas & Article 8 Family Life: Entry Clearance Officer v FA [2026] EWCA Civ 1014 (30 July 2026)

76. I would, however, make the following observations. The Upper Tribunal considered that the question of whether any interference was justified could be answered by the Upper Tribunal deciding for itself whether or not FA met the requirements of the Immigration Rules for the grant of entry clearance as a visitor. It took the view that if it thought that FA met the requirements (irrespective of what the entry clearance officer decided) that would mean that there was no public interest in refusing entry. It relied on the decision of this Court in TZ (Pakistan) [2018] EWCA Civ 1109.

77. That analysis may not be correct. There are situations where questions of fact are left to the First-tier Tribunal (or Upper Tribunal when re-making a decision) to determine. That arises notably when paragraphs of, or appendices to, the Immigration Rules are meant to ensure respect for Convention rights. The obvious situation where this is so concerns Appendix FM to the Immigration Rules which deals with those seeking to enter or remain on the basis of their family life. That Appendix is intended to ensure that decisions are taken which are compatible with Article 8 of the Convention. Similarly, Parliament may leave matters of fact to be determined by tribunals. Section 117C of the 2002 Act, for example, sets out tests which a court or tribunal must apply when deciding whether the deportation of a foreign criminal is compatible with a person's right to respect for private and family life.

78. My provisional view, without the benefit of full argument, is that the position in relation to other parts of the Immigration Rules may well be different. The Immigration Rules provide for the grant of leave to enter in a wide variety of situations. The person who decides whether to grant leave to enter will usually be an entry clearance officer (or possibly an immigration officer). In the case of entry clearance for a visit, for example, it is the entry clearance officer who will determine if an applicant satisfies the requirements of the relevant paragraphs of the Immigration Rules. There is no appeal against the decision by an entry clearance officer that a person does not meet the requirements of the Immigration Rules. Any claim that the Immigration Rules have been wrongly applied in such cases, or that the decision is perverse, is a matter which may, in appropriate circumstances, be challenged by way of a claim for judicial review not by way of an appeal to the First-tier Tribunal.

Family Proceedings & Immigration Appeals
Ahmed v The Secretary of State for the Home Department [2026] EWCA Civ 509 (28 April 2026)

In *Ahmed* the Court of Appeal considered the proper approach of the First-tier Tribunal (FTT) to determining an appeal when there are proceedings in the family court running concurrently [1].

In this case the FTT had dismissed the Appellant's appeal on the basis that the family court proceedings had been instituted to delay or frustrate the immigration process and not to promote the child's welfare. The Tribunal held that the Appellant had shown little interest in contact with the child and lacked commitment to the progress of the family court proceedings [6]. The Upper Tribunal (UT) dismissed an appeal against the FTT decision and the Appellant appealed to the Court of Appeal.

The Court considered the jurisprudence in particular *RS v Secretary of State for the Home Department [2012] UKUT 218 (IAC)* which was endorsed by the Court of Appeal in *Mohan v Secretary of State for the Home Department [2012] EWCA Civ 1363; [2013] 1 WLR 922*. If the Tribunal finds that Article 8 requires an applicant to remain in the United Kingdom pending the outcome of the family court proceedings it will either allow the appeal, for the SSHD to grant a period of limited leave, or it will adjourn the immigration appeal [20].

Family Proceedings & Immigration Appeals
Ahmed v The Secretary of State for the Home Department [2026] EWCA Civ 509 (28 April 2026)

The issue that Tribunal has to determine is therefore does the individual have an Article 8 right to remain pending the outcome of the family court proceedings [22(1)] and whether the appeal should be allowed or adjourned [22(2)]. The Court rejected that argument that there is a hierarchy and the primary position is that the appeal should be allowed [23].

At [24] Lewis LJ says that the, *'the questions identified at paragraph 43(i) to (iv) in RS are questions to be considered as part of the process of deciding if a person has a right derived from Article 8 to remain in the United Kingdom pending the conclusion of the family court proceedings'* and goes on at [25] to [28] to show how these factors apply in the relevant context.

At [28] Lewis LJ cautions that care needs to be taken that the Tribunal does not reach a final decision on what is in the best interests of the child in terms of the family issues as that is a matter, ultimately, for the family court to determine. The Court went on to reject the Appellant's appeal [61] although it noted that the Appellant had now obtained an order for contact from the family court [63] and that the Appellant may therefore wish to make a new application to the SSHD [64].

https://www.bailii.org/ew/cases/EWCA/Civ/2026/509.html

Sponsor Licence Cases

Rampant Revocations

Sponsor Licence Revocation

The significant uptick in sponsor licence revocations by the SSHD has led to a large number of judicial review challenges going through the courts particularly from sponsor in the care sector.

In *Southcroft Healthcare Lodge Limited, R (on the application of) v Secretary of State for the Home Department [2026] EWHC 350 (Admin)* the Deputy Judge upheld the revocation of the Claimant's sponsor licence. The SSHD had revoked on five grounds [18]: the Claimant had assigned 97 certificates of sponsorship under the incorrect code which was a mandatory ground for revocation and alone was sufficient to warrant revocation; that in a three month period four workers had been paid less than the minimum amount in accordance with their annual salary which again was a mandatory ground for revocation and justified revocation by itself; thirdly that the level 1 user had shared his password and access to the Sponsor Management System (SMS); fourthly that the Claimant had no proper system in order to check on monitor employees right to work; and fifthly the Claimant had failed to provide requested documents.

The Deputy Judge rejected all of the Claimant's grounds of challenge. In terms of the salary underpayment issue the Deputy Judge agreed that it was lawful for the SSHD to assess a worker's pay over a three month period and that she did not have to wait for a year [58]. The Deputy Judge relied upon the decision in *Treal Care (UK) Limited v. Secretary of State for the Home Department [2025] EWHC 1797 (Admin)* and that the SSHD is entitled to identify a sufficiently meaningful period of time to check whether the annual salary stated on the certificate of sponsorship is being paid. This is of interest as the SSHD has subsequently amended the immigration rules (HC 1691) to require workers are paid their required salary in each pay period.

Sponsor Licence Revocation

In Blue Inn Ltd, R (On the Application Of) v Secretary of State for the Home Department [2026] EWHC 1649 (Admin) (01 July 2026) the Deputy Judge found that the SSHD's revocation decision was unlawful on procedural fairness grounds.

The Claimant in this case operates in the construction industry providing temporary and permanent staff on various projects. The SSHD revoked the Claimant's licence on mandatory grounds set out in Annex C1(x), (z), and (aa) of the Part 3 Guidance [30]. The SSHD also relied upon discretionary grounds but these were not dispositive of the claim [31].

The Claimant's challenge focussed upon the procedural fairness and rationality of the alleged third-party labour supply [50], the genuineness of sponsored roles [51], and compliance with salary requirements [52]. In terms of the allegation pursuant to Annex C1(z), that the role was not genuine, the Deputy Judge considered the jurisprudence [64-65] and agreed with the analysis in R (on the application of Prestige Social Care Services Ltd) v Secretary of State for the Home Department [2025] EWHC 2860 (Admin).

In this case the Judge considered that the SSHD was alleging dishonesty [67] and found that that she had failed to set out her case in any coherent way in the light of the evidence indicating that the vacancies were genuine. The Judge went on to find [69] that even if the SSHD was not alleging dishonesty she had acted in a procedurally unfair manner in failing to make further enquiries following the letters provided from the construction companies which addressed her concerns [71]. The Judge held that this also applied equally to the C1(x) ground.

The Judge also found for the Claimant in respect of the salary requirement ground stating at [83] that *'I have concluded that the more limited procedural fairness failings here are still sufficient to make out this ground. In reality the constellation of overall procedural unfairness vitiates the fairness of the approach taken to this aspect of the claim.'* The Judge went on to reject the SSHD's argument pursuant to section 31(2A) Senior Courts Act 1981 and allowed the claim for judicial review.

Important Civil Penalty Decision from the Supreme Court
Akbars Restaurant (Middlesborough) Limited (Appellant) v Secretary of State for the Home Department (Respondent) [2026] UKSC 26

Supreme Court allows Akbars appeal

To assess whether a penalty notice issued under section 15 complies with the requirements of that provision, it is necessary to look at the substance of the notice read as a whole. The question in this appeal is therefore whether, reading the penalty notice as a whole, it complied with section 15(6)(a) [32]. That depends upon the proper interpretation of section 15(6)(a), read in its context and having regard to its proper purpose [33].

...

In order to decide that she has power to issue a penalty notice, the Secretary of State has to decide which limb of section 15(1) applies. In that context the ordinary meaning of section 15(6)(a) is that the Secretary of State must state which limb it is that she thinks applies. The constitutional context referred to supports that interpretation, as does the statutory scheme in the context of which section 15 appears [39]-[46]. The purpose of section 15(6)(a) is plainly to inform an employer in receipt of a penalty notice about why it is being imposed, and to enable them to make an informed decision whether to appeal to challenge that reason [51].

https://supremecourt.uk/cases/uksc-2025-0024

Protection Cases

Country Guidance, Danger to the Community and more

Iraq CG Set Aside: AH & Ors, R (On the Application Of) v Secretary of State for the Home Department (Identity documentation; returns to the KRI) Iraq CG [2026] UKUT 150 (IAC) (14 April 2026)

Country bulletin: internal relocation, civil documentation and returns (update following setting aside of country guidance), Iraq, July 2026

Updated guidance for decision makers following the setting aside of a Country Guidance decision promulgated in April 2026

https://www.gov.uk/government/publications/iraq-country-policy-and-information-notes/country-bulletin-internal-relocation-civil-documentation-and-returns-update-following-setting-aside-of-country-guidance-iraq-july-2026-accessib

Danger to the Community & Devaseelan: KD v Secretary of State for the Home Department [2026] EWCA Civ 349 (23 March 2026)

45. A judge making an assessment of risk, in this or any other context, undoubtedly enjoys a great deal of latitude. Provided they sufficiently identify the main features of the evidence and weight them up in a broadly coherent way, the assessment will be secure on appeal. On this ground of appeal, I am not much moved by some of Mr Malik's arguments. The FtT may have elided regret with remorse but the distinction, taken at its highest, could only have a limited effect on the risk assessment. The tribunal was bound to have regard to the fact that KD had committed a single offence, to how he had behaved in prison and responded to intervention, and to the view of the Parole Board, because all these matters were relevant to its own assessment. I also entirely agree that this court should exercise restraint and not strain to find errors of law.

46. Despite all of that, I have concluded that this decision of the FtT on this issue was not one that a reasonable decision-maker could have come to. In accepting that KD had proved that he was not a danger to the community, it demonstrably lost sight of a number of matters.

47. The assessment of whether a person who has committed a particularly serious crime constitutes a danger to the community involves consideration of the nature of the crime, the likelihood of further serious offending, and the level of harm that might result.

48. The passage cited at [41] above shows that the FtT acknowledged the seriousness of KD's offence, but it immediately diluted that with statements that it was a single offence. Similarly it gave no adequate consideration to the fact that the foreseeable consequences of any reoffending were extremely serious, even if they were less than fatal. Most fundamentally, even after all remedial efforts on the part of KD and those seeking to help him, there was still a real risk of repetition. The FtT did not depart from the assessments that he remained a "medium risk of serious harm to intimate partners", with a "low likelihood of serious harm to everyone else". However, it undercut them by noting that the risk assessment in respect of intimate partners had been reduced from high to medium, as if that gave reassurance.

50. We were shown MA (Pakistan) by Mr Malik. The applicant had received a three year sentence for money-laundering and was facing deportation. He sought permission to appeal to this court from the rejection of his appeal by the UT, one of whose conclusions was that the s.72 presumption was not displaced because he posed a real risk of committing further offences. He argued that the tribunal should not have gone beyond the probation officer's assessment, which was that there was a 17% chance of reoffending within 2 years. Elias LJ, with whom the other members of the court agreed, stated at [19] that the tribunal was not bound by the probation service assessment, and he added that in any event:

"A risk of 17% re-offending over a 2-year period is not, in my judgment, in the context of a deportation case a matter which can be treated as insignificant. It is a good reason for supporting a decision to deport."

This was a permission decision, albeit one emerging from full argument, but it illustrates a correct approach to risk assessment in a case where the past offending and the consequences of repetition were of a far lesser order of magnitude than in the present case.

Danger to the Community & Devaseelan: KD v Secretary of State for the Home Department [2026] EWCA Civ 349 (23 March 2026)

51. All assessments of dangerousness depend on their facts. In this case, the index offence and the feared harm were of such gravity that, in order to displace the statutory presumption, KD would have had to show that the likelihood of future serious offending was so low that it could effectively be discounted. The FtT did not reach that conclusion and the evidence came nowhere near to supporting it. Its decision on this issue was not reasonably open to it and it was, in the legal sense, perverse. As seen at [30] above, the UT did not properly engage with the Secretary of State's challenge.

52. I would substitute a decision that the s.72 presumption has not been displaced and that KD is therefore not eligible for the protection of the Refugee Convention. The conclusion on this ground is sufficient, if my Lords agree, for the Secretary of State's appeal to succeed, because the tribunal decisions were based entirely on acceptance of KD's claim for asylum on the basis of imputed political opinion. However, that does not determine his human rights claims under Articles 2 and 3, based on imputed political opinion and blood feud, and Grounds 3 and 4 must therefore be addressed as well.

...

65. The guidelines in Devaseelan are an important weapon in the armoury of tribunals seeking to achieve a consistent approach that is fair to all parties when faced with similar or repeat appeals. However, as Dove LJ observed during argument, there is a danger that, being so familiar to specialist judges, they are not fully applied.

66. To illustrate, the first guideline, which created the concept of a 'Devaseelan starting point', calls for more than a recognition that there has been a previous decision. In order to identify the true location of the starting point for its own journey, the second tribunal must identify the scope of the issue(s) that may be common to the two appeals, and analyse what the first tribunal found and why. It is only by doing this that it can know what significance should properly be attached to the first appeal decision, before going on to apply the guidance as a whole. The other guidelines, insofar as they are relevant to the inquiry in the individual case, require equal consideration. A broad statement by the second tribunal that it is treating the first tribunal's decision as its starting point is not an application of the Devaseelan guidance and is likely to lead to error, one way or the other.

https://www.bailii.org/ew/cases/EWCA/Civ/2026/349.html

The correct approach to persecution: MN (Vietnam) v Secretary of State for the Home Department [2026] EWCA Civ 485

47. The appellant is entitled to draw attention to the case of *Bouyid* as indicating that a blow to the face in police custody is capable of constituting degrading treatment contrary to Article 3. Indeed, as has already been observed, Stuart-Smith LJ in *Demirkaya* noted that in some circumstances a single episode of ill-treatment could be found to amount to persecution. However, as all the authorities emphasise, these cases are acutely fact-sensitive and closely dependent upon their context. The FtTIAC judge had to reach conclusions based upon the subjective and objective evidence in this case. The finding based on the material in this case that what had happened to the appellant when he attended the demonstration, and what could happen to the appellant on return, were not sufficiently serious or sufficiently severe so as to amount to persecution was a conclusion which was open to the judge and for which he provided clear and adequate reasons. I do not consider that the appellant's third strand of argument is made out.

https://www.bailii.org/ew/cases/EWCA/Civ/2026/485.html

The failure of a HOPO to challenge a matter in cross-examination: MR (Pakistan) v Secretary of State for the Home Department [2026] EWCA Civ 473

78. It is necessary to identify, first, the nature of the 'rule' which was at issue in *TUI*. The rule is not a rule that (subject to exceptions) a party to litigation may not make submissions impugning the credibility or reliability of the evidence of a witness unless the witness has been cross-examined about those points. The rule as explained in the cases summarised by Lord Hodge is narrower than that. It is based on fairness, and on the principle, referred to by Bean LJ in his dissent, that litigation should not be conducted by ambush. The rule does not apply if the witness already knows, because the questions have been articulated earlier in the litigation, that his evidence is disputed, and, he is not, therefore, taken by surprise. The rule, rather, is that if he does not know in advance about the disputed matters, and has not been cross-examined about them, submissions cannot be made impugning his credibility (unless an exception to the rule applies). This case is quite different from *TUI*. MR has known since the date of the Decision that the Secretary of State's position, which was maintained in the RR, was that the Secretary of State relied on determination 1; and that the Secretary of State's case was that MR's new evidence did not displace findings in determination 1. MR had the opportunity to deal, and did deal, with that position in his witness statement. I therefore consider that Ms Elliot's refusal to accede to the invitation to rely on one of the express exceptions to the 'rule' was not only principled, but correct.

https://www.bailii.org/ew/cases/EWCA/Civ/2026/473.html

The failure of a HOPO to challenge a matter in cross-examination: MR (Pakistan) v Secretary of State for the Home Department [2026] EWCA Civ 473

86. The Secretary of State served a Respondent's Notice ('RN'), on which we heard argument. My conclusion on the appeal means that I do not need to decide anything about the RN. I would make three points, nevertheless. First, I do not accept that the F-tT has an inquisitorial function in the new procedural climate ushered in by *Lata* and the associated Practice Statements. Broad statements to that effect in older cases such as that in paragraph 25 of *MN (Somalia)* should not be read across to this new procedural regime. That does not detract from the valid point that the F-tT's duty of anxious scrutiny in an asylum case applies to the arguments of both sides.

87. Second, it follows that there is even less scope, if any, in this new procedural climate for forensic adventures which would require the F-tT to 'descend into the arena' by cross-examining an appellant. The F-tT, must, of course, clarify with the parties any points about their arguments which it does not understand, if necessary by asking a follow-up question of the appellant. But it is not its function to cross-examine the appellant if the Secretary of State advertently chooses not to.

88. Third, this case does not, on any view, involve a '*Robinson* obvious' point (*R (Robinson) v Secretary of State for the Home Department* [1998] QB 929). Such a point is a point of refugee law which favours a person who claims to be a refugee. The appellate authorities are obliged to take such a point in an appellant's favour even if he does not. The point must be 'obvious' and arguable with 'strong prospects of success': 'nothing else will do'. The reason for this principle is that it is necessary to enable the United Kingdom to comply with its obligations under the Refugee Convention.

89. This principle has only very rarely been extended in favour of the Secretary of State. I only know about one case (about the revocation of refugee status: *A (Iraq) v Secretary of State for the Home Department* [2005] EWCA Civ 1438; [2006] Imm AR 114). *Secretary of State for the Home Department v George* [2024] EWCA Civ 1192; [2025] 1 WLR 1025 is a recent decision in which this court held that the Secretary of State cannot rely on *Robinson* in a deportation case. A mistaken or over-generous grant of refugee status is, in principle, different from a failure to invoke the Refugee Convention in a refugee's favour, or from a revocation case. Such a grant would not lead to a breach of the United Kingdom's obligations under the Refugee Convention. If, therefore, it supposed that a failure by the F-tT to cross-examine MR would or could have led to a mistaken grant of refugee status, there is no arguable basis for reliance on the *Robinson* doctrine.

New CG case on Albanian male victims of trafficking: LR (Male VOTs) Albania CG [2026] UKUT 00315 (IAC)

There is a 25 paragraph headnote! So only extracts below. The Appellant's appeal was allowed on Refugee Convention Grounds

(1) Profile. There is no typical profile for Albanian male victims of trafficking ('VOTs'). Certain common themes are encountered amongst those who have been trafficked. Often they tend to: be teenagers or young adults; come from less affluent or marginalised backgrounds; have received a limited education; have experienced domestic violence or neglect. However, male VOTs might become vulnerable to trafficking for a variety of reasons, and come from all parts of Albania and from varied social backgrounds.

(2) Risk factors. The following non-exhaustive list of risk factors may lead an Albanian male to become a VOT:

(i) Lower socio-economic status including homelessness

(ii) Lower levels of education and difficulty in securing legitimate employment

(iii) Ill health, whether physical or mental, including addiction

(iv) Originating from Northern Albania or a rural area

(v) Age, with younger men and teenagers being more vulnerable

(vi) A lack of a family or other support network, whether by reference to blood feud, criminality or adverse childhood experiences

(vii) Belonging to a minority ethnic group or having an LGBT identity

(3) It is important to bear in mind that the presence of multiple factors may compound or increase risk but one risk factor may be sufficient to make a person a VOT.

(6) Risk on return. An individual who escapes from a situation of trafficking or otherwise manifests an unwillingness to be involved in drug-related or other criminality may be at risk on return to Albania. He might be at risk of re-trafficking and/or reprisal at the hands of his original traffickers or at risk of re-trafficking at the hands of another.

(25) Particular Social Group ('PSG'). Albanian male VOTs share a common background and, because they are perceived as different by surrounding society, have a distinct identity in Albania. They are therefore members of a PSG both pre and post Nationality and Borders Act 2022. There must be a causative link between the fear of persecution and the membership of the PSG.

https://www.bailii.org/uk/cases/UKUT/IAC/2026/315.html

Brexit, Criminality & Deportation

Criminal conduct and 31st December 2020

Brexit, criminality & deportation

In *Molnar v Secretary of State for the Home Department [2026] EWCA Civ 31* the Court of Appeal considered the appeals of *Molnar* and *Vargova* and what regime applies to their deportation. The Court considered the interpretation of the Withdrawal Agreement (WA) where the Appellants were both European nationals with ILR and had been convicted of offences committed after IP Completion Day and received sentences of more than 12 months. As Laing LJ posed the question [1] *'Is it solely the regime in national legislation, or something different? If it is something different, and EU law is still relevant, to what extent do the provisions of the Citizens' Rights Directive, that is, Directive 2004/38 ('the CRD'), still bind the United Kingdom and therefore apply in such cases?'*.

Laing LJ found that while initial deportation notices constitute a 'restriction' on residence rights under the WA [98] (allowing Ground 1 of Vargova's appeal), she dismissed both appeals on Ground 2 holding that Article 20.2 of the WA provides that conduct occurring after IP Completion Day gives states grounds for restricting residence rights in accordance with national legislation rather than EU law [127]:

Brexit, criminality & deportation

127. Conduct committed before the Day must 'be considered in accordance with Chapter VI'. That is an obligation. In such cases, that entire package of procedural and substantive protections continues to bind member states and the United Kingdom. Article 20.2 of the WA permits member states and the United Kingdom to treat the conduct committed after the Day as 'grounds for restricting the right of residence in accordance with national legislation'. So states are given the option to treat conduct committed after the Day as 'grounds' (or a reason or a justification) for restricting rights of residence 'in accordance with national legislation'. Article 20.2 does not say that Chapter VI applies to the conduct. It implies the opposite freedom, that is to consider that conduct in accordance with national legislation.

Laing LJ rejected the Appellants' argument that Article 21 of the WA required an individual proportionality assessment beyond what is provided in national legislation. Laing LJ agreed with the SSHD that Article 20 is the *lex specialis* for post Implementation Period conduct [131] and held that Article 21's procedural safeguards can only apply to the extent they are not inconsistent with Article 20.2 [134].

Brexit, criminality & deportation

In *VDS (Deportation; conduct; IP Completion Day) Italy [2026] UKUT 152 (IAC) (16 October 2025)* the UT gave guidance on cases where there is conduct spanning both before and after IP Completion Day and held that the terms of the WA do not prevent the SSHD from only relying upon conduct occurring after IP completion day when making the Stage 1 decision, but considering conduct occurring both before and after IP completion day when making a Stage 2 decision addressing a human rights claim.

The Tribunal went on to say [head note 2] that where, *'the SSHD makes a decision to deport a person as a result of the sentence imposed for a particular offence, the decision to deport is taken in reliance on the conduct that is particularised in the offence that was proven against the person. Consequently a Stage 1 decision to deport made in reliance on an offence that was committed after IP completion day applies the domestic deportation regime in accordance with Article 20(2) of the Withdrawal Agreement. The fact that pre IP completion day conduct was considered in a separate decision-making process by the sentencing Judge, cannot be transposed into the Stage 1 decision.'*

Artificial Intelligence

Avoiding hallucinations and *Hamid*

Artificial Intelligence

The Upper Tribunal has continued to issue stern warnings to practitioners on the misuse of Artificial intelligence (AI). UK and R (on the application of Munir) v Secretary of State for the Home Department (AI hallucinations; supervision; Hamid) [2026] UKUT 81 (IAC) (17 November 2025) was a Hamid (R (Hamid) v SSHD [2012] EWHC 3070 (Admin)) decision involving two cases (one appeal and one Judicial review) where grounds contained false citations for non-existent cases. The Tribunal were not negative about the proper use of AI and said at [18]:

We do not suggest for a moment that the use of legal AI programmes by properly trained professionals is anything other than a step forward in legal practice. The software which is currently available is of enormous benefit in properly focused legal research, as it is in other contexts such as large disclosure exercises. But any practitioner who uses non-specialist AI to undertake research or drafting is obliged to undertake rigorous checks to ensure that any information gleaned from those sources is true and accurate. Anyone with responsibility for legal practice at a firm of solicitors or regulated legal advisers must be aware of those pitfalls and of the need to warn staff about the dangers of using non-specialist AI.

Artificial Intelligence

However the Tribunal issued the following guidance which practitioners should take heed of:

57. Legal professionals are obliged to ensure that legal arguments which are presented to the First-tier Tribunal or Upper Tribunal are factually and legally accurate. Those who cite false cases fail to comply with that professional obligation and waste the time of the Tribunal.

58. A solicitor or other legal professional who delegates their work to another fee-earner remains responsible for the supervision of their work and for ensuring its accuracy. Such supervisors must ensure that fee-earners under their supervision are aware of the dangers of using non-specialist AI for legal research and drafting. Failures to do so, or to undertake appropriate checks on the drafting of fee-earners is likely to result in a referral to the Solicitors Regulation Authority or other regulatory body. A supervisor who fails to ensure that the work of a more junior fee-earner does not contain false cases or citations is likely to be more culpable than a lawyer who fails to ensure that his own work is free from such "hallucinations".

59. The claim form by which judicial review is sought in the Upper Tribunal has now been amended so as to require a legal representative to confirm by a statement of truth that any authority cited within the form or in any documents appended to it (a) exists; (b) may be located using the citation provided; and (c) supports the proposition of law for which it is cited. Other forms and directions are to be similarly amended. A legal representative who signs such a statement in a case in which false authorities are cited should ordinarily expect to be referred to their regulatory body.

60. Uploading confidential documents into an open-source AI tool, such as ChatGPT, is to place this information on the internet in the public domain, and thus to breach client confidentiality and waive legal privilege, and any such conduct might itself warrant referral to the regulatory body and should, in any event, be referred to the Information Commissioner's Office.

In both cases the Tribunal found that a referral to the relevant professional regulator was warranted.

BSB Guidance on the use of Artificial Intelligence and Other Technologies

https://www.barstandardsboard.org.uk/static/5e1baa5c-614c-4105-afae9a9ccdf8d97b/c0d1ed62-fcad-4a68-8ab810de5fa9b116/Artificial-Intelligence-Guidance-May-2026.pdf

A risk-based approach

We encourage you to take a risk-based approach to technology adoption and use, satisfying yourself that you have identified and can manage the risks and costs a particular technology for a particular use may pose, and that the benefit it presents in that situation outweighs those risks. You should take appropriate steps to manage the risk, having regard to this guidance, ongoing developments in the legal technology space, and general standards for AI governance and risk management.

Barristers should be able to demonstrate they have taken a reasonably active and informed approach to managing technology risks, proportionate to the risk or harm (Core Duty 10). Risk may arise from the application (i.e. the intended outlet for the tool output, including the area of law and characteristics of your client), the use (i.e. the manner in which you use the tool), and the technology itself (i.e. the specific tool you use). We encourage you to consider the interactions of these three factors in determining whether it is safe to proceed, the degree of competence you may require for safe use, and what risk mitigations may be necessary.

SRA cautions profession about safe and responsible use of AI in legal sector

‘AI is increasingly being used across the legal sector to support tasks such as research, drafting, document review and administrative processes. Used appropriately, the technology has the potential to improve efficiency and enhance services for consumers.

While many firms are using AI safely and responsibly, recent cases have highlighted the importance of ensuring appropriate human oversight and governance arrangements. Not understanding how to use AI safely and responsibly can lead to inaccurate information, breaches of confidentiality and potential harm to consumers.

The SRA's key concerns include:

AI-generated inaccuracies, or 'hallucinations' in legal research, advice, analysis and submissions to the court.

Instances of confidential client information being entered into AI tools that lack appropriate safeguards, risking potential breaches of confidentiality and wider data protection requirements. ‘

https://www.sra.org.uk/news/news/releases/responsible-use-ai/

Warning notice: https://www.sra.org.uk/solicitors/guidance/misuse-ai/

Practice & Procedure

Fairness, Fee Waivers & More

Court of Appeal endorses approach in *Lata* and 'the principal controversial issues': AL v Secretary of State for the Home Department [2026] EWCA Civ 370

The recent Practice Directions of the FTT (IAC) have referred to the fact that the 'disputed issues represent the parameters, or scope, of the appeal and will operate as the foundation and structure for all judicial decisions.' There have been a number of UT decisions emphasising the importance of the disputed issues/principal controversial issues: TC (PS compliance - "issues-based" reasoning) Zimbabwe [2023] UKUT 164 (IAC) & Lata (FtT: principal controversial issues) India [2023] UKUT 163 (IAC). In AL the Court of Appeal endorsed the approach in Lata and found that the UT did not err in finding that the Appellant had not [4] 'in the context of article 3, raised, or put evidence before the F-tT about, the impact on her health of being separated from her family in the United Kingdom.' At [89] Laing LJ said that:

It is clear from Lata that it is an appellant's responsibility to put all her arguments before the F-tT. It is her duty to identify the points which the F-tT is required to resolve in order to decide the appeal…

The F-tT must decide those issues, and give reasons for its decision on them. But the F-tT can only decide them, and is only obliged to decide them, if the parties expressly identify them.

Laing LJ went on to say that the function of the Tribunal is not inquisitorial [90] and that the only two qualifications [91] to that were where the FTT does not understand or is doubtful about an issue which is before it and secondly that the narrow principle in Robinson means that in some Refugee Convention cases, the FTT may be obliged to investigate and decide a point which an appellant has not identified. The appeal was dismissed.

https://caselaw.nationalarchives.gov.uk/ewca/civ/2026/370

New points of law in the Court of Appeal

In Secretary of State for the Home Department v OSB [2026] EWCA Civ 647 the Court of Appeal allowed the SSHD's appeal in a deportation case setting aside the decisions of the UT and FTT. The Court of Appeal found that the FTT had engaged in impermissible speculation (too many links in the chain of causation) in an Article 3 medical case making the consequences too remote [31] and had failed to apply the intense suffering test [39] from AM (Zimbabwe) v Secretary of State for the Home Department [2020] UKSC 17 [2021] AC 633. Interestingly the Court considers whether the SSHD's appeal offends against procedural rigour. As Bean LJ says at [23]:

It cannot be said that the appeal from the FTT to the UT was satisfactorily pleaded. There was no reference to what Mr Malik KC says is a clear error of law by the FTT in apparently overlooking, or at least not expressly referring to, the requirement in a case of this kind of a real risk of intense suffering. Moreover, describing the sole ground of complaint as being that the FTT judge gave inadequate reasons for her decision is ambiguous. This was not a case of the English v Emery Reimbold type where the losing party can reasonably say "I do not understand why I lost". Rather it is a case where the losing party (the SSHD) is alleging that the reasons given in the FTT decision allowing OSB's appeal were legally unsound. The more significant objection is that the "intense suffering" point was not raised, although the notice of appeal did at least remind the UT that it should take a truly exceptional case for any individual, let alone one facing deportation, to resist removal on Article 3 medical grounds.

At §29 Bean LJ held that the SSHD should not be permitted to go behind the FTT judge's findings of primary fact but that the should be permitted to argue that even on the FTT's findings of fact the Article 3 test was not satisfied and that AM (Zimbabwe) was clearly raised before the FTT and the SSHD was not to know the the FTT would cite it inaccurately. Furthermore, OSB had not acted to his detriment on the faith of the omission to raise the point before the UT and his experienced legal advisors have had adequate time to deal with the point.

New points of law in the Court of Appeal

This issue was again picked up by the Court in Entry Clearance Officer v Oniel Spence [2026] EWCA Civ 722 where the SSHD's appeal, against a successful Article 8 entry clearance appeal was allowed. In this case the FTT had allowed the appeal even though Spence had a conviction for a sexual offence against a child and there were serious doubts over whether he had addressed his sexual attraction to children. The SSHD appealed to the Court of Appeal who dealt with one of the grounds, whether the FTT's conclusion was inadequately reasoned and perverse.

Lewis LJ considered [35] if the SSHD's perversity ground was one which was raised in the UT and if not whether the Court of Appeal should grant permission to the SSHD to raise a new ground of appeal. Lewis LJ relied upon the decision in OSB and stated [35] that the Court does have a discretion to allow a new point of law, that is, one that was not raised in the UT, to be raised on an appeal to the Court of Appeal. Whilst Lewis LJ thought [37] that the grounds to the UT could have been better expressed he found that in substance the SSHD was making a perversity challenge and she was not now raising a new ground. Lewis LJ held that if it had been necessary he would have given permission to raise a new ground as the point involves an analysis of the logic of the FTT's own reasoning which would not require any new evidence and does not affect the way in which the proceedings before the FTT were conducted.

At [38] Lewis LJ concluded that the decision of the FTT was perverse and remitted the appeal to the FTT for redetermination. In a short concurring judgment Laing LJ [42-43] raises the issue of the approach in a human rights appeal where the SSHD has determined that entry clearance is not conducive to the public good. This matter will no doubt be considered in the near future.

Important report decisions on fee waiver applications and section 3C: R (on the application of Hussain) v Secretary of State for the Home Department (S.3C – Para 34G(4) – fee waiver) [2026] UKUT 00082 (IAC) (18 November 2025)

Section 3C and Paragraph 34G(4)

1. An application for leave to enter or remain which includes a fee waiver request 'anchors' the date on which that application for leave to enter or remain is made as being the date on which the online request for a fee waiver is submitted "as long as" the completed application is submitted within 10 working days of the receipt of the fee waiver decision.

2. In order to engage section 3C an application for variation of leave to enter or remain has to be made before the expiry of leave. In order to decide when an application is treated as being made, one has to refer to paragraph 34G of the Rules. Only by considering the two together is it possible to determine whether an application was made before the expiry of leave or not.

3. Paragraph 34G(4) of the Immigration Rules requires an intermediate step "where the online application includes a request for a fee waiver": the submission of the completed application within ten working days of the decision on the fee waiver application. It is not until that step is taken in accordance with the timescale set out in paragraph 34G(4) that "the application for variation is made" for the purposes of s.3C(1) of the Immigration Act 1971. If that step is not taken, there is no application which has the effect of conferring leave under s.3C and neither is there an application for leave to enter or remain for the purposes of s.4(1) of the 1971 Act.

4. It is not the decision on the application for variation of leave which ends 3C leave. The absence of a timely application for leave nullifies the temporary protection afforded by the submission of a fee waiver request.

Receipt

5. If the respondent can evidence a successful delivery receipt, this is sufficient to constitute receipt for the purposes of paragraph 34G(4).

https://www.bailii.org/uk/cases/UKUT/IAC/2026/82.html

Entry Clearance, Deception & Fairness: R (on the application of Kaur) v Entry Clearance Officer (New Delhi) (ECO allegation of deception; fairness) [2026] UKUT 00080 (IAC) (04 December 2025)

In *Kaur* the UT, whilst dismissing an application for Judicial Review on all grounds, found that fairness principles to entry clearance cases where the SSHD is alleging deception.

The duty to act fairly requires that an entry clearance applicant who is accused of deception for reasons she could not reasonably have been expected to know about, and who would face mandatory refusal of future applications on account of a finding of deception, should generally be given notice of that allegation and an opportunity to respond to it before her application is decided.

https://www.bailii.org/uk/cases/UKUT/IAC/2026/80.html

Excluding late evidence in the Tribunal: Dawrani (Judicial discretion - late evidence - sanction) Afghanistan [2026] UKUT 151 (IAC) (09 February 2026)

The UT have continued to emphasise the importance of procedural rigour in 2026 and have reaffirmed the sanctions available to Judges in respect of late evidence.

In Dawrani (Judicial discretion - late evidence - sanction) Afghanistan [2026] UKUT 151 (IAC) (09 February 2026) the UT held that in the exercise of the judicial discretion to admit or exclude belatedly served evidence, the principles settled in Maleci (Non-admission of late evidence) [2024] UKUT 28 (IAC), and supplemented by the SPT's Practice Direction of November 2024, apply. The UT stressed that it must no longer be thought that the mere presence of available and relevant evidence will invariably result in its admission, irrespective of whether it has been provided in compliance with case management directions

https://www.bailii.org/uk/cases/UKUT/IAC/2026/151.html

Vulnerable Appellants and Witnesses

In Khan v Secretary of State for the Home Department [2026] EWCA Civ 148 the Court of Appeal rejected an argument, in a case concerning the private life rules and Article 8, that a failure to follow the 'Joint Presidential Guidance Note No 2 of 2010: Child, vulnerable adult and sensitive appellant guidance' renders an appeal decision unlawful. Lewis LJ said at [37]:

I am satisfied that the Guidance Note is intended to provide guidance to ensure that parties are able effectively to participate in proceedings and to ensure that their evidence is properly and fairly considered. It is intended to assist the tribunal to deal with a case fairly and justly. The Guidance Note does not impose a set of free-standing legal obligations on a tribunal. The fact that a tribunal has not taken the steps set out in the Guidance Note does not necessarily mean that the tribunal has erred in law, still less that its decision on an appeal is legally flawed. The issue will ultimately be whether the proceedings were procedurally fair so that there was a proper opportunity to give evidence and have that evidence properly and fairly assessed. I reach that conclusion for the following reasons.

Lewis LJ concluded [49] that there was no procedural unfairness or any failure to assess the evidence properly.

ILR by Mistake? YC, R (on the application of) v Secretary of State for The Home Department [2026] EWCA Civ 285 (16 March 2026)

In *YC* the Court of Appeal considered [1] whether the SSHD has an implied power, incidental to her statutory powers, to withdraw, cancel, vary and/or correct a grant of indefinite leave to remain (ILR), in circumstances where a letter granting ILR has been sent to a claimant for asylum by her officials in error, in place of a letter granting that person limited leave to remain (LLR), as she intended. The majority (Cobb LJ and Dingemans SPT) held that the SSHD did possess and implied administrative power to correct obvious clerical errors.

Cobb LJ concluded [80] that *'The IA 1971 Act confers on the SSHD the power to grant ILR; this must be exercised by notice in writing. A power to make a correction of the type that the SSHD made in this case, so as to ensure that a notice communicates the SSHD's intended decision in respect of permission is, for the reasons set out above, in my judgment incidental – and is properly to be described as incidental – to the SSHD's powers under the IA 1971 to grant permission and to administer the system of immigration control.'*

Dingemans SPT similarly held [93] that, *'an administrative power to correct obvious clerical errors which are reasonably apparent to the beneficiary of the error, is an ancillary and incidental administrative power necessarily granted to the Secretary of State'* Laing LJ dissented [83-89] holding that ILR has a special status being different from other forms of leave to remain. Laing LJ relied upon s. 76 NIAA 2002 which gives the SSHD an express, and limited, power to revoke ILR in the circumstances stated in s. 76. The appeal was dismissed, confirming the substitution of LLR.

https://www.bailii.org/ew/cases/EWCA/Civ/2026/285.html

Solicitor’s Duties, False Documents & Judicial Review: Ahmed & Ors R (on the application of) v Entry Clearance Officer (Solicitors' duties: indication of fraud) (IJR) [2026] UKUT 273 (IAC) (10 November 2025)

1. Where there are "red flags" that suggest the client is seeking to use the solicitor's services in furtherance of a fraud, the solicitor cannot continue to act for their client without first making enquiries to satisfy themselves that the conduct is not fraudulent. To continue to act would be a breach of their professional obligations.

2. The duty of candour in judicial review applies equally to applicants and the respondent throughout the currency of the proceedings.

3. Where information is brought to a solicitor's attention, either by the Tribunal, the respondent or a third party, that, on the balance of probabilities, raises a prima facie case of iniquity on the part of their client, there is a duty on the solicitor to assist the Tribunal to ensure that its time and resources are not being abused in furtherance of a fraud.

4. A failure to comply with those duties may result in the Tribunal taking action against the solicitor under its Hamid jurisdiction.

https://www.bailii.org/uk/cases/UKUT/IAC/2026/273.html

New Reported Case on Expert Reports: Set this out in your letters of instruction & ensure experts comply with it!
SU (Expert reports – format) Bangladesh [2026] UKUT 00317 (IAC) (09 July 2026)

1. Expert evidence, particularly an expert report which evaluates information publicly available on the internet, of varying accuracy or reliability (so-called 'Digital Open Source Information') will assist the Tribunal if :

1.1 It is an independent product of the expert. Source material should not be copied into a report as if written by the author. If material is quoted from sources cited, it should be self-evidently identified as such with quotation marks and a web-link to the source and any translation into English provided, if available, so that source can be transparently evaluated.

1.2 It clearly identifies the sources relied upon for the information contained and, so far as possible, uses the primary source (such as a government press release, NGO report or the like) rather than a news article describing a primary source.

1.3 It directly considers the particular facts of an Appellant's case where asked to do so, applying the general conclusions to those facts; having due regard to any preserved findings of fact.

1.4 In circumstances where issues have been raised on aspects of an expert report by one of the parties, the expert addresses those concerns directly bearing in mind his or her overriding duty to the Tribunal to assist on matters within the expert's own expertise.

2. Where an expert is based outside of the United Kingdom and does not have permission to attend to be cross-examined, a written process may be followed. Rigour in the format of the report may limit the questions needed of the expert.

https://www.bailii.org/uk/cases/UKUT/IAC/2026/317.html

Child Appellants: AF (child appellant; representation and instructions) Nigeria [2026] UKUT 00274 (IAC)

1. The right of appeal in section 82 of the Nationality, Immigration and Asylum Act 2002 lies against the decision of the Secretary of State to refuse the claim "made by P" (i.e. the appellant). A third party cannot confer upon themselves the authority to exercise the right of appeal on behalf of a child appellant, when there has been no assessment of the appellant's capacity to give instructions and no attempt at all to speak to the appellant's parents, legal guardian or someone properly authorised to provide instructions on the person's behalf.

2. Although a litigation friend is not required in all cases where the appellant is a child, representatives and the Tribunal must consider whether the child is capable of giving instructions. That is, whether the child is capable of understanding, with the assistance of such proper explanation from legal advisers and experts in other disciplines, as the case may require, the issues on which his consent or decision is likely to be necessary in the course of those proceedings.

3. Where an appellant is a minor, their guardian or parent may bring an appeal on their behalf or if they are, for example, "Gillick" competent, they may give instructions directly. Where an appellant, particularly a child, is legally represented, it is vital that proper due diligence is completed to ensure that the instructions are being received from the child, one or both their parents or a guardian entrusted with the care of the child.

4. The principles and procedures set out in R (on the application of JS and Others) v Secretary of State for the Home Department (litigation friend – child) [2019] UKUT 64 (IAC) and the SRA Practice Note "Meeting the needs of vulnerable clients" are a safeguarding tool and should be followed. The potential for abuse and a child being exposed to risk cannot be underestimated.

https://www.bailii.org/uk/cases/UKUT/IAC/2026/274.html

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