



HM Courts &
Tribunals Service

Justice matters

First-tier Tribunal (Immigration and Asylum Chamber) Reform: interim process evaluation

Research report

HMCTS



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Contents

1. Summary	4
2. Introduction	6
Background	6
Research Aims	7
Methodology	7
Quantitative survey of legal representatives	8
Qualitative interviews	8
Management Information	8
Research Limitations	8
3. Research Findings	9
Use of the service since January 2020	9
Views and experiences of new processes in the digital service	12
Technology and Access	13
Application	13
Home Office bundle	14
Appeal Skeleton Argument	14
Home Office Review	16
Increased role of Legal Officers	18
Hearings	19
Users' experiences of and satisfaction with service	20
4. Conclusion	22
Annex 1: Appeal Journey for Reform	23
Annex 2: Legal Representative Survey Responses	24
Annex 3: Changes to service since research	33

1. Summary

HM Courts and Tribunals Service (HMCTS) is responsible for the administration of criminal, civil and family courts and tribunals in England and Wales, and for non-devolved tribunals in Scotland and Northern Ireland. In collaboration with the senior judiciary and the Ministry of Justice (MoJ), £1.2bn is being invested to reform the courts and tribunal system. As part of this reform, a new digital service has been developed in the First-tier Tribunal (Immigration and Asylum Chamber) (FtTIAC).

The new FtTIAC service, which began development in 2018, is an end-to-end digital service, with new processes and ways of working for the tribunal, professional users and appellants. It was developed to improve the speed, efficiency, experience, and accessibility of the appeals process.

HMCTS researchers carried out a process evaluation among legal representatives and professionals within the tribunal to understand: how the new processes for the Reformed service are working, where they are working well and to identify areas for improvement; and the experiences and attitudes of users who have been through the new Reform service. The research was carried out between June and September 2021. Qualitative research (43 in-depth interviews) was conducted with legal representatives, Home Office representatives, legal officers (formerly known as tribunal caseworkers) and Judges, as well as a survey of 196 legal professionals (representing a 10% response rate). This is supplemented with data from case management systems from January 2020 to July 31st 2021. The key findings from the research are:

- **The roll-out of the new Reform service was heavily influenced by mandating its use in June 2020.** This should be considered when understanding the breadth and speed of digital uptake.
- **Appeals through the Reformed route have been disposed of more quickly than the non-Reform route.** Between January 2020 and July 2021, Reform appeals were taking, on average, 24.7 weeks from receipt to disposal. This is quicker than non-Reform appeals disposed of in the same time period. It is also quicker than the disposal time for appeals prior to the national roll-out of reform in January 2020. Though it should be noted that these cases took place during the Covid-19, which will have impacted case timescales.
- **This is, in part, due to the increase in the number of appeals which are being withdrawn by the Home Office (around a quarter) prior to the hearing stage, following a new review introduced by Reform.** Early withdrawal means a quicker result for the appellant and that judicial hearing time is saved for the cases that need it.
- **For the most part, users are broadly positive about the concept of the new digital service.** The move away from paper-based ways of working is seen as overdue and a positive step for the tribunal. Additionally, the theory behind the new appeals process – namely moving away from up-front listing and listing appeals once all evidence is gathered – was viewed positively for appellants and tribunal efficiency by those users interviewed.
- **However, there are themes and barriers from interviews with users that should continue to be monitored as the number of appeals increase and through the roll-out of the digital service for appellants without representation.**

These themes and barriers include:

- **Delays in the process due to both the Home Office and legal representatives not submitting information to the tribunal on time.** These delays were reported by interviewees to be predominantly driven by workload and resourcing pressures from Covid.
- **Reports of varying quality of Appeal Skeleton Arguments (ASA) by legal representatives and appeal reviews by the Home Office.** However, when parties do engage, it is generally viewed to lead to the narrowing of some key issues ahead of hearings and better user experience.
- **The increased use of legal officers is viewed as positive for case progression, however the research showed a variation in ways of working regionally which impacts users' experience and satisfaction with the service.** Additionally, workload has impacted legal officers' ability to effectively review cases, especially ASAs and appellants' evidence.
- **Users reported significant service downtime, and issues with log-in and access, which affected their ability to work on cases and there could be better communication of service issues to users.** While the move to digital ways of working was viewed as generally positive, and procedural changes have been enabled and supported by digital innovation (i.e. the introduction of Core Case Database and My HMCTS), more digital improvements can be made.

2. Introduction

Background

HM Courts and Tribunals Service (HMCTS) is responsible for the administration of criminal, civil and family courts and tribunals in England and Wales, and for non-devolved tribunals in Scotland and Northern Ireland. In collaboration with the senior judiciary and the Ministry of Justice (MoJ), £1.2bn is being invested to reform the courts and tribunal system. As part of this reform, a new digital service has been developed in the First-tier Tribunal (Immigration and Asylum Chamber) (FtTIAC). The tribunal is responsible for handling appeals against some decisions made by the Home Office relating to permission to stay in the UK, deportation from the UK and entry clearance to the UK.

The reform of the FtTIAC service began in 2018, gathering feedback from legal professionals, support organisations, the Home Office, and judges to understand the issues and opportunities associated with the then FtTIAC service. This, alongside considerable user research, found the service to be complex for appellants, who had to return long appeal forms within 14 days of the Home Office decision, and reliant on paper (from appeal application to hearing). Generally, appeals had poor engagement from the Home Office and legal representatives during the early stages of appeals, leading to information being provided late in the process often resulting in the hearing having to be adjourned and re-listed. This process led to delays and poor user experience.

The 'appeal an immigration or asylum decision' digital service was developed to address some of the issues from the old FtTIAC service. It is a new end-to-end digital service, with new ways of working for the tribunal, professional users and appellants. The key features of the new reformed appeal journey are as follows¹:

- Introducing a new online, less complex initial application process.
- Introducing a new appeal skeleton argument (ASA) form for legal representatives to build their client's case.
- Giving a new duty on the Home Office to reconsider the underlying decision within 14 days of the ASA – allowing the opportunity to withdraw to grant a decision or concede parts of it at an earlier stage in the process.
- Increasing the role of legal officers (formerly known as tribunal caseworkers) to proactively manage cases through the process and decide when cases are ready to list.
- Moving away from up-front listing of hearings, so that cases are listed only when hearing ready.

The new digital service was co-designed with a variety of stakeholders and partners, and went through numerous stages of user research and testing. Following a pilot period in 2019, the new service was launched in January 2020 across the eight eligible hearing centres for the FtTIAC for in-country Protection (asylum) appeals with legal representation only. This was expanded to all other appeal types in May 2020 and, following the issue of President Guidance Note No 2² which came into effect on 22 June 2020, was subsequently mandated for represented cases where the appellant was not in detention and was inside of the UK, and the appeal was not linked to another appeal.

¹ A flow chart of the new appeal journey for reform can be found in Annex 1.

² <https://www.judiciary.uk/wp-content/uploads/2020/06/PRESIDENTIAL-PRACTICE-STATEMENT-No-2-2020-FINAL-11-June-2020-1.pdf>

Another service has been developed for appellants without representation. It was originally launched in August 2021 for appellants with asylum appeals, not in detention and inside of the UK, and was expanded in December 2021 to include other appeals types (e.g. Human Rights appeals). Given the timescales of the research, this report does not include the appellant in person service and focuses only on the legal representative service. Planned future research will assess the appellant in person service.

Research Aims

The research sought to understand how well the legal representative service and its processes are working and the experiences of professional users. This is to inform improvements relating to the service and wider Reform going forward.

The areas of interest for this research are:

1. To understand how the new features and processes for the Reformed service are working, where they are working well and to identify areas for improvement.
2. To understand the experiences and attitudes of legal representatives, Judges, Home Office representatives, court staff and legal officers.

As part of the research, the consequences of the introduction of the new digital service and implications for Access to Justice, as detailed by Byrom (2019)³, were also looked at.

This research contributes to the overarching evaluation of HCMTS reform programme. HMCTS are carrying out project-level evaluations of individual reform projects, which will feed into the MoJ led overarching evaluation of HMCTS reform. This research has been developed in alignment with the overarching theory of change, and contributes partial evidence on pathways A, B, C, D, V, Z, C1 and D1. Further information on our approach to evaluation can be found within the overarching evaluation framework (MoJ, 2021)⁴.

Methodology

The research involved a quantitative survey with legal representatives and qualitative research with legal representatives for the appellant, Home Office representatives, Judiciary and legal officers. Table 1 summarises the range and number of stakeholders who participated, and methods used.

Table 1: Research approach overview

Legal Representatives	Home Office (HO) Representatives	Legal Officers	Judiciary
Survey (196)	In depth interviews (10)	In depth interviews (9)	In depth interviews (6)
In depth interviews (19)		Split by region	

³ Byrom, N (2019). 'Digital Justice: HMCTS data strategy and delivering access to justice'. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/835778/DigitalJusticeFINAL.PDF. Accessed on: 26/09/2021

⁴ MoJ (2021). 'HMCTS Reform: Evaluation Framework'. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/983664/hmcts-reform-evaluation-framework.pdf

	Split by Home Office Teams ⁵		Split by region and fee paid/salaried Judges
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Quantitative survey of legal representatives

Legal representatives who have used the service since January 2020 were contacted to complete an online survey. In total, 1927 legal representatives were contacted to complete the survey – with a response rate of 10% (196 full responses). The data has remained unweighted. Given the response rate, sub-group analysis has not been possible.

Qualitative interviews

Qualitative interviews were conducted remotely by telephone or video (e.g. via Microsoft Teams). Due to fieldwork taking place during the COVID-19 pandemic, it was not possible to conduct qualitative interviews face-to-face. Participants were recruited for qualitative interviews if they had used the new digital service. Legal representatives were recruited using case-level information and opt-in following survey responses. In total, 43 interviews were conducted with users.

Management Information

Primary research was supplemented with case-level management information, where available. This included information on receipts, disposals and timeliness metrics from 1st January 2020 to 31st July 2021. Data was taken from two separate management systems which records tribunal information with respect to Immigration and Asylum: (a) ARIA – which collects information for non-Reform appeals; and (2) Core Case Database – which records information for Reform appeals.

Data presented in this report is based on data extracted from internal case management systems on 31st August 2021. Both databases are ‘live’ and so numbers can change depending on changes in the progress of an appeal or updates to case files. As such, numbers can fluctuate with every data refresh and so will differ depending on the date the data is extracted. As a result of data being drawn from separate case management systems and the extract date, data presented in this report may differ from published statistics and more up-to-date management information numbers. As such, the interpretation of numbers should be treated with caution.

Research Limitations

This research project aimed to understand the processes of the new digital service and users’ experiences; to highlight key issues and opportunities from reform and identify areas of focus for future analysis and research. Since January 2020 and the research period, there have been iterative changes to the service based on user feedback. As such, some people’s experiences may reflect early stages of reform with changes made since. Additionally, this research has focused on appeals which have been lodged with legal representatives. This is because the service has been available to legal representatives from January 2020, and a service for appeals lodged without legal representatives only became available in August 2021. Therefore, an evidence gap is experiences of appellants for appeals without legal representation.

⁵ Home Office teams: Appeals Processing (3); Appeals Review (4); Presenting Officers (3)

The quantitative survey with legal representatives took place in June and July 2021, and asked respondents to reflect on their experiences. The survey was sent to all legal representatives who had submitted an appeal since January 2020, but there was varying quality of emails available (with some personalised and others generic). Survey links were promoted through networks, but the response rate was low at 10%. Survey respondents were self-selecting and may not be representative of the wider population of legal representatives in immigration and asylum. Therefore, these findings should be seen as representative of the respondents who completed the survey and not generalisable to the wider population. The profile of the legal representatives who responded to the survey and full survey responses can be found in the Annex 2.

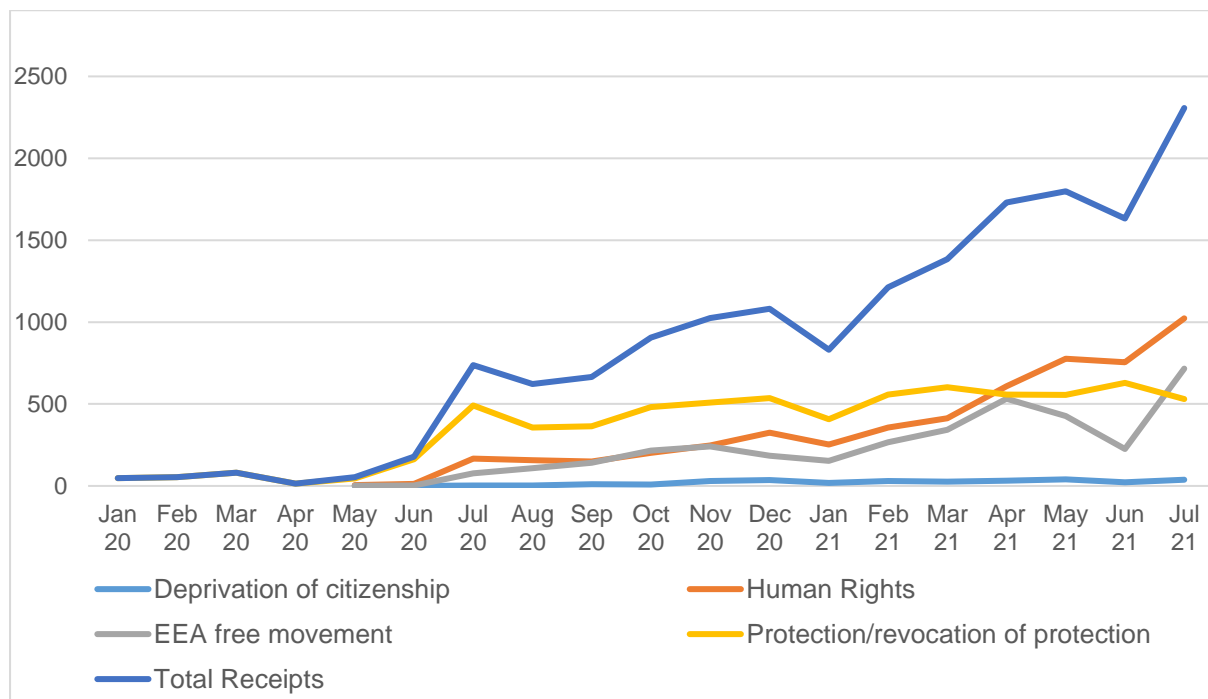
The qualitative interviews covered a range of users. For legal representatives a convenience sampling strategy was used, with legal representatives asked whether they wish to opt-into research following completion of the online survey. For Home Office representatives, Judiciary and legal officers, contact details were provided by the Reform service and Judicial team and were sampled to achieve a geographical spread and across different internal teams.

3. Research Findings

Use of the service since January 2020

Since the launch of the digital service nationally to legal representatives in January 2020, 16,364 appeals had been submitted until the end of July 2021, as outlined in figure 1. In the same time period, 36,727 appeals were submitted via the non-digital route (figure 2).

Figure 1: FtTIAC digital receipts by appeal type: Jan 2020 to July 2021

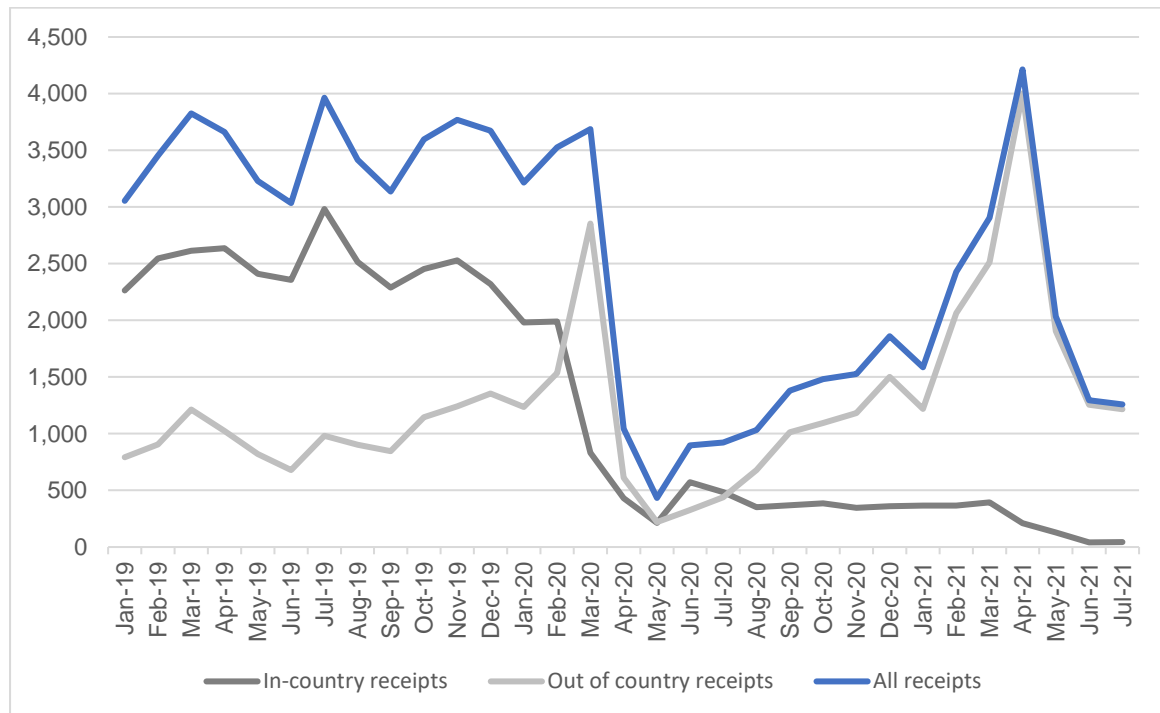


Source: HMCTS core case data (CCD) management system. Data extracted on 31/08/2021.

Of those who started their appeal through the digital service, 718 were transferred to the offline route. Reasons for this vary and are mostly reflective of the iterative design of the

service, whereby new features of the service – such as online payment – were developed and rolled out in sequence. Therefore, some appeals which could not progress online in 2020 are now able to do so. There remain some cases which still cannot be served fully through the online digital service, such as remitted cases, as the necessary technology has not been developed yet.

Figure 2: FtTIAC non-digital receipts: July 2019 to July 2021



Source: HMCTS ARIA case management system. Note that figures show appeals with and without legal representatives. Data extracted on 31/08/2021.

While figures include in-country appeals with and without legal representatives (as the Reform digital service was available to legal representatives only), Figures 1 and 2 highlight the considerable impact the Presidential guidance mandating the use of the digital service and the expediated nature of the national roll-out had on digital uptake. This is shown by the increase in digital receipts and declining non-digital receipts for *in-country* appeals following the June 2020 Presidential guidance, with similar trends following the expansion of the service to *out of country* appeals in April 2021⁶. This should be considered when understanding the speed of digital uptake initially and whether the use of digital platforms will continue going forward⁷.

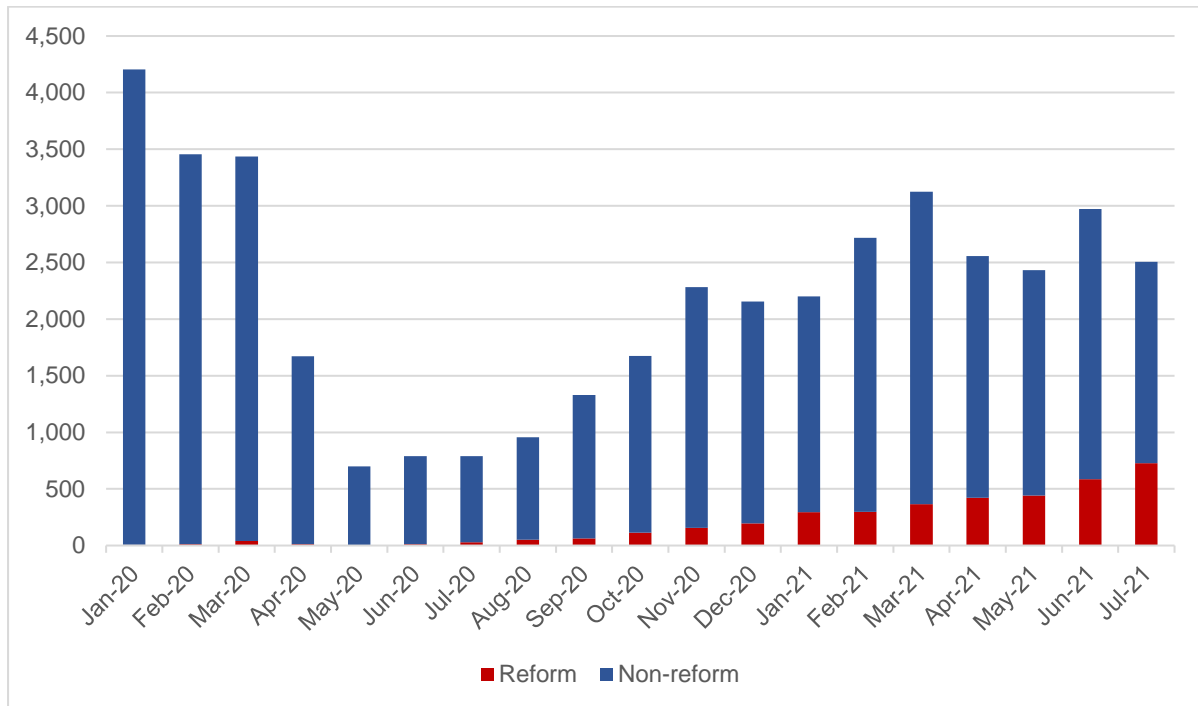
Figures 3 and 4 focus on the disposal stage. Given the increase of the use of the digital service from June 2020, there was a rise in the number of disposals of Reform appeals from late 2020 onwards – however non-Reform disposals still outstrip Reform appeals at the time of reporting. Around a quarter of appeals are withdrawn by the Home Office – mostly at the Home Office review stage prior to a hearing. This is positive for the original aims of the

⁶ Presidential Practice Statements 2/2020 and 1/2021 – mandating the use of the online service for statutory appeal types where the appellant is represented, not in detention and is not appealing under the EU Settlement Scheme.

⁷ It should be noted that there was an overall decline in receipts for all appeals as a result of restrictions and changes introduced relating to Covid-19 from March 2020

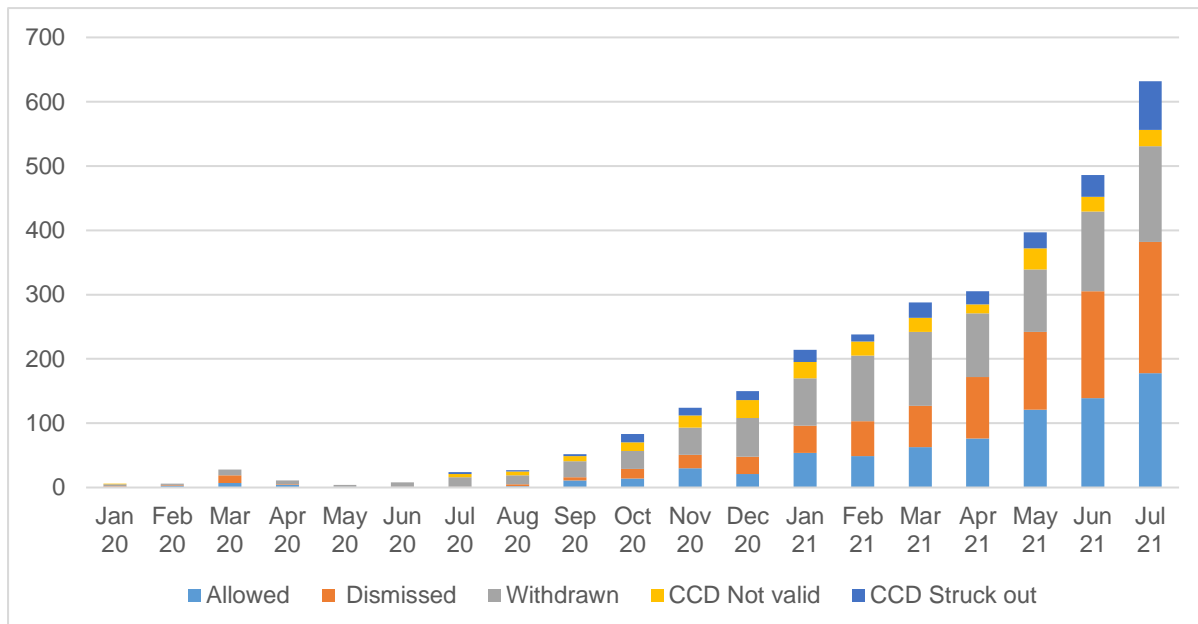
Reform around greater access and speed – as appellants are having their decision earlier and without having to go through the hearing process.

Figure 3: FtTIAC disposals: Jan 2020 to July 2021



Source: HMCTS ARIA case management system. Note that figures show appeals with and without legal representatives. Source: HMCTS core case data (CCD) management system. Data extracted on 31/08/2021.

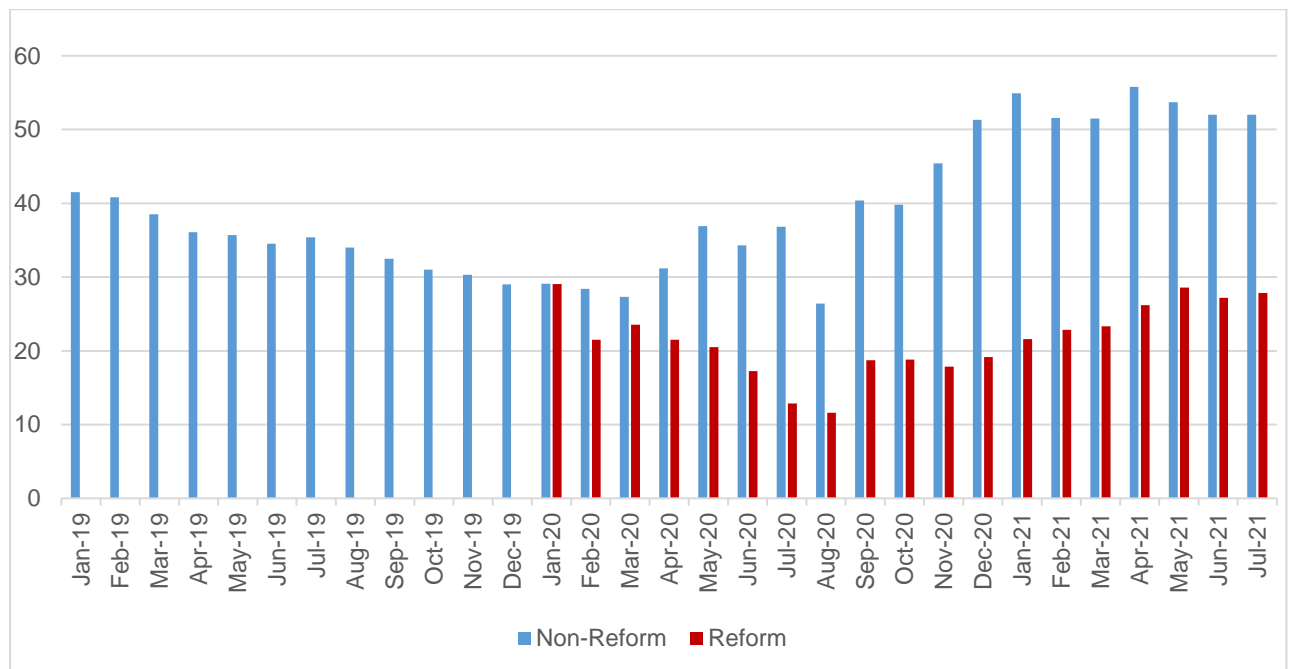
Figure 4: FtTIAC digital disposals: Jan 2020 to July 2021



Source: HMCTS core case data (CCD) management system. Note that figure 4 does not include figures for: abandoned (n=30) in this time period. Disposals will include cases involved in the pilot from January 2020, which happened before national roll-out. Data extracted on 31/08/2021.

Figure 5 shows the average time from receipt of an appeal to disposal. This shows that the average time is shorter for Reform appeals compared to non-Reform appeals. This is positive in relation to assumptions for the service – that it would be faster – and could be good for Access to Justice as appellants have an outcome more quickly. It should be highlighted that this is a rudimentary comparison of appeals – there was not a robust comparison group due to the nature of the rollout and so differences cannot be attributed solely to Reform.

Figure 5: Average (mean) length of appeal from receipt to disposal (in weeks) for Reform vs Non-reform appeals: Jan 2020 to July 2021



Source: ‘Reform’ - HMCTS core case data (CCD) management system. ‘Non-Reform’ - HMCTS ARIA case management system. Note that ARIA figures show appeals with and without legal representatives. Data extracted on 31/08/2021.

It should be noted that the time period analysed was during the Covid-19 pandemic (from March 2020), which had a considerable impact on the number of appeals submitted to the FtTIAC and the number of hearings that could take place. As such, receipts and disposals for Reform and Non-Reform appeals are lower than levels prior to March 2020. This should be accounted for when interpreting management information, including timeliness metrics.

Views and experiences of new processes in the digital service

As highlighted previously, there has been a substantial change in process when submitting and processing appeals in the FtTIAC for legal representatives. This section looks at each stage, highlighting ways of working, views and perceptions of the process.

Technology and Access

As part of the digitisation of the FtTIAC appeal process, all legal professionals must submit appeals online and register through 'MyHMCTS'⁸ in order to digitally manage cases. An important element for reform is therefore being able to access and use the online portal easily and effectively to manage cases, topics which were explored through the online survey and interviews with legal professionals and HMCTS users.

Of legal professionals surveyed, most did not report difficulty creating or accessing their online account. However, a third did require help from HMCTS in some form to initially create their online account (34%) and accessing thereafter (35%). When probed further in interviews, some highlighted issues with creating accounts in the early stages of the introduction of the digital service– for example when creating an account linked to a payment account (which is now available as part of the online system). Issues with account creation also seemed to revolve around having to first create an account for an organisation, and then for individuals within this which caused confusion for individuals setting up their account. This has subsequently been reported to the MyHMCTS team for improvements.

In terms of logging into the system, the main pain points were around log-in and two-factor authentication. Users reported being sent multiple access codes to log-in, delays in receiving their code (up to 30 minutes in some cases) and having to log-in multiple times before getting access to the system. This was frustrating for users, leading to workarounds to access the online system, but – for the most part - not preventative to logging in.

The main blocker for access was service downtime – whereby the online system was not accessible to retrieve case files. This prevented users from working on a case at all and was a particular challenge for legal officers whose workload was entirely online. For example, legal officers reported that the service has previously gone down for hours at a time and, in one instance, was not accessible for a whole week. Access issues were also reported by Home Office and legal representatives, with either no access to the online system (ranging from less than 30 minutes to 6 hours) or not being able to access/click on specific files. It was also difficult for users seeking to access digital files for a hearing, with some reporting not being able to log-in and access files at the time of their hearing. This led to users downloading relevant files (such as hearing bundles) and working offline as a result, to mitigate disruption.

While some reported that they received communication when the service is down and problems were fixed, others reported no contact at all or delayed feedback about issues.

“There are too many notifications but there is no message when the system is down.” [Home Office Representative]

This could be avoided with better, up-to-date communication when the online system is not working, and issues have been resolved.

Application

As part of the revised process for the digital service, there was a change in the initial appeal application form – requiring less information from legal representatives and appellants up-front about appeal details.

⁸ 'MyHMCTS' is an online case management tool for solicitors and other legal professionals managed by HMCTS. It allows legal professionals to submit, pay for (where required) and manage case applications online.

In general, legal representatives were positive about the initial appeal form. Of those surveyed, over four in five (83%) said it was easy or very easy to complete and this was mirrored in interviews. The form was seen as quicker, as they can copy/paste information from existing IT systems, only need the Home Office refusal letter to complete and is sent instantaneously rather than through fax or paper.

“You can do it within 5 minutes to get it done and lodged. Probably before it would have taken not that long either but then you would be passing it to a secretary to do the cover letter and to fax it. So it probably would have taken longer before.” [Legal representative]

Some legal professionals felt it made no difference in their interaction with their client, while others felt that it positively allowed more time to speak about the key points and issues of their case and prepare their Appeal Skeleton Argument (ASA) in more detail. All legal professionals highlighted the challenges of speaking with appellants as a result of Covid-19 restrictions, having to speak by phone for the most part or not being able to get in contact.

Home Office bundle

On the whole, representatives from the Home Office were positive about the process of uploading the Home Office bundle – describing the online system as straightforward and easy to use.

A key issue has been delays from the Home Office submitting bundles on time and the knock-on effect this has had for the appeal process. All legal officers interviewed highlighted delays receiving the Home Office bundle – with increasing numbers not submitting time extension requests. Given the importance of the Home Office bundle to the appeal process, most legal officers interviewed preferred not to move onto the next stage and direct legal representatives to prepare the ASA without the Home Office bundle being submitted – though there was a slight degree of variation among legal officers in different regions. This has implications for timings, with one legal representative reporting that they lodged an appeal in March 2021 and were still awaiting the HO bundle 5 months later.

“We usually accept time extension requests because the HO bundle is quite important, and we cannot proceed without it. We understand that Home Office staff are also being affected by Covid.” [Legal Officer]

Interviews with Home Office representatives and legal officers presented this as a national issue – a result of Covid and staffing pressures, and a rise in the number of appeals being submitted to the tribunal following the lifting of lockdown restrictions and support. It is important to monitor this trend going forward, as delays are a concern from an access to justice perspective, in terms of the delay it places on appeals and appellants seeking a resolution to their cases, but also the potential for legal representatives to be preparing their ASA without access to the Home Office bundle.

Appeal Skeleton Argument

A new introduction to the FtTIAC appeal process is the Appeal Skeleton Argument (ASA). This should answer the question – ‘why does the appellant say that the decision of the

respondent is wrong?⁹, with evidence supplied with it to support the argument. ASAs are checked by legal officers for compliance before moving onto the next stage of the appeal process.

Interviews with users found that generally legal representatives' responses are standardised in terms of structure – it lays out the appellant's case first (through the ASA) followed by evidence to support this. This was considered helpful to Home Office representatives responsible for the Home Office review stage and Judges preparing for hearings, as arguments and evidence are generally more clearly ordered and easier to find. However, there is variation in terms of the quality of ASAs and the information provided, with legal officers and Judges saying that this variation has widened as the service has moved from pilot stages to national roll-out.

The best ASAs were seen by Judges, legal officers and Home Office reviewers to be short and clear on the issues, and that respond to the HO refusal letter about the issues at hand and then refers to all the relevant evidence.

“Make them [ASAs] everything you would want to say in court... I try and make it abundantly clear why they [the Home Office] should change their minds.” [Legal representative]

Legal officers felt that, on the whole, very poor quality ASAs were rare and variation in ASAs is expected to an extent – as different legal representatives have different styles of communication. However, there are factors which may explain the variations in ASAs across legal representatives and legal officers reasons for accepting or rejecting an ASA:

Previous experience of completing an ASA. Legal professionals who spoke of doing ASAs prior to the new process were not as impacted by the change compared to those who did not. This is somewhat reflected in survey results, whereby around one in five (17%) legal representatives said they found it 'difficult' to complete the ASA, with reasons including lack of experience and knowledge of what is required.

“I have 13 years' experience, I'm happier to draft my own ASAs.” [Legal representative]

Awareness and use of guidelines. Most legal representatives surveyed had heard of the guidelines for the ASA (91%) and use it either sometimes or on a regular basis (66%). From interviews with legal professionals, guidelines were useful at the beginning but generally are not used going forward as they have their own internal documents or use guidelines from other websites (e.g. Electronic Immigration Network and Legal Education Foundation).

Instruction from clients. Legal professionals spoke of the difficulty reaching clients as a result of Covid and the suspension of face-to-face appointments, and therefore getting instruction and the right information required for the ASA and evidence was difficult.

Engagement in the ASA stage. Some Home Office representatives reported mixed engagement by legal professionals – for example through generic responses or repeated information from the original claim form, or not responding to the decision letter or Home Office bundle. This was not reflected in interviews with legal representatives, who spoke of time and detail spent pulling together ASAs. Though interviews did suggest that delays by the Home Office and perceptions of non-engagement at the Home Office bundle and review

⁹ First-tier Tribunal (Immigration and Asylum Chamber) User Guide – April 2021. Available at: <https://www.judiciary.uk/wp-content/uploads/2021/04/IAC-User-Guide-April-2021-Appendices-1-3-NH.pdf>. Accessed on: 03/09/2021

stage has impacted legal representatives' own engagement in the process. For example, one legal representative said that they no longer spend as much effort on the ASA as previously as a result of Home Office bundle delays and the perception that the Home Office are not reviewing the ASA properly at the review stage.

“If you find the Home Office don't engage with it, then you don't put the effort in.” [Legal representative]

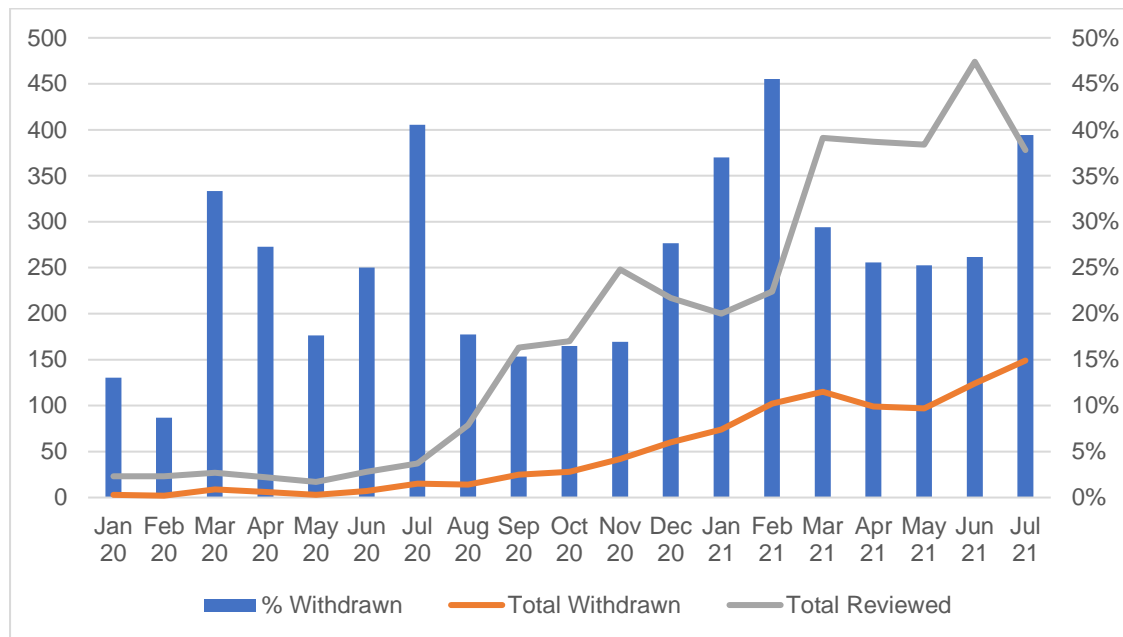
In addition to the Home Office bundle stage, legal officers did highlight delays receiving the ASA from legal representatives also. Approaching a quarter of legal representatives surveyed (23%) found it 'difficult' or 'very difficult' to meet the ASA deadline. Waiting for instruction from their client – within the context of lockdowns and illness from or isolation due to Covid – and awaiting key evidence such as expert and country reports were the main reasons given by legal representatives and legal officers. On the whole, legal officers were granting legal representatives extension requests, especially given extensions to the Home Office at the bundle stage. On the rare occasions that requests were rejected, this was because no reason was given, they already had multiple requests for the same case, or they felt additional evidence wasn't required.

Home Office Review

One of the most fundamental changes to the appeals process in the FtTIAC has been the introduction of the Home Office review stage – whereby the Home Office have the opportunity to review the appellant's case following the submission of the ASA and before the hearing is listed.

Since the national roll-out of the service in January 2020 until 31st July 2021, 28% of appeals have been withdrawn at the review stage. However, as detailed in Figure 6, there is considerable variation on a monthly basis with withdrawals ranging between 45% in February 2021 to as low as 15% in other months. Additionally, there is variation by region during this 19-month time period, with the withdrawal rate being highest in London (43%) and lowest in the North East and North West regions (17% respectively).

Figure 6: Appeals withdrawn at Home Office Review Stage: Jan 2020 to July 2021



Source: HMCTS core case data (CCD) management system. Data extracted on 31/08/2021

Reasons for withdrawal were explored as part of interviews with legal officers, legal representatives and Home Office Representatives. In general, reasons revolved around:

- the submission of new evidence by the appellant at the ASA stage – either addressing missing evidence from the original Home Office decision (for example, providing bank statements missing from a Human Rights claim) or challenging the original Home Office decision (such as highlighting a point of law not addressed in the original claim).
- Home Office reviewers conceding that the original decision by the Home Office was not correct.
- There has been a change in circumstances for the appellant since the original decision (such as now having a job or children) which would affect their eligibility.

It would be beneficial to more systematically collect data on reasons for withdrawal, to understand trends in reasoning. For example, if missing evidence was a sustained trend then this may indicate that claimants may be unsure of evidence required at initial application stages, which could be improved through guidance from the Home Office.

Overall users were generally positive about the idea of the Home Office review stage, because of its potential for appellants to have a quicker decision and not go to a hearing if it is withdrawn, or for issues to be focused ahead of the hearing if not withdrawn. This is particularly beneficial for appellants, who are vulnerable and can avoid an unnecessary hearing, and also positive for users and HMCTS as unnecessary appeals do not go to hearing which frees up time and hearing rooms.

“I have seen the benefits of my clients – two of whom were vulnerable and probably wouldn’t have appreciated being cross-examined and whatever else, and having to go to court. They’ve had their appeals conceded effectively – Home Office have withdrawn their refusal decisions and granted them leave to remain as refugees. Whereas under the old scheme, that probably would have happened the day of the hearing. They would have had the significant stress of psyching themselves up to be

cross examined and then the Home Office come in and say no we are not going ahead.” [Legal representative]

“That hearings are not scheduled until everyone is actually ready is much better. This seems fairer than the old way of just scheduling a hearing for 4 weeks after the appeal was submitted which was impossible. We are dealing with people's lives and need proper time to prepare. We cannot rush and do a half-baked job, so this change is very, very much appreciated.” [Legal representative]

However, concerns were raised by Legal Representatives about the Home Office’s engagement in the review process. A number of legal representatives interviewed said they have not seen the Home Office meaningfully engage in the review process as a lot of the responses are not focused or refer to other cases.

“[I have] yet to see evidence of it [the withdrawal to grant stage being used]. The Home Office review tends to be generic and not deal with the issues.” [Legal representative]

Increased role of Legal Officers

As part of the new appeals process, legal officers have taken an increasing role in case management and case progression, responsible for reviewing and progressing each stage of the appeal process. Users interviewed were generally positive about their interactions with legal officers – though interviews did highlight some key themes.

Firstly, at the time of the research there seemed to be regional variation in terms of legal officers’ ways of working and their interactions with representatives. Some legal officers are working on a case-level basis, reviewing and progressing an appeal from beginning to end, while others are working on a task-level basis, focussing on a task per day (such as reviewing Home Office bundles) rather than a case. Some legal officers also spoke of a hybrid approach, whereby they would follow a task-based approach but would assign some cases to them due to complexity or knowledge of the history of the case. The implication of different ways of working on the progression and outcomes of appeals could not be ascertained in this research, however the Home Office and legal representatives felt there was variation in the decisions and directions made. For example, some legal professionals did not understand why some of their ASAs were accepted and others rejected – with similar views expressed for the Home Office bundle stage. Changes to work allocation through ‘task lists’ in the internal case management system was rolled-out in October 2021, whereby more complex cases will be allocated to a named legal officer with remaining cases allocated on a task-based basis. This seeks to create a more consistent, nationalised approach to case management and its impact should be monitored going forward.

Secondly, workload and capacity may be having an impact on legal officers’ ability to review cases effectively, especially within the context of rising number of appeals. Interviews suggested a lack of time to review ASA and other documents in detail.

“There was one stage... Because workload was so high, we didn’t have enough time to properly look at ASAs. It was kind of a quick cursory check to get the appeal moving, because instead of spending an hour on an ASA, if you spend 20 minutes on it instead, you can look at 3 ASAs in an hour. Because our workload was so high, we did feel like we had to rush through checking of documents.” [Legal Officer]

Workload seemed to be more of a challenge in some regions compared to others, generally as a result of the number of appeals coming through. Some legal professionals also felt that some issues were not being picked up at the Home Office bundle stage, and this was highlighted by them in their ASA or at the final hearing.

Hearings

The final new stage of the digital appeals process is the ability to submit hearing requirements and access the shared hearing bundle online.

Pre-hearing

In general, legal representatives were happy with the process of submitting hearing requirements online – with 46% surveyed saying it was ‘easy’ or ‘very easy’ (with 27% saying ‘N/A’). This was echoed in interviews, with legal representatives generally finding the process of submitting hearing requirements (such as requiring an interpreter or screens) simple and actioned by HMCTS. Similarly, the process of uploading additional evidence was considered relatively easy, though legal representatives would like the option to upload video evidence and to have higher file limits.

Hearing

In terms of the shared hearing bundle, having a ‘one source of truth’ was viewed positively by users – referring to previous paper bundles which were heavy (carrying over 200 pages), different for different parties and, in some cases, incomplete. This saves time at the beginning of a hearing and allows greater time for preparation before. This was viewed positively by legal representatives, with most of those surveyed who had a hearing satisfied with the time they received the bundle ahead of the hearing (56%).

“The single bundle is great – that saves a lot of time. In non-Reform cases, you inevitably spend the first minutes – even if everyone has everything that everyone else does have – it takes you 5 minutes to establish it. ‘Do you have the appellants third supplementary bundle?’ ‘Oh, is that the one with the letters on?’ That sort of thing.” [Judge]

However, users did highlight issues with the shared bundle, including duplication and blank pages, pagination and late evidence. With regards to late evidence, this was not seen as a common occurrence but when it happens users felt it could be better flagged as an addition to the final shared bundle – which cannot change once generated. Sometimes late evidence would not be flagged until parties are at the hearing.

In terms of accessing and navigating the bundle, this was not seen as an issue by legal professionals. Of those who were surveyed, few found the process ‘difficult’ and those interviewed found it was helped by the increasing use of e-bundles as a result of the pandemic. The main pain point for legal representatives was access for those not using MyHMCTS, the online system, such as barristers and other counsel. This was an issue for firms using counsel for hearings and no access has led to workarounds offline, such as sending relevant documents by email, so that counsel can view documents. As a result, it may be beneficial to widen access to the online system to counsel to avoid such workarounds in the future.

While this research did not specifically focus on remote hearings, legal representatives did highlight the need to facilitate appellant engagement in hearings because of issues with or access to technology – with some having hybrid hearings (with the appellant at their offices or appellants at a hearing centre with additional screens provided).

Post-Hearing

Since January 2020 until end of July 2021, there had been 452 applications for permission to appeal to the upper tribunal lodged through the new online service. Some legal representatives did not think the process for permission to appeal was clear and were confused about whether this is done online through the digital service or by email. Therefore, the service would benefit from better signposting about the next stage of the appeal process.

“I had no idea what I was supposed to do when I had to do a permission to appeal application on it. This might sound terrible but I wasn’t sure if it [the online system] had the capacity to renew the application to the upper tribunal. It wasn’t clearly marked for me that if you wanted to renew it then you had to do it with the UT directly by email.” [Legal representative]

Users’ experiences of and satisfaction with service

Of those surveyed, the majority rated the new digital service as very good or good (55%) and felt it was ‘better’ than the previous process (63%). - though a considerable number did rate the service as ‘poor’ (19%) and at least somewhat worse than the previous process (26%).

Survey results suggest that prior experience using the new process and digital service impacts legal representative’s satisfaction and responses. For example, legal representatives who have used the new digital system for more than 5 appeals are more likely to rate their experience of the new digital service as ‘very good’ or ‘good’ compared to those who have used it for fewer than 5 appeals (64% vs 45%). Additionally, legal representatives with more experience are more likely to consider the new digital service process ‘much better’ or ‘somewhat better’ than the previous process (75% vs 48%).

The positives and negatives of the new service were explored in the survey and as part of interviews. On the whole, users were positive about the move away from paper-based ways of working. They liked the streamlined nature of the new system – everything can be accessed and uploaded to one place, information can be sent instantly, and you can look at parties’ work without the need for a physical file. For the most part, the online system was seen to be simple to use and well-presented. The online system allows for greater flexibility for ways of working, especially for legal officers and Judges who can access their own files - and others’ files - without having to go to a hearing centre, making preparation for hearings easier and quicker.

“Anything is better than paper. Can do anywhere and don’t have to come to the office.” [Legal Officer]

“It’s been a revelation accessing documents digitally.” [Home Office representative]

Negative views and experiences of the service stemmed around themes highlighted earlier in the report, such as access to the system and files, system functionality and communication to and from the tribunal.

Users experience of and engagement with the new reform service and process varies depending on a number of factors, which were raised during interviews.

Ability and confidence with technology: users with more experience using technology were more confident in using the online system and were generally more positive towards using it. For those with less confidence, they were more sceptical of the online system – unsure if key documents were being received and wanting personalised contact with legal officers and Courts and Tribunals Service Centres (CTSCs). This was not helped when users did not receive timely notifications through the online system. Access issues and system downtime have a negative effect on pre-existing feelings about technology, with issues with the system feeding into nervousness of using the system. However, greater use of email and digital bundles as a result of Covid has increased confidence in trying and using the online system, and digital ways of working.

Ways of working: the change in the appeals process has placed more emphasis on legal professionals to detail their legal argument ahead of a hearing. This is viewed by some as positive – narrowing some, but not all, issues ahead of hearing.

“People generally come and argue the same issues that they have agreed ... before. It gives you greater scope as a judge to restrict those issues and keep people on track – as you can say ‘you have had your arguments about this already and the Home Office has conceded this or the appellant isn’t pursuing this’ – where it was more open season beforehand [...] People do walk in with a better idea of what ideas are left.” [Judge]

However it may, in part, explain some of the dissatisfaction with the new process, with some noting that the change had made it difficult to plan for hearings and prepare information in the required timescales. The ASA stage has also, in some cases, led to the involvement of counsel earlier in the process, which firms have had to manage in terms of work allocation and payment.

Progress of appeals: delays in the appeals process has significant implications for user experience – both legal representatives and appellants – and their engagement in the process. As highlighted previously, there were reports of delays in receiving both the HO bundle and the ASA, with information being submitted considerably beyond the time limit in some cases. Delays and/or a perceived lack of engagement has a knock-on effect for trust and engagement in the process and users’ experiences. Where there is engagement by the Home Office and Legal Representatives alike, the experience is positive – it is seen to focus minds on the key issues of cases both before and at hearings and, in some cases, leads to withdrawal by the Home Office.

Engagement with appellants: due to Covid and remote working, some legal representatives found updating appellants about their appeal or getting instruction from their client a challenge – either as they were difficult to contact, they were in isolation or it was difficult due to delays in the process. Legal representatives felt it was difficult to explain the process to appellants when they do not have access to the system themselves and felt delays in the process were therefore more difficult to explain and created anxiety for their clients.

“The knock-on effect is my clients, they are waiting months, maybe a year – I can’t even tell them anymore. It’s really stressful for them. They know they may be nearing the end of their case, if their appeal is unsuccessful can they take it further? When will their appeal be? [...] You are managing that client’s anxiety, or if a young person then the social work is managing it, or they are alone.” [Legal representative]

Some legal representatives expressed concern about appellants without representation using the service and, of those surveyed, there was generally a split in views as to how appellant's experiences of the new digital service process compared to the previous process. Concern was around knowing how to build a legal argument and gather all the relevant evidence within the proposed deadlines.

“The digital service is at an initial stage so think we will be able to adapt to it gradually. Only concern is not sure how this would help for non-represented applicants, especially those with limited computer skills and also affected by language barrier.” [Legal representative]

A separate service for appellants without legal representation has been developed, which has been designed to be more accessible, simpler and with more support from legal officers and CTSCs.

4. Conclusion

The new digital service in the FtTIAC represents a considerable change in process and ways of working. This research has highlighted both positive and negative aspects of the new service, and areas for improvement. Some changes have been made as a result and since this research, which are outlined in Annex 3. It is important to continue to monitor and evaluate the new service as the roll-out continues, with a particular focus on:

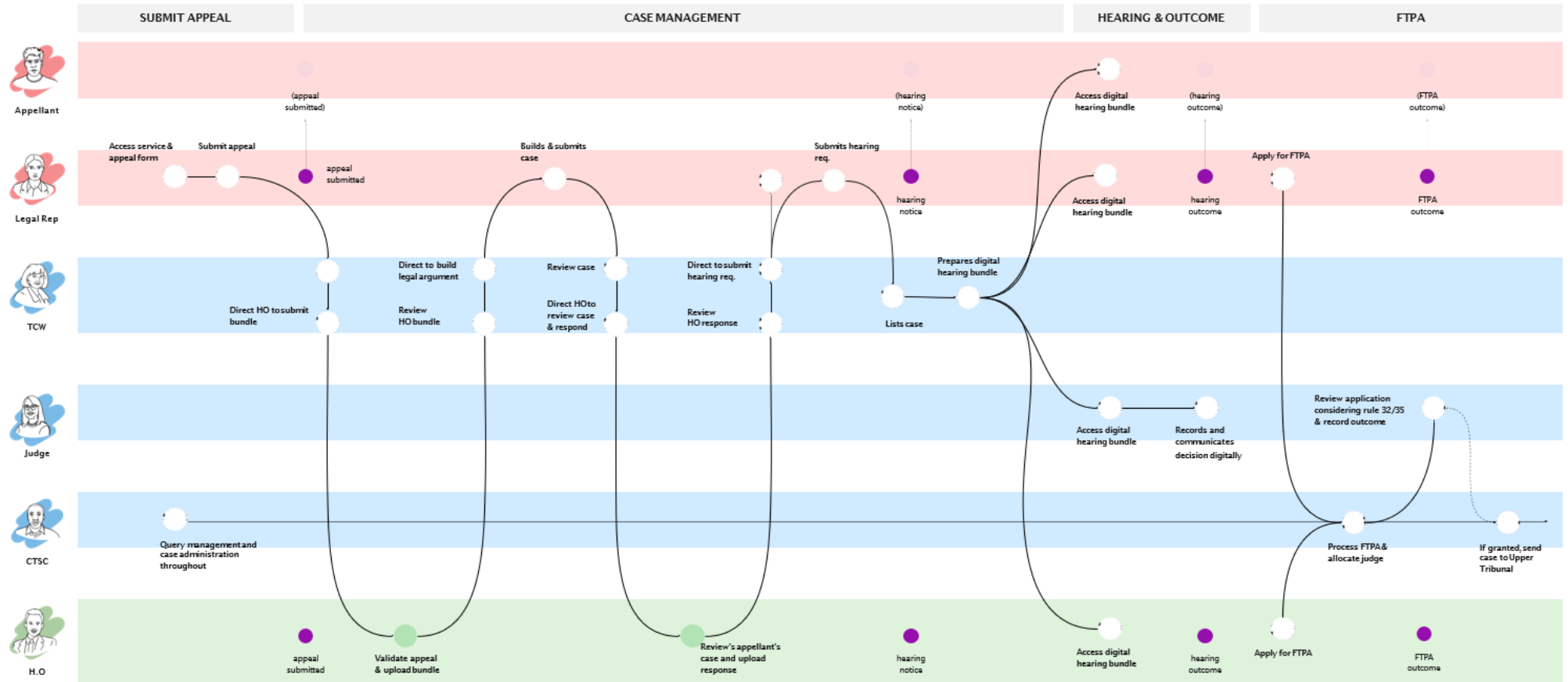
Making improvements to technology and access: in particular, addressing concerns around service downtime, system functionality and the communication of service and IT issues to users.

Monitoring compliance with the process: delays in submitting key documents by both the Home Office and legal representatives both prolong the process for appellants and may mean that parties are preparing arguments without access to key information. It also impacts parties' engagement in the process, which is key to the success of the new appeals process. It is, therefore, important to address and monitor this area going forward.

Monitoring workload and ways of working of legal officers: regional variation and high workload impacts legal officers' ability to review and progress appeals – which, in turn, impacts users' experience and satisfaction with the service. As such, it's important to review legal officers ways of working as the number of appeals going through the digital service increases.

The introduction of the new Appellant in Person Service: this research focuses on the service for legal representatives. A key evidence gap remains gathering the views and experiences of appellants and on the service developed for appeals without representation

Annex 1: Appeal Journey for Reform



Annex 2: Legal Representative Survey Responses

Q2. What is your current role?¹⁰

	N	% ¹¹
solicitor	117	60%
immigration advisor	43	22%
caseworker	21	11%
barrister	8	4%
immigration lawyer	1	1%
lawyer	1	1%
lay advocate	1	1%
paralegal	1	1%
registered foreign lawyer	1	1%
registered foreign lawyer/ partner	1	1%
trainee solicitor	1	1%

Q3. Approximately for how long have you represented clients for Immigration and Asylum appeals in your current or similar role?

	N	%
Less than a year	11	6%
One to five years	36	18%
More than five years	149	76%

Q4. What type of organisation do you work in?

	N	%
High street firm	157	80%
Legal charity	8	4%
Chambers	7	4%
Law centre	6	3%
Law firm	5	3%
Non-government organisation	3	2%
Corporate/personal bespoke practice	1	1%
Firm of solicitors	1	1%
Legal firm	1	1%
Not for profit	1	1%
Private legal firm	1	1%
Sole trader disc	1	1%
Solicitor's sole practice	1	1%
Solicitors office	1	1%

¹⁰ Q1 was a screener question – 'Have you used the new 'appeal an immigration or asylum decision' digital service?'

¹¹ Percentages are subject to rounding and so may not add to 100% as a total.

Specialist immigration solicitors	1	1%
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Q5. Roughly, how many employees does your organisation have?

	N	%
0-5	98	50%
6 - 20	55	28%
21 - 49	17	9%
50 - 99	11	6%
100 - 249	8	4%
250+	6	3%

Q6. How many clients have you represented using the new digital service since January 2020?

	N	%
1	30	15%
2 – 4	61	31%
5 - 10	60	31%
10+	45	23%

Q7. What type of appeals have you represented clients in using the new digital service?

	N	%
Refusal of a human rights claim	156	80%
Refusal of protection claim	106	54%
Refusal of application under the EEA regulations	72	37%
Deprivation of citizenship	16	8%
Revocation of a protection status	4	2%
Other	5	2%

Q8. Have you represented clients for appeals which have been either fully or partially paid for through legal aid?

	N	%
No	121	62%
Yes	75	38%

Q9. Which of the following stages of the appeal process in the new digital service have you been through with any of the clients you have represented since January 2020?

	N	%
I have submitted an appeal form	190	97%
I have completed an appeal skeleton argument	137	70%
I have had an appeal hearing	106	54%
I have had a case management appointment	81	41%
I have submitted an application for permission to appeal to the upper tribunal (FTPA)	38	19%

Q10. Thinking back to appeals submitted through the new digital service, how did you find each of the following stages of the appeal process?

a. Creating your online account (through MyHMCTS)

	N	%
Very easy	38	19%
Easy	63	32%
Neither easy nor difficult	51	26%
Difficult	21	11%
Very difficult	20	10%
NA	3	2%

b. Accessing your online account once set up

	N	%
Very easy	30	15%
Easy	70	36%
Neither easy nor difficult	40	20%
Difficult	33	17%
Very difficult	21	11%
NA	2	1%

c. Completing the initial appeal form

	N	%
Very easy	74	38%
Easy	88	45%
Neither easy nor difficult	17	9%

Difficult	5	3%
Very difficult	10	5%
NA	2	1%

d. Meeting the deadline to complete the appeal skeleton argument

	N	%
Very easy	29	15%
Easy	44	22%
Neither easy nor difficult	47	24%
Difficult	35	18%
Very difficult	10	5%
NA	31	16%

e. Completing the appeal skeleton argument

	N	%
Very easy	23	12%
Easy	41	21%
Neither easy nor difficult	58	30%
Difficult	24	12%
Very difficult	10	5%
NA	40	20%

f. Interactions with the tribunal caseworker

	N	%
Very easy	24	12%
Easy	46	23%
Neither easy nor difficult	51	26%
Difficult	36	18%
Very difficult	17	12%
NA	22	11%

g. Meeting the deadline to review the Home Office's response

	N	%
Very easy	21	11%
Easy	46	23%
Neither easy nor difficult	47	24%
Difficult	27	14%
Very difficult	12	6%
NA	43	22%

h. Submitting the appellant’s hearing requirements (e.g. interpreter, screens, etc)

	N	%
Very easy	38	19%
Easy	53	27%
Neither easy nor difficult	28	14%
Difficult	13	7%
Very difficult	11	6%
NA	53	27%

i. Navigating the shared hearing bundle during a hearing (for those who said “i have had an appeal hearing” in Q8)

	N	%
Very easy	17	16%
Easy	25	24%
Neither easy nor difficult	24	23%
Difficult	16	15%
Very difficult	10	9%
NA	14	13%

j. The hearing process in general (for those who said “i have had an appeal hearing” in Q8)

	N	%
Very easy	15	14%
Easy	39	37%
Neither easy nor difficult	28	26%
Difficult	10	9%
Very difficult	11	10%
NA	3	3%

Q11. Did you require any additional support from HMCTS for any of the following stages of the appeal process?

a. Creating your online account (through MyHMCTS)

	N	%
No	124	63%
Yes	66	34%
NA	6	3%

b. Accessing your online account once set up

	N	%
No	124	63%
Yes	68	35%

NA	4	2%
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c. Completing the initial appeal form

	N	%
No	161	82%
Yes	29	15%
NA	6	3%

d. Completing the appeal skeleton argument

	N	%
No	126	64%
Yes	27	14%
NA	43	22%

e. Interactions with the tribunal caseworker

	N	%
No	105	54%
Yes	57	29%
NA	34	17%

f. Submitting the appellant’s hearing requirements (e.g. interpreter, screens, etc)

	N	%
No	104	53%
Yes	33	17%
NA	59	30%

g. Navigating the shared hearing bundle during a hearing (for those who said “i have had an appeal hearing” in Q8)

	N	%
No	82	77%
Yes	20	19%
NA	4	4%

h. The hearing process in general (for those who said “i have had an appeal hearing” in Q8)

	N	%
No	76	72%
Yes	26	25%
NA	4	4%

Q12. Who did you receive support from within HMCTS? (if 'yes' for any in Q11)

	N	%
HMCTS contact centre	79	63%
Tribunal caseworker	57	45%
Local court staff	10	8%
I attempted to get help but was not successful	9	7%
judge	7	6%
NA	3	2%
Other	10	6%

Q13. How satisfied were you with the support you received? (if 'yes' for any in Q10)

	N	%
Very satisfied	22	17%
Satisfied	61	48%
Neither satisfied nor dissatisfied	22	17%
Dissatisfied	8	6%
Very dissatisfied	11	9%
NA	2	2%

Q14. You said you were dissatisfied with the support your received. Why? (if 'dissatisfied' in Q14) [Open Text Response]

Q15. How familiar are you with the guidelines for the appeal skeleton argument?

	N	%
I have never heard of it	18	9%
I am aware of it but have never used it	50	26%
I use it sometimes	54	28%
I use it on a regular basis	74	38%

Q16. How helpful did you find the guidelines for the appeal skeleton argument? (if 'aware' in Q15)

	N	%
Not helpful at all	11	6%
Slightly helpful	26	15%
Somewhat helpful	73	41%
Very helpful	49	28%
Extremely helpful	13	7%
NA	6	3%

Q17. How did you find each of the following stages of the shared hearing bundle process?

a. Accessing the shared hearing bundle before a hearing

	N	%
Very easy	24	12%
Easy	46	23%
Neither easy nor difficult	30	15%
Difficult	15	8%
Very difficult	6	3%
NA	75	38%

b. Navigating the shared hearing bundle

	N	%
Very easy	19	10%
Easy	40	20%
Neither easy nor difficult	26	13%
Difficult	19	10%
Very difficult	8	4%
NA	84	43%

c. Accessing the shared hearing bundle during a hearing

	N	%
Very easy	14	7%
Easy	28	14%
Neither easy nor difficult	33	17%
Difficult	15	8%
Very difficult	6	3%
NA	100	51%

Q18. How satisfied are you with the amount of time in advance of a hearing that you have received the shared hearing bundle?

	N	%
Very satisfied	15	8%
Satisfied	58	30%
Neither satisfied nor dissatisfied	26	13%
Dissatisfied	17	9%
Very dissatisfied	8	4%
Not applicable- I have not had a hearing yet	66	34%
NA	6	3%

Q19. How would you rate your experience of the new digital service?

	N	%
Very good	27	14%
Good	81	41%
Neither good nor poor	49	25%
Poor	22	11%
Very poor	15	8%
NA	2	1%

Q20. How could we make the new digital service better? [Open text response]

Q21. How did your experience of the new digital service process compare to the previous process?

	N	%
Much better	53	27%
Somewhat better	70	36%
No difference	11	6%
Somewhat worse	30	15%
Much worse	21	11%
I haven't been through the previous process	8	4%
NA	3	2%

Q22. How do you think appellant's experiences of the new digital service process compare to the previous process?

	N	%
Much better	37	19%
Somewhat better	39	20%
No difference	34	17%
Somewhat worse	31	16%
Much worse	19	10%
I don't know	34	17%
NA	2	1%

Annex 3: Changes to service since research

Since the completion of this IAC research, the Immigration and Asylum Reform Project Team have taken steps to address some of the issues highlighted and worked with the technical team to make additional features available, with the aim of making the service reliant and accessible to users.

To address concerns about technology and access, especially for legal officers (formerly known as tribunal case workers), **Single Sign On (SSO)** was released. SSO removes the need for multiple logging into reform packages. When a legal officer logs in to their laptop or computer, they automatically logged into all other reform packages, including Core Case Data (CCD). Fortnightly bulletins are sent to legal officers and judicial holders to give updates on the project. In addition, stakeholders (including legal officers) are notified by email as soon as we are made aware of technical glitches impacting the service.

The project team recognise that fee payment is a major cause of delay in the process, and took steps to address the problem. **Payment by Account (PBA)** feature was released in July 2021, allowing solicitors to make full payment at the point of submitting the appeal. This removes the bottleneck associated with the payment link sent by the National Business Centre to solicitors. Before the release, communication was sent to solicitors advising them to register for PBA if eligible to do so. Legal officers can commence case management as soon as payment is made and the appeal is marked as paid by CTSC (Courts and Tribunals Service Centres). There are also plans to release a feature that allows solicitors to make full **payment by card**.

In December 2021, the Project **digitised the remission process** and solicitors can now apply for fee remission on MyHMCTS. In January 2022, **fee management** was also introduced. Fee management is a capability which allows legal officers to make fee changes and CTSC process refunds in line with finance protocol. Both remission and fee management reduce email traffic to the legal officers because solicitors can request MyHMCTS and view the outcome.

Appellant in Person (AiP) service went live in August 2021. The service was initially made available to Protection Appeals to monitor its performance and opened to all appeal types in December 2021. The service was extended to appellants **outside of the country** in February 2022. IAC integrated with the common component **pay by card for appellant in person** in December 2021, allowing AiP to make full payment at the point of submission.

To help reduce the risk of a data breach, users are now able to search for appeals using the **16 digits** as well as the appeal reference number and appellant's name.

The Project have introduced better signposting and guidance about onward permission to appeal applications. **Guidance on how to apply for FTPA on CCD** was produced and shared with the CTSC to help when dealing with queries from legal representatives.

In August 2021, the Project released **Bail MVP**, digitising the end-to-end process for Immigration Bail. This is a private beta stage and the Project continue to listen to stakeholders and work with the technical team to improve the service. Although Bail is not being reformed, moving the work to CCD makes the process quicker for stakeholders.