









## **PART 3**

### **7. Presiding Judge**

- 7.1 Where more than one member of the Tribunal is to decide a matter, the presiding judge for the purposes of article 7 of the 2008 Order and this Practice Statement is to be decided by the panel in advance of the hearing.

### **8. Transfer of proceedings**

- 8.1 Where: -
- (a) the Tribunal has started to hear an appeal but has not completed the hearing or given its decision; and
  - (b) the President or their nominee decides that it is not practicable for the original tribunal to complete the hearing or give its decision without undue delay, the President or their nominee may direct the appeal to be transferred to a differently constituted tribunal.
- 8.2 Where an appeal has been transferred under paragraph 8.1: -
- (a) any documents sent to or given by the Tribunal shall be deemed to have been sent to the differently constituted tribunal; and
  - (b) the differently constituted tribunal will deal with the appeal as if it had been commenced before it.

### **9. Format of decisions**

- 9.1 In order to ensure consistency in the formatting of decisions and statements of reasons, every decision of the Tribunal must: -
- (a) state in the heading whether the appeal is being decided following a hearing or without a hearing and the hearing centre to which it relates;
  - (b) state, on each page, the reference number of the case;
  - (c) have a copyright symbol and year at the foot of the first page;
  - (d) state whether or not an anonymity order or direction has been made;
  - (e) state whether a fee award has been made and if so the amount, including, if appropriate, brief reasons for any reduction in the full award;
  - (f) state whether all the persons participating in the appeal were present in person and if not the means by which they participated;
  - (g) be set out in sequentially numbered paragraphs; and
  - (i) be signed and dated at its end or employ such electronic or other methods as the President may approve for signifying that the decision is finalised.
- 9.2 Where there is a panel comprising more than one judge the resulting decision will not express any dissenting view or indicate that it is that of a majority.

## **PART 4**

### **10. Where an appeal is brought online using "MyHMCTS"**

- 10.1 Model Directions appear at Annex A and will usually apply in all online appeals using MyHMCTS where an appellant is represented.

**11. Where an appeal is brought, or case managed online, not using “MyHMCTS”**

11.1 Model Directions appear at Annex B and will usually apply in all online appeals not using MyHMCTS. They should ordinarily be used where the Tribunal accepts that it is not reasonably practicable for the appeal to proceed using MyHMCTS.

**12. Where an appeal is brought by a person without representation**

12.1 Model Directions appear at Annex C will usually apply in appeals where the appellant is unrepresented and appeals online not using MyHMCTS.

12.2 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.

**13 Where an appeal is brought in any other circumstances.**

13.1 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.

**PART 5**

**14. Child, vulnerable adult and sensitive appellants**

14.1 In the case of a child, vulnerable adult and/or sensitive appellant, regard is to be had in the first instance to the latest version of the Equal Treatment Bench Book. Where it appears to the Tribunal that a Litigation Friend (in Scotland, Curator ad Litem), an Intermediary or a ground rules hearing may be required the matter shall be referred to the Resident Judge.

**15. Anonymity directions and orders**

15.1 When considering if an anonymity direction should be made, guidance issued by the President should be followed.

**16 Granting of bail**

16.1 When considering an application for bail, guidance issued by the President should be followed.

Michael Clements  
President FtTIAC

13 May 2022

## PART 6

### ANNEX A

#### Provision of documents in the online procedure

A.1 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.

#### Online Procedure

A.2 Grounds of appeal are not required when a Notice of Appeal is provided to the Tribunal in the online procedure.

A.3 *Respondent's Bundle.* Not later than 28 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.

A.4 *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").

A.5 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.

A.6 The ASA must:

- (a) be concise;
- (b) be set out in numbered paragraphs;
- (c) engage with the decision letter under challenge;
- (d) not include extensive quotations from documents or authorities;
- (e) identify but not quote from any evidence or principle of law that will enable the basis of challenge to be understood.

A.7 *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.

A.8 *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.

A.9 Pro-forma or standardised responses will be rejected by the Tribunal. The Review must engage with the submissions made and the evidence provided to the Tribunal.

- A.10 The appeal will be actively case managed.
- A.11 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.

Timetable

A.12

<b>Period within which step is to be taken</b>	<b>Action</b>
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) ASA  (ii) Bundle of evidence in support
14 days after provision of appellant's ASA and evidence	Respondent must provide:  Review with counter-schedule

Late Material

- A.13 Any material provided outside the time limits may not be relied upon without leave.
- A.14 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.
- A.15 A party may not rely on material which has not been provided.
- A.16 If an application is made to admit material and
- (a) 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, and
  - (b) 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.

- A.17 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.
- A.18 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.

#### Change of Representation

- A.19 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.

### **ANNEX B**

#### Provision of Information by the Parties

- B.1 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.

#### Provision of Documents

- B.2 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.

#### Provision of Information by Respondent

- B.3 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.

#### Appeal Skeleton Argument

- B.4 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").
- B.5 The ASA must contain three sections:
- (a) a brief summary of the appellant's factual case;
  - (b) a schedule of issues;

- (c) 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.

B.6 The ASA must:

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

Appellant’s Bundle

B.7 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.

Respondent’s Response

B.8 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.

B.9 Pro-forma or standardised responses will be rejected by the Tribunal. The Review must engage with the submissions made and the evidence provided.

B.10 The appeal will be actively case managed.

Summary Timetable

B.11

<b>Period within which step is to be taken</b>	<b>Action</b>
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) ASA (ii) Bundle of evidence in support
14 days after provision of appellant’s ASA and evidence	Respondent must provide: Review with counter-schedule

#### Late Material

- B.12 Any material provided to the Tribunal outside the time limits provided for in paragraph 8 may not be relied upon without leave.
- B.13 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.

#### Case Management and Listing

- B.14 At each stage the appeal shall be considered by a Legal Officer 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.
- B.15 A party may apply at any time for a variation of these directions.
- B.16 A party may apply at any time for a Case Management Appointment.

### **ANNEX C**

#### Provision of Information by the Parties

- C.1 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.

#### Provision of Documents

- C.2 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.

#### Provision of Information by Respondent

- C.3 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.

#### Appellant's Explanation of Case (AEC)

- C.4 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).

#### Appellant's Bundle

- C.5 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.

Respondent’s Response

- C.6 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.
- C.7 Pro-forma or standardised responses will be rejected by the Tribunal. The Review must engage with the submissions made and the evidence provided.
- C.8 The appeal will be actively case managed.

Summary Timetable

- C.9

<b>Period within which step is to be taken</b>	<b>Action</b>
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:  Appellant’s Explanation of Case  Bundle of evidence in support
14 days after provision of appellant’s AEC and evidence	Respondent must provide:  Review with counter-schedule

Late Material

- C.10 Any material provided to the Tribunal outside the time limits provided for in directions may not be relied upon without permission from the Tribunal.
- C.11 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.

Case Management and Listing

- C.12 At each stage the appeal shall be considered by a Legal Officer 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.
- C.13 A party may apply at any time for a variation of these directions.
- C.14 A party may apply at any time for a Case Management Appointment.

### Change of Representation

- C.15 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.