FACULTY OF ADVOCATES

Response to the Home Office's

Call for evidence on the new Independent Appeals Body

The Faculty of Advocates thanks the Home Office for engaging with the Faculty on this consultation and welcomes the opportunity to respond to the Call for Evidence on the proposed new Independent Appeals Body.

Questions 1-4 relate to responding organisation which will be completed by Deans Secretariat.

Questions on access to justice, fairness and procedural safeguards

5. How can the new Independent Appeals Body ensure parties to the appeal have fair access to legal or immigration advice, representation and the practical support required to participate effectively in the process?

In our experience it is not common for appellants to be unrepresented at either the level of the FTT or the UT. In the ordinary case, where our members have been instructed the appellant has been represented by a solicitor throughout most of the asylum process, including prior to a decision being made by the Home Office.

The focus in the policy paper is on speed and finality, but in practice delays are not mainly caused by lack of access to representation. They are more often caused by how cases are handled by the Home Office. Decisions at first instance do not always engage properly with the evidence, reviews at the tribunal stage are often generic, and cases are not meaningfully considered by Home Office Presenting Officers until shortly before the hearing (all as explained hereinafter). That is what leads to appeals and delay. Improving access to justice

therefore depends just as much on improving decision-making and early engagement as it does on access to advice.

6. Can you tell us your experience of immigration and legal advice, whether you have concerns around access, availability or capacity?

We have no concerns regarding access to legal advice in immigration cases in Scotland under the present system.

7. Do you consider changes are required to ensure early legal advice is a core part of the system to avoid delays and late claims, and to lead to better decisions? Please include any suggestions on how legal advice or representation could be improved?

It is not clear at which stage such advice would be accessible and how that advice would be funded. For those pursuing an appeal who do not have access to legal advice, given the points made elsewhere in this response, it is axiomatic that access to legal advice would be beneficial and desirable.

We also recognise that many asylum appeals depend upon discrepancies between answers provided at an asylum applicant's initial screening interview and later accounts given, for example, in a statement or in the substantive asylum interview. The issues which arise from reliance on such discrepancies have been outlined in several cases: see, e.g., *YL (Rely on SEF) China* [2004] UKIAT 00145 and *JA (Afghanistan) v Secretary of State for the Home Department* [2014] EWCA Civ 450. Appeals to the UT are often pursued based on the FTT's reliance on such discrepancies. Earlier legal advice might serve to alleviate those issues.

In many cases, the issue is not when advice is obtained, but that the underlying decision is flawed or incomplete. Appeals are often driven by a failure to properly assess evidence at the outset. Unless that improves, earlier advice will not prevent appeals or materially reduce delay.

8. Drawing on the existing practices, procedural rules or approaches of the FTT-IAC, which do you consider could usefully be included, adapted or avoided in the design and operation

of the new Independent Appeals Body? Please include any views on the current approach to publishing determinations.

The current combination of the Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum) Rules 2014 and Practice Statements/Directions mostly work well in practice. The latter (the most recent of which was issued in 2024[1]) serves to streamline the appeals process, focus the issues and compel compliance with procedural deadlines.

We note the recent statement of the Lady Chief Justice of England & Wales, Baroness Carr of Walton-on-the-Hill[2], as to the intention to begin publishing determinations of the FTT on an online platform. That is consistent with the approach to UT decisions and, subject to ensuring that anonymity is respected where such orders are made, which includes avoiding any risk of jigsaw identification, is to be encouraged. Not only is it consistent with the principle of open justice but has the potential effect of promoting public confidence in the system.

However, there are some limitations. There is already a mechanism within the current system designed to achieve many of the stated aims, namely the Respondent's Review. In principle, it should identify the issues, engage with the evidence, and consider whether the decision can be maintained. In practice, it is often generic and does not deal with the specifics of the case. They often repeat the refusal decision rather than reassess it. That means the real issues are not identified until very late, sometimes only at the hearing itself. This leads to unnecessary hearings, adjournments, and inefficient use of Tribunal time.

If that stage worked as intended, it would significantly reduce the need for hearings and improve efficiency without significant reform.

A key step towards that would be earlier allocation of cases to Home Office Presenting Officers. At present, cases are often only allocated shortly before the hearing, which makes meaningful engagement impossible. If a Presenting Officer was involved from the outset, there would be scope for ongoing dialogue between representatives and the Home Office, with a view to agreeing evidence, refining the issues in dispute, and identifying cases which can be resolved without a hearing. That would bring this jurisdiction more into line with other areas of civil litigation and would improve both efficiency and fairness.

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[1] Practice Direction of the Immigration and Asylum Chamber of the First-tier Tribunal (1 November 2024), available at: https://www.judiciary.uk/wp-content/uploads/2024/10/Practice-Direction-F-tT-IAC-01.11.24.pdf

[2] The Lady Chief Justice's Report 2025, available at: https://www.judiciary.uk/wp-content/uploads/2025/11/35.96_JO_LCJ-Annual-Report-2025_WEB2.pdf

9. How should the new Independent Appeals Body accommodate specific needs or vulnerabilities, including by providing reasonable adjustments or tailored procedural support, to ensure fairness and accessibility?

Improved case management procedures would enable vulnerabilities to be identified at an early stage in the proceedings. This would allow for potential special measures to be discussed and, if necessary and appropriate, put in place prior to the date of the hearing. These matters may well be raised (and should be) within a skeleton argument or in correspondence pre-dating the hearing, but they will not necessarily be resolved by that date. Mental health difficulties are commonplace in asylum and immigration appeals. There would be clear benefit in a more structured case management approach at an early stage, where vulnerabilities are identified and appropriate measures are agreed in advance of the hearing. That could include the manner of giving evidence, use of remote attendance where appropriate, or adjustments to the hearing process. Delays in dealing with these issues can increase stress for appellants and make hearings less effective.

Questions on expert evidence and country information

10. How should expert evidence (including medical, country and technical expertise) be commissioned, quality-assured and used within the appeals process?

Expert evidence in the FTT is assessed in the same manner as in any other type of litigation, that is having regard to the principles set out in *Kennedy v Cordia* 2016 SC (UKSC) 59 and *National Justice Compania Naviera SA v Prudential Assurance Co Ltd (The Ikarian Reefer) (No.1)* [1993] 2 Lloyd's Rep 68. That is how such reports are quality-assured. There is detailed guidance within the Practice Statement (at § 9[3]) as regards the instruction and production of expert reports.

In many cases, expert reports are not meaningfully engaged with by the Home Office until very late, sometimes only at the hearing. That limits the ability to narrow issues or resolve disputes in advance. Earlier engagement with expert evidence would allow parties to identify what is actually in dispute and avoid unnecessary cross-examination or adjournments. It is

[3] Practice Direction of the Immigration and Asylum Chamber of the First-tier Tribunal (1 November 2024), available at: https://www.judiciary.uk/wp-content/uploads/2024/10/Practice-Direction-F-tT-IAC-01.11.24.pdf

very common to see Respondent's Reviews dismiss medical or psychological reports in broad terms, often on the basis that the expert has "accepted the appellant's account at face value" and that this undermines the report as a whole. That line of reasoning is frequently misplaced. In many cases, the expert is not purporting to determine truth, but to assess matters such as diagnosis or the plausibility of an account from a clinical perspective. Treating that as a credibility finding, and dismissing the report on that basis, reflects a misunderstanding of the expert's role. The practical consequence is that experts then need to be called to give oral evidence to address points which should not properly be in dispute. That adds time, cost, and complexity to the process. A more informed and focused engagement with expert evidence at the review stage would avoid this and would assist in narrowing the real issues between the parties.

11. What are your views on requiring parties to rely on a shared set of expert materials?

In principle, we would have no objection to reliance on a shared set of expert materials. The joint instruction of experts is used (often with success) in other fields of litigation. That said, it is unclear how this would be achievable in practice or, indeed, what this would look like. Would a list of questions be agreed? Would the expert be identified by parties together? That would meet with difficulties set out elsewhere in this response relative to the failure to allocate cases to Home Office Presenting Officers at an earlier stage.

Starting with country expert reports, in asylum appeals such reports are commonly instructed in three scenarios. First, where there is no applicable country guidance. Secondly, where the appellant seeks to differentiate his case from applicable country guidance or contend that country guidance should no longer apply. Thirdly, where the Home Office's position is that the country guidance is no longer applicable and relies on background evidence to that effect. That does not lend easily to a shared set of materials or agreement of the background evidence. The Home Office generally relies on CPIN material rather than jointly instructed experts. In asylum cases, expert reports are often instructed to deal with specific issues in a particular case, such as risk on return or medical evidence. Those issues do not easily lend themselves to a shared or standardised approach.

There is also a practical difficulty. Even if an expert were jointly instructed, it is not clear that the Home Office would be bound by the conclusions in the same way as parties in other litigation. Without that, the benefit of joint instruction is limited. There is a risk that this would add complexity without resolving disputes in practice.

On medical evidence, we struggle to see what a shared or joint approach would add in practice. In most cases, there is no competing medical evidence from the Home Office. The Respondent will usually rely on the medical records already lodged, or seek to challenge the weight to be given to the report, rather than instructing its own expert. A medical report is typically obtained to address specific issues in the individual case, whether that is diagnosis, causation, consistency with account, or risk on return. Those are inherently case-specific and do not lend themselves easily to a shared instruction with the Home Office.

In the case of technical evidence, for example, document authentication reports, the Home Office uses its internal National Document Fraud Unit (NDFU). In circumstances where the NDFU report suggests that the document in question is not genuine, there would appear to be little other option than for the appellant to instruct their own report.

Questions on adjudicator recruitment, eligibility, impartiality and training

12. What recruitment criteria would best ensure adjudicator independence, impartiality and credibility in the new appeals body?

See the related answers which follow.

13. What recruitment qualifications would best ensure adjudicators independence, impartiality and credibility in the new appeals body?

See the related answers which follow.

14. What recruitment safeguards would best ensure adjudicator independence, impartiality and credibility in the new appeals body?

There should be a clear separation between the Home Office and the appointments process. Adjudicators should be appointed through an independent process, with transparent criteria and oversight, rather than any Home Office involvement. That is essential to avoid any perception that decision-makers are aligned with the Home Office.

Security of tenure and protection from external influence are also important. Adjudicators need to be able to make decisions without concern about performance measures, targets, or

progression being linked to outcomes. Any system which creates pressure, whether explicit or implicit, risks undermining impartiality.

15. Which professional backgrounds or types of experience should be considered particularly valuable for adjudicators within the new appeals body? Why?

It remains possible to appoint non-legal members to the tribunal (Tribunals, Courts and Enforcement Act 2007, Sch 2, para 2 and Sch 3, para 2), where the person has "substantial experience … in immigration services or the law and procedure relating to immigration" (Qualifications for Appointment of Members to the First-tier Tribunal and Upper Tribunal Order 2008, article 2(4)(j)). Nevertheless, the power seems to have been seldom used since 2014. There is good reason for that. Immigration and asylum is a fast-paced and constantly evolving area of the law. It draws on jurisprudence from a wide range of national and international courts. Cases in this field are some of the most common before the UK Supreme Court. Detailed and complex judgments are published regularly by the Court of Session in Scotland and the Court of Appeal of England & Wales. Laws and policies change frequently. Judgments turn on nuanced interpretations of statutory provisions. The legislative provisions of asylum and immigration law are contained in over ten Acts of Parliament covering from 1971 to 2022 (and shows no signs of slowing). In 2013, Lord Carnwath began his judgment in *Patel v Secretary of State for the Home Department* [2014] AC 651 with the following words:

> "The Master of the Rolls … echoing words of Jackson LJ, described the law in this field as "an impenetrable jungle of intertwined statutory provisions and judicial decisions". It is difficult to disagree, although on this occasion the judiciary must share some of the blame."

A significant number of experienced judges have criticised the sheer complexity of immigration law. The Immigration Rules were described Jackson LJ in *Pokhriyal* 51F[4], as having '*achieved a degree of complexity which even the Byzantine Emperors would have envied*'. The complexity of UK immigration law has also been aired before the House of Lords. Lord Justice Ryder (Senior President of Tribunals), in his evidence to the House of Lords' Constitution Committee in 2016, said this § 52F[5]:

[4] *Pokhriyal v Secretary of State for the Home Department* [2013] EWCA Civ 1568
[5] Select Committee on the Constitution (House of Lords), *Corrected Oral Evidence: The Legislative Process*, 16 November 2016 at [Q42]

> "We have had eight immigration Acts in 12 years, three EU directives and approximately—my apologies for being approximate—30 statutory instruments. The Immigration Rules themselves have been amended 97 times over the same period, which is approximately eight times a year, and are four times larger, and in a smaller typeface, than they were 10 years ago.
>
> The Immigration Rules no longer contain all or indeed most of the policy that is to be implemented, which is of course their primary purpose. The policy is separately provided in—if I may say so—rather dense and unconsolidated guidance that one can access through the Home Office website, but that generally does not show you the previously existing guidance on the same topic, or how the guidance has changed. If you are an unwitting litigant…your chances of accessing any of that material and putting it together in a coherent way are negligible."

These concerning statements apply with equal force now. Against that background, we consider that the reintroduction of non-legally qualified adjudicators would represent a retrograde step. It would be counter-intuitive and likely result in a greater number of appeals based on errors of law.

It is also unclear how cases deemed suitable for determination by a non-legally qualified adjudicator would be identified. Complexities and issues can arise during the appeal itself. Objections may be raised during cross-examination which require legal rulings. Orders may be sought by parties which require the adjudicator to have detailed knowledge regarding the procedure rules as well as legal duties incumbent upon the Home Office, many of which derive from case law. Unless the adjudicator has immediate access to legal advice, appeals may require to be adjourned part heard. In any event, if immediate legal advice is available, it is not clear what the proposed changes seek to achieve.

The manner in which immigration and asylum law has developed, which was inevitable standing the influence of the European Court of Human Rights in this field and the fact that it applies across the UK, means that no parallel can be drawn between it and other fields in

which non-legal members sit to determine cases. The closest analogy is in fact that of an employment law judge.

Nevertheless, in answer to the question the most valuable backgrounds are those which combine decision-making experience with an understanding of law and evidence. That will usually include legally qualified individuals, particularly those with experience in litigation, tribunal work, or public law. They are experienced in dealing with evidence, expert evidence, making findings of fact, and applying legal tests in a structured way.

There is also value in individuals who have experience of making serious, consequential decisions, for example in regulatory or quasi-judicial settings. However, that experience needs to be coupled with a strong background in setting out clear reasoning. These cases are very rarely only about assessing credibility. They involve detailed statutory frameworks (which very often overlap), case law (which overlap with the various statutory provisions), and international obligations.

The key point is that decision-makers must be able to deal with both fact and law together. One without the other is not sufficient in this jurisdiction.

16. Which professional backgrounds or types of experience should be considered particularly unsuitable for adjudicators within the new appeals body? Why?

We would refer to our answer to 15 above, which underlines the fact that this not so much a matter of identifying specific professions that are unsuitable but recognising this is a legally complex area that does not lend itself to purely non-legal decision-making. Individuals without any legal training or experience are likely to struggle with the framework within which these decisions are made. Immigration and asylum law is technical and heavily shaped by case law.

There is also a risk that introducing non-legally qualified adjudicators would increase the number of appeals on errors of law. That would ultimately add delay rather than reduce it. For those reasons, backgrounds which do not involve engagement with legal reasoning, statutory interpretation, or structured decision-making are unlikely to be suitable.

17. For adjudicators to be professionally trained, what should a training package include to support robust, professional, fair and high-quality decision-making in the new appeals body?

Any training package would need to be substantial and ongoing. A short initial training period would not be sufficient given the complexity of the subject matter.

Training would need to cover the legal framework in detail, including the Refugee Convention, human rights law, and the relevant statutory provisions. It would also need to address how to assess evidence, including credibility, expert reports, and documentary material.

Just as importantly, there would need to be training on procedure. Adjudicators need to understand how to run a hearing, deal with applications, and ensure fairness to both parties, particularly in cases where the appellants have vulnerabilities.

Even with that, training cannot fully replace experience. There would need to be ongoing support, supervision, and oversight/review to ensure consistency and quality in decision-making.

Questions on case management models

18. Are there any circumstances in which certain case types should have specialist processes? If so, what specialist processes or hearing models would be appropriate for these case types? Please explain.

The system does not require the revamp proposed. The goals set out in the consultation papers could be better achieved by making improvements to the current system. All types of cases would benefit from improved case management.

One of the central difficulties which appellants face is that their case is not allocated to a Home Office Presenting Officer until a matter of days before the hearing. That means, much unlike the case in most other areas of litigation, there is very little opportunity to discuss the case with the respondent, to agree certain matters with a view to narrowing the issues on appeal, to consider the joint instruction of experts and, where possible, to discuss the potential for settlement or where concessions might be made. It is understood that the intention of the "Respondent's Review" (when first introduced) was for the Home Office to conduct a full review of the case and to consider whether to withdraw the decision and/or concede the

appeal. There remains a requirement upon the Home Office to consider whether to withdraw the decision (Practice Statement, § 7.11(f)/(g)), but that appears to seldom occur in practice. Another difficulty which arises from late allocation of cases is that the Respondent's Review is usually prepared by a Presenting Officer other than that which ultimately present the case.

A parallel can be drawn between what is proposed here and the Summary Case Management reforms in Scotland which have been piloted since 2022. They have met with success, have been rolled out to all sheriff courts in Scotland[6] and have had the effect of reducing court backlogs, witness inconvenience and unnecessary trials. Similar results could be achieved in the present immigration and asylum appeals system by improved case management together with early allocation of cases – all of which encourages an agreement of evidence/issues and concessions where appropriate.

There may be some limited scope for specialist processes in certain types of case, particularly where there are discrete issues or where a different format would genuinely assist. However, most immigration and asylum appeals already require a structured hearing where evidence is tested and findings are made. Moving to an alternative format, such as a board-style of decision-making, will probably add complexity without clear benefit. The more effective approach is likely to be that of better case management within the existing model as opposed to introducing new (and unusual) hearing structures.

19. What additional decision-making safeguards should the new Independent Appeals Body adopt to ensure consistency, quality and fairness?

Country guidance operates to achieve a level of consistency, as do starred and reported decisions of the Upper Tribunal. But each case must be determined on its own facts. In the Home Affairs Committee's First Report from December 2023, it was said "*the real flaws in the system appear to be at the stage of initial decision-making, not that of appeal*"[7]. That could still be said today, of the standard of Home Office decision-making.

We also note that the introduction of non-legally qualified adjudicators would appear to do nothing to improve the quality of decisions. It would more likely exacerbate issues.

[6] Criminal Courts Practice Note No 1 of 2025, *Summary Case Management*, available at: https://www.scotcourts.gov.uk/media/akeboe15/all-scotland-summary-case-management-pn.pdf

[7] CJ McKinney, *History of asylum appeals in the United Kingdom* (Research Briefing, House of Commons Library) (6 February 2026), available at: https://researchbriefings.files.parliament.uk/documents/CBP-10488/CBP-10488.pdf, p 13

Improving the quality of decisions at the outset, and ensuring proper review before the hearing, would do more to improve consistency than adding further layers of safeguards at the appeal stage.

Questions on hearing methods, digital processes and efficiency

20. What are the challenges and opportunities for paper-based hearings?

Paper-based hearings will mostly be inappropriate given many cases in the FTT turn on credibility. That said, flexibility is to be encouraged particularly where that is consistent with the preference of the appellant, especially where vulnerabilities exist. Paper hearings should remain an option, but not the default.

21. What are the challenges and opportunities for virtual hearings?

The main challenge lies in making facilities available for appellants to attend. Members have experience of appellants joining hearings on their handheld mobile phone which is inappropriate. The greater number of hearings held virtually, the more providing access to spaces in, for example, a solicitors' office becomes difficult. However, again, it is recognised that some appellants may express a preference for a remote hearing and, where for good reason, i.e. trauma related, that should be respected and accommodated. Virtual hearings should therefore be used flexibly, but not as the primary model.

22. What are the challenges and opportunities for in-person hearings?

In-person hearings remain important, particularly in cases involving disputed facts or credibility. They allow for proper engagement with the evidence and ensure that all parties can participate effectively.

There is also a broader point about participation. Appellants are often vulnerable, unfamiliar with the process, and reliant on interpreters. Being physically present in a structured environment, with their representative beside them, generally leads to more effective participation. Usually, appellants have built up valuable and trusted relationships with those representatives. It also allows for direct engagement with the appellant and to explain issues or take instructions.

It also allows the Tribunal to manage the hearing more actively, deal with issues as they arise, and ensure that evidence is properly tested.

While there is understandable pressure on resources, reducing in-person hearings should not be seen as the solution to delay. In many cases, it would simply shift the problem, leading to less effective hearings, more disputed findings, and ultimately more appeals.

23. What technology, infrastructure or operational measures are required to ensure that remote or hybrid (a mix of remote and in-person) hearings are fair, accessible and secure?

If there is to be greater use of remote or hybrid hearings, the infrastructure needs to be properly in place. At present, there is a clear gap between what is expected of parties and what is realistically available to them.

Many appellants do not have access to a quiet, private space, reliable internet, or suitable equipment. Participation via a mobile phone is common which may be due to digital poverty, to give evidence in complex and high-stakes cases. There can also be issues with interpretation, document handling, and maintaining confidentiality.

If remote participation is to be relied upon, there needs to be proper provision of facilities, whether through Tribunal buildings, solicitors' offices, or other suitable locations. There also needs to be consistency in how remote hearings are conducted, including clear expectations about technology, document access, and communication and presentation during the hearing.

Without that, there is a real risk that remote and hybrid hearings will operate unevenly and, in some cases, unfairly.

24. What considerations should inform decisions regarding how and where appeals are heard in the new Independent Appeals Body, including alternatives to the existing appeals estate (buildings and locations) and other spaces?

Decisions about how and where appeals are heard should be made primarily according to what is required for a fair and effective determination in the individual case. There is no single model that will suit all appeals.

In some cases, a remote or hybrid hearing may be entirely appropriate, particularly where there are vulnerabilities or an individual in ill-health would find it difficult to travel to a

physical hearing room. In others, particularly where credibility is central or there is extensive evidence to be tested, an in-person hearing will be necessary.

The appellant's circumstances should be an important consideration. That includes: their ability to participate effectively; any vulnerabilities they may have; and the nature of the evidence to be given.

There is value in flexibility, but it needs to be exercised carefully. The risk with a single approach is that decisions about format are made for reasons of efficiency rather than fairness. The starting point should always be what is required for a proper and fair hearing.

Questions on compliance, engagement, timeframes and prioritisation

25. What measures could improve compliance with directions and timeframes, and support effective engagement from appellants, representatives and the Home Office throughout the appeals process?

The Practice Direction (at § 5) specifies measures designed to improve compliance. Sanctions can be imposed where there is a failure to comply with directions and timeframes: such as, the non-admission of late evidence, and awards of costs against the non-compliant party. It is, however, inevitable that the former should be used sparingly given that the refusal to admit late evidence and subsequent refusal of the appeal could put the UK in breach of its international legal obligations. It is not clear that this is the cause of the issues raised.

Delay does not result from a lack of cooperation from appellants or their representatives but more often the late introduction of evidence, incomplete disclosure and a lack of meaningful engagement from the Home Office. The Respondent's Reviews are frequently generic, not resolving issues that need to be addressed before the hearing. The introduction of stricter deadlines or additional sanctions will unlikely resolve these issues. In protection cases, there are limits to how far sanctions can be applied without risking unfairness.

A more effective approach would be earlier and more consistent engagement. That includes allocating cases earlier, ensuring reviews properly engage with evidence, and encouraging dialogue between the parties to narrow the issues. This will improve compliance naturally because the case is being managed properly from the outset.

26. What should constitute a reasonable timeframe for deciding cases?

A reasonable timeframe for deciding cases needs to reflect the complexity of the issues involved. It is not realistic to apply a single fixed timeframe across all appeals.

Straightforward cases, where the issues are limited and the evidence is clear, should be capable of being resolved relatively quickly.. More complex cases, particularly those involving expert evidence, large volumes of material, or vulnerable appellants, will inevitably take longer.

Cases may take longer if experts are to be instructed, evidence obtained from clients and instruction of Counsel. Complex cases requiring analysis and documents such as the appeal skeleton arguments or opinions on discrete issues arising take time. Parties need enough time to prepare their cases properly, gather evidence, and respond to the issues in dispute. This will delay decision making.

If timelines are tight it risks cases being improperly prepared, leading to adjournments, further appeals, or challenges to the fairness of the process. That ultimately increases delay rather than reducing it. It may also result in appeals.

27. In what circumstances should exceptions be permitted?

There must be scope for exceptions where it is justified. Otherwise a lack flexibility will not lead to unfair practices.

Common situations where exceptions will be necessary include cases involving vulnerable appellants, late disclosure of relevant evidence, or matters outside the control of the parties. Expert evidence, in particular, can take time to obtain and may be central to the case.

There should be a clear framework for considering such requests, with decisions made efficiently and on a consistent basis.

Allowing flexibility, where it is needed, does not undermine efficiency. It will reduce the risk of adjournments and ensure fairness to parties, and stronger decision making.

28. What changes to the current system will ensure appeals are decided within a single appeal route?

This is not possible. Rule 353 operates where new evidence is produced. This happens for a myriad of reasons. Circumstances change for appellants requiring new evidence . Asylum and human rights cases need to adapt because a family dynamic can change e.g. children are born/die; relationships start/end. . Any prevention of appellants raising matters relating to their circumstances risks unfairness and other legal challenges e.g. judicial review.

There is also a practical point that even within a single appeal, issues can evolve as evidence develops. Attempting to contain everything within one process does not remove that complexity. Section 85 of the Nationality, Immigration and Asylum Act 2002 requires that any "new matter" arising as appeals progress requires the consent of the Home Office, which is already a barrier to dealing with everything in one process.

A more effective approach would be ensuring the initial decision and any review are thorough, so all relevant matters are identified and addressed as early on in the process as possible. This will reduce the need for further claims without restricting any parties ability to raise genuinely new issues.

29. How should the new Independent Appeals Body prioritise or accelerate cases, and should it adopt a more codified approach to case management than exists in the current FTT-IAC? You may wish to comment on whether certain categories of cases might be appropriately prioritised or accelerated, and what safeguards, fairness considerations, or operational factors should be taken into account, and on reasonable timeframes for doing so.

We refer to the above answers regarding the early allocation of cases to Home Office Presenting Officers.

There should be careful prioritisation of cases where there are urgent protection issues or where delay would have significant consequences.

If prioritisation is overused the delay moves elsewhere in the system. There is also a risk that accelerating cases without full analysis of the case, and a lack of proper preparation will lead to unfairness, particularly where evidence has not been fully gathered or considered.

The more effective way to improve efficiency is through proper case management from the outset. Early engagement, clear identification of issues, and realistic timetabling will reduce delay across the system as a whole.

Acceleration should be used where it is genuinely justified, but fairness and proper consideration of the evidence must remain the priority.

Questions on accountability, transparency and oversight

30. What mechanisms should be in place to ensure accountability of the new appeals body?

See answer to Question 32.

Accountability in the system depends on clear and adequate reasoning in decisions and the ability to challenge errors by appellants. Decision-makers must explain how they have assessed the evidence and applied the law. That allows parties to understand the outcome and, where necessary, to identify any errors.

The existing right to appeal on a point of law provides an important safeguard. It ensures that errors can be corrected and promotes consistency in decision-making.

31. What mechanisms should be in place to ensure transparency of the new appeals body?

See answer to Question 32.

Transparency is closely linked to confidence in the system. The publication of decisions, with appropriate safeguards for anonymity, plays an important role in this.

It allows practitioners and decision-makers to understand how cases are being determined and promotes consistency. It also allows the public to see how decisions are made.

Expanding the publication of determinations, while ensuring that individuals cannot be identified, would be a positive step.

32. What mechanisms should be in place for effective oversight of the new appeals body? Please include in your response whether you consider it should be subject to a regulator or an ombudsman.

Given our view that those deciding immigration and asylum cases should be legally qualified, immigration judges should continue to be regulated by the Lady Chief Justice.

The proposed model raises potential concerns. Where adjudicators are not drawn from the existing judiciary, there is a risk that the appearance of independence could be weakened if proper safeguards are not in place.

It is essential that decision-makers are, and are seen to be, fully independent from the Home Office. That includes independence in appointment, training, management, and decision-making. Any perception that the appeals body is aligned with, or influenced by, the decision-maker whose decisions it is reviewing would undermine confidence in the system.

For that reason, oversight by the Lady Chief Justice remains important as a visible guarantee of independence.