



TRIBUNALS
JUDICIARY

FIRST TIER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
JUDGE MICHAEL CLEMENTS, PRESIDENT
PRESIDENTIAL PRACTICE STATEMENT No 1 of 2021:
ARRANGEMENTS DURING THE COVID-19 PANDEMIC

In accordance with the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014 (“the Rules”)

And the Amended Pilot Practice Direction: Contingency Arrangements in the First-tier Tribunal and Upper Tribunal issued by the Senior President of Tribunals on 18th March 2021

The following Practice Statement is made today by the President of the First-tier Tribunal (Immigration and Asylum Chamber) with the consent of the Senior President of Tribunals. It shall take effect on Monday 26 April 2021 and continue in force for so long as the Practice Direction referred to above is still in force unless it is revoked or amended on an earlier date. Presidential Practice Statement Note No.2 of 2020 is hereby replaced.

- (1) All appeals to the First-tier Tribunal must be started using the reform online procedure* (accessed through MyHMCTS**) unless it is not reasonably practicable to do so.
- (2) If an appellant seeks to argue that it is not reasonably practicable to start an appeal by using MyHMCTS, the appellant must at the same time, save where paragraph (4) applies, state why it is not reasonably practicable to do so. If the Tribunal agrees, the appellant may proceed without using MyHMCTS.
- (3) Where the appeal of one or more appellants is brought at the same time in circumstances in which those appeals raise common issues (“linked appeals”) the appellant must provide to the Tribunal together with the Notice of Appeal, the reference number or numbers of those linked appeals.
- (4) Where an appeal is brought in any of the following circumstances, it shall be deemed not to be reasonably practicable to commence that appeal by using MyHMCTS:
 - (a) under The Immigration (Citizens’ Rights Appeals)(EU Exit Regulations 2020);
 - (b) if the appellant is in detention;
 - (c) any appeal brought by a person without representation by a qualified person within the meaning of s.84 of the Immigration and Asylum Act 1999.
- (5) The Tribunal will consider the reasons provided in support of appeals started in accordance with paragraph [2] above and will give such directions as it thinks fit in accordance with the Rules.

- (6) Where an appeal is brought online using “MyHMCTS” the directions which appear at Annex 1 will ordinarily apply. Where an appeal is brought, or case managed online, not using “MyHMCTS” the Directions which appear at Annex 2 will ordinarily apply. Where paragraph 4(c) applies the Directions which appear at Annex 3 will ordinarily apply.
- (7) Where an appellant has representation by a qualified person within the meaning of s.84 of the Immigration and Asylum Act 1999 the Tribunal will accept as an Appeal Skeleton Argument (“ASA”) a document that answers the following question: “Why does the appellant say that the decision of the respondent is wrong?” In answering this question, the appellant should set out concisely the reasoning in the respondent’s decision letter to which objection is taken. Anything that is relevant should be identified and the answer to the question should be given with sufficient particularity to enable the respondent to conduct an effective review of the decision under appeal.
- (8) Where an appellant does not have representation by a qualified person within the meaning of s.84 of the Immigration and Asylum Act 1999 the Tribunal will accept in place of an ASA an Appellant’s Explanation of Case (“AEC”) that answers the following question: “Why does the appellant say that the decision of the respondent is wrong?”
- (9) Parties are reminded of their obligations pursuant to rule 2(4) of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014. To that end parties are required to engage constructively with the Tribunal. The Tribunal will respond to any applications properly made on a case by case basis.
- (10) Any appeal accepted by the Tribunal and started before 22 June 2020 will be considered by a Tribunal Caseworker or Judge who will decide on a case by case basis what further directions, if any, are to be made in respect of that appeal and whether having regard to the overriding objective the appeal should be listed for a Case Management Review Hearing before a Judge.

***Note: Increased functionality of MyHMCTS has been brought forward to facilitate an increased number of appeals being brought by that method to enable remote engagement. However, some aspects of the system have not yet been completed, which explains why not all appeal types can be brought in this way. Further there will be occasions when parties may still need to communicate with the Tribunal from time to time by email or other online means as directed.**

**** If you have not already done so you will need to register by following this link: <https://www.gov.uk/guidance/hmcts-online-services-for-legal-professionals>**

**Michael Clements
President FtTIAC
Date: 19 April 2021**

ANNEX 1



FIRST-TIER TRIBUNAL (IAC) ON-LINE DIRECTIONS (USING "MyHMCTS")

DIRECTIONS TO REPRESENTED APPELLANTS (PRESIDENTIAL PRACTICE STATEMENT No 1 of 2021)

These model Directions are issued for use by represented appellants in furtherance of the overriding objective. They replace all earlier Directions and apply to all online appeals with immediate effect. They should be used as the basis for directions in an individual case.

1. Provision of documents in the online procedure

These Directions refer throughout to material being 'provided'. Material is provided only when it is uploaded on to the online system, whereupon an email notification will be sent to the parties that the new material has been provided. Time starts to run from when the material is provided.

2. Online Procedure

- 2.1 Grounds of appeal are not required when a Notice of Appeal is provided to the Tribunal in the online procedure.
- 2.2 *Respondent's Bundle*. Not later than 14 days after the Notice of Appeal is provided, the respondent must provide a bundle compliant with rule 24(1) of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014. This bundle must include the refusal decision and any material submitted in support of the application.

- 2.3 *Appeal Skeleton Argument.* Not later than 28 days after the respondent's bundle is provided, or 42 days after the Notice of Appeal, whichever is the later, the appellant must provide an Appeal Skeleton Argument ("ASA").
- 2.4 The ASA must contain three sections: (1) a brief summary of the appellant's factual case; (2) a schedule of issues; (3) the appellant's brief submissions on those issues which should state why the appellant disagrees with the respondent's decision with sufficient detail to enable the reasons for the challenge to be understood. A template is available online.
- 2.5 The ASA must:
- be concise;
 - be set out in numbered paragraphs;
 - engage with the decision letter under challenge;
 - not include extensive quotations from documents or authorities;
 - identify but not quote from any evidence or principle of law that will enable the basis of challenge to be understood.
- 2.6 *Appellant's Bundle.* Where the ASA refers to material which is not included in the respondent's bundle, that material must be provided in an indexed and paginated bundle at the same time.
- 2.7 *Respondent's Response.* Within fourteen days of the ASA being provided the respondent must undertake a meaningful review of the appellant's case, taking into account the ASA and appellant's bundle, providing the result of that review and particularising the grounds of refusal relied upon.
- Pro-forma or standardised responses will not be accepted by the Tribunal. The Review must engage with the submissions made and the evidence provided to the Tribunal.**
- 2.8 Upon completion of the steps above, the appeal will be actively case managed.

2.9 Any requirement set out above may be varied but in the absence of any such variation, the procedure set out above is to be followed.

3 Timetable

Period within which step is to be taken	Action
Day 1	Notice of appeal provided to Tribunal by MyHMCTS
Not later than 14 days after notice of appeal	Respondent's bundle ("RB") must be provided
28 days after provision of RB or 42 days after notice of appeal, whichever is later	Appellant must provide: (i) Appeal Skeleton Argument (ii) Bundle of evidence in support
14 days after provision of appellant's ASA and evidence	Respondent must provide: Review with counter-schedule

4 Late Material

4.1 Any material provided outside the time limits may not be relied upon without leave.

4.2 Where any material is provided after 5 working days prior to the hearing, including on the day of the hearing, the Judge must deal with the admissibility of that material at the hearing as a preliminary matter.

4.3 A party may not rely on material which has not been provided.

4.4 If an application is made to admit material

- (a) and the material is ruled inadmissible the material shall not be uploaded, though the Judge must give reasons in the Decision and Reasons for the exclusion of that material and identify the material excluded.

(b) and the material is admitted the Judge must stand the appeal down and cause the material to be uploaded as soon as reasonably practicable and will not proceed with the appeal until the material has been uploaded. The original material uploaded shall be returned to the party who provided it unless there is a good reason for not doing so.

4.5 A party may apply to adduce material after the hearing has concluded but only in exceptional circumstances. Such material will only be admissible upon application unless the Judge has directed the provision of that material. The application must be made using the online procedure, unless it is made orally at the hearing. Any material ruled admissible **must** be uploaded.

4.6 The Tribunal may not accept any material after the Decision and Reasons has been promulgated. This direction does not apply to any application for permission to appeal to the Upper Tribunal.

5. Change of Representation

In the event of the appellant either changing representation or becoming unrepresented the Tribunal must be notified as soon as reasonably practicable. The Tribunal will then make further directions.

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**FIRST-TIER TRIBUNAL (IAC) ONLINE DIRECTIONS
REPRESENTED APPELLANTS
(NOT USING “MyHMCTS”)**

**NOTICE AND DIRECTIONS TO APPELLANTS
(PRESIDENTIAL PRACTICE STATEMENT No 1 2021)**

These model directions are issued for use by represented appellants in furtherance of the overriding objective. They replace all earlier Directions and apply to all online appeals with immediate effect. They should be used as the basis for directions in an individual case.

1. The Tribunal has received the Notice of Appeal and accepts that it is not possible for this appeal to proceed using MyHMCTS.

2. Provision of Information by the Parties

Within 5 working days of the date of this Notice parties must provide a direct contact number and dedicated email address to the Tribunal and to the other party to enable the Tribunal and the parties to communicate online and to take part in such remote hearings as are required.

3. Provision of Documents

These Directions refer throughout to material being ‘provided’. Material must be provided by email to the email address which appears at the foot of this Notice and to the other party or made available in such remote hearings as are required.

4. Provision of Information by Respondent

Not later than 14 days after the date of this Notice, unless already provided, the respondent must provide a bundle compliant with rule 24(1) of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014. This bundle must

include the refusal decision and any material which was submitted in support of the application.

5. Appeal Skeleton Argument.

5.1 Not later than 28 days after the respondent's bundle is provided, or 42 days after the Notice of Appeal, whichever is the later the appellant must provide an Appeal Skeleton Argument ("ASA").

5.2 The ASA must contain three sections: (1) a brief summary of the appellant's factual case; (2) a schedule of issues; (3) the appellant's brief submissions on those issues which should state why the appellant disagrees with the respondent's decision with sufficient detail to enable the reasons for the challenge to be understood.

5.3 The ASA must:

- be concise;
- be set out in numbered paragraphs;
- Engage with the decision letter under challenge;
- not include extensive quotations from documents or authorities;
- Identify but not quote from any evidence or principle of law that will enable the basis of challenge to be understood.

6. Appellant's Bundle.

Where the ASA refers to material, which is not included in the respondent's bundle, that material must be provided in an indexed and paginated bundle at the same time.

7. Respondent's Response.

7.1 Within fourteen days of the ASA being provided the respondent must undertake a meaningful review of the appellant's case, taking into account the ASA and Appellant's bundle and provide the result of that review and particularise any additional grounds of refusal.

Pro-forma or standardised responses will not be accepted by the Tribunal. The Review must engage with the submissions made and the evidence provided.

7.2 Upon completion of the steps above, the appeal will be actively case managed.

8. Summary Timetable

Period within which step is to be taken	Action
Not later than 14 days after the date of this Notice	Respondent's bundle ("RB") must be provided
28 days after provision of RB or 42 days after notice of appeal, whichever is later	Appellant must provide: (i) Appeal Skeleton Argument (ii) Bundle of evidence in support
14 days after provision of appellant's ASA and evidence	Respondent must provide: Review with counter-schedule

9 Late Material

9.1 Any material provided to the Tribunal outside the time limits provided for in paragraph 8 may not be relied upon without leave.

9.2 Where any material is provided after 5 working days prior to the hearing, including on the day of the hearing, the Judge must deal with the admissibility of that material at the hearing of the appeal as a preliminary matter.

10. Case Management and Listing

10.1 At each stage the appeal shall be considered by a Tribunal Caseworker or Judge who will decide on a case by case basis what additional directions, if any, are to be made in respect of that appeal and whether the appeal would benefit from a Case Management Appointment.

10.2 A party may apply at any time for a variation of these directions.

10.3 A party may apply at any time for a Case Management Appointment.

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**FIRST-TIER TRIBUNAL (IAC) DIRECTIONS
UNREPRESENTED APPELLANTS**

**NOTICE AND DIRECTIONS TO APPELLANTS
(PRESIDENTIAL PRACTICE STATEMENT No 1 2021)**

These model directions are issued for use by unrepresented appellants in furtherance of the overriding objective. They replace all earlier Directions and apply to all appeals with immediate effect. They should be used as the basis for directions in an individual case.

Directions made by the Tribunal will take into account the means by which the appellant will communicate with the Tribunal, for example by ordinary post, other offline means or online.

A. Where the appellant appeals *online* not using MyHMCTS

1. Provision of Information by the Parties

Within 5 working days of the date of this Notice parties must provide a direct contact number and dedicated email address to the Tribunal and to the other party to enable the Tribunal and the parties to communicate online and to take part in such remote hearings as are required.

2. Provision of Documents

These Directions refer throughout to material being 'provided'. Material must be provided by email to the email address which appears at the foot of this Notice and to the other party or made available in such remote hearings as are required.

3. Provision of Information by Respondent

Not later than 14 days after the date of this Notice, unless already provided, the respondent must provide a bundle compliant with rule 24(1) of the Tribunal Procedure

(First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014. This bundle must include the refusal decision and any material which was submitted in support of the application.

4. Appellant's Explanation of Case (AEC)

Not later than 28 days after the respondent's bundle is provided, or 42 days after the Notice of Appeal, whichever is the later, the appellant must provide an explanation of their case. This should contain reasons why the appellant believes the decision giving rise to the appeal is wrong. This is to enable the respondent to review the decision. (Upon receipt of the AEC a Tribunal Case Worker will consider, before the document is sent to the Respondent, whether there should be a Case Management Appointment to enable the appellant to identify the issues in the appeal).

5. Appellant's Bundle.

Where the AEC refers to material, which is not included in the respondent's bundle, that material must be provided in a paginated bundle at the same time.

6. Respondent's Response.

6.1 Within fourteen days of the AEC being provided the respondent must undertake a meaningful review of the appellant's case, taking into account the AEC and appellant's bundle, and provide the result of that review and particularise any additional grounds of refusal.

Pro-forma or standardised responses will not be accepted by the Tribunal. The Review must engage with the submissions made and the evidence provided.

6.2 Upon completion of the steps above, the appeal will be actively case managed.

7. Summary Timetable

Period within which step is to be taken	Action
Not later than 14 days after the date of this Notice	Respondent's bundle ("RB") must be provided
28 days after provision of RB or 42 days after notice of appeal, whichever is later	Appellant must provide: (i) Appellant's Explanation of Case (ii) Bundle of evidence in support

14 days after provision of appellant's AEC and evidence	Respondent must provide: Review with counter-schedule

8 Late Material

8.1 Any material provided to the Tribunal outside the time limits provided for in paragraph 7 may not be relied upon without permission from the Tribunal.

8.2 Where any material is provided after 5 working days prior to the hearing, including on the day of the hearing, the Judge must deal with the admissibility of that material at the hearing of the appeal as a preliminary matter.

9. Case Management and Listing

9.1 At each stage the appeal shall be considered by a Tribunal Caseworker or Judge who will decide on a case by case basis what additional directions, if any, are to be made in respect of that appeal and whether the appeal would benefit from a Case Management Appointment.

9.2 A party may apply at any time for a variation of these directions.

9.3 A party may apply at any time for a Case Management Appointment.

10. Change of Representation

In the event of the appellant becoming represented the Tribunal must be notified as soon as reasonably practicable. The Tribunal will then make further directions.

B. Where the appellant appeals offline

Where the appellant appeals offline, by ordinary post or any other means and the Tribunal determines that it is in the interests of justice for the appeal to continue in that way, the Tribunal will make directions on a case by case basis using the directions above as the starting point but make such modifications as required having regard to the overriding objective.

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