



## TRIBUNALS JUDICIARY

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PRESIDENT OF THE FIRST-TIER TRIBUNAL IMMIGRATION AND ASYLUM  
CHAMBER

**Presidential Guidance Note No 2 of 2011:**

**Anonymity Directions in the FtT(IAC)**

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1. Applications for anonymity are made in the notice of appeal. There is a web link to the appropriate form for the appellant to complete. The appeal file will be marked accordingly. Either party may apply for anonymity at a later stage. Once an application is made the appeal will be anonymised and will remain so until further directions of the Tribunal.
2. All asylum appeals will be anonymised at case creation.
3. Once anonymity is granted the Tribunal will remove the appellant's name from all published documents that are in the public domain. The names will remain in full on the judicial cause list.
4. The power to direct anonymity is derived from article 8 ECHR and such directions should be made where public knowledge of the person or the case might impact on that person's protected rights. An interim anonymity direction is more likely to be appropriate during initial stages of an appeal to enable the parties to prepare their cases without interference or hindrance. At the CMR or at the substantive hearing the Immigration Judge should review the application for anonymity and direct whether the appellant should be granted anonymity. There may well be appeals where no application is made by either party but the court will self direct that anonymity should be granted.
5. Anonymity directions will often, if not always, be made where the appeal involves:-
  - i) a child or vulnerable person.

- ii) evidence that the appeal concerns personal information about the lives of those under 18 and their welfare may be injured if such details are revealed and their names are known
- iii) there is highly personal evidence in the appeal that should remain confidential
- iv) there is a claim that the appellant would be at risk of harm and that by publishing their names and details it may cause them harm or put others at real risk of harm
- v) publication of the determination may be used subsequently to support a *sur place* claim.

### First tier

It is unusual, (but not unknown) for the determinations of the first tier to be published. If anonymity is granted the determination should give brief reasons why anonymity is granted with fuller reasons if either party objects.

The power to direct anonymity stems from rule 45(4)(i) of the Asylum and Immigration Tribunal (Procedure) Rules 2005. For the purpose of this rule the First-tier Tribunal is a “court”<sup>1</sup> and therefore s.11 of the Contempt of Court Act 1981<sup>2</sup> will apply to any direction so given.

In most appeals a direction in the determination, which should be clearly identified, could be made:-

"The appellant be granted anonymity throughout these proceedings, unless and until a tribunal or court directs otherwise, and be referred to as [initials of appellant]. No report of these proceedings shall directly or indirectly identify him/her or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to a contempt of court."

There may be other instances where the entire determination should be anonymised and the immigration judge should ensure that the determination in itself, even if publicised, would not identify the appellant. Examples of this could be where the appellant has been working for the security services. In other appeals only some part of the determination may need to be anonymised. This may arise where it is in the public interest for the appellant to be named, for example in a serious criminal deportation appeal, but their address should not be disclosed to prevent harm to him or his family.

### Holding hearings in private and anonymity directions

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<sup>1</sup> Contempt of Court Act 1981, s. 19: Interpretation ... “court” includes any tribunal or body exercising the judicial power of the State, and “legal proceedings” shall be construed accordingly;

<sup>2</sup> Contempt of Court Act 1981, s.11: Publication of matters exempted from disclosure in court. In any case where a court (having power to do so) allows a name or other matter to be withheld from the public in proceedings before the court, the court may give such directions prohibiting the publication of that name or matter in connection with the proceedings as appear to the court to be necessary for the purpose for which it was so withheld.

A direction for anonymity under rule 45(4)(i) would not automatically exclude members of the public to a hearing and judges should consider if it is necessary to make a further direction under rule 54 at the substantive hearing. Exclusion of the public from a hearing should be comparatively rare as long as the identity of the appellant and/or their family is protected.

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