



TRIBUNALS
JUDICIARY

FIRST TIER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER
JUDGE MICHAEL CLEMENTS, PRESIDENT
PRESIDENTIAL PRACTICE STATEMENT No 2 of 2020:
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 Pilot Practice Direction: Contingency Arrangements in the First-tier Tribunal and Upper Tribunal issued by the Senior President of Tribunals on 19th March 2020

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 22 June 2020 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.1 of 2020 is hereby revoked.

- (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 (3) applies, state why it is not reasonably practicable to do so. If the Tribunal agrees, the appellant may proceed without using MyHMCTS. Where paragraph 3(e) applies the appellant must provide to the Tribunal together with the Notice of Appeal, the reference number or numbers of any linked appeals.
- (3) 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 outside the United Kingdom;
 - (c) if the appellant is in detention;
 - (d) 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; or
 - (e) if the appellant’s appeal is linked to another appeal. (This applies where the appeal of one or more appellants is brought at the same time in circumstances in which those appeals raise common issues);

- (4) 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.
- (5) 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 3(d) applies the Directions which appear at Annex 3 will ordinarily apply.
- (6) 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.
- (7) 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?”
- (8) 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.
- (9) 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: 11 June 2020**