



Home Office

Appeals policy

This guidance is mainly based on immigration-related primary legislation and the Asylum and Immigration Tribunal (Procedure) Rules 2005

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Appeals: about this guidance

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This guidance tells you about appeals against immigration decisions.

The Immigration Act 2014 substantially amends rights of appeal and is being implemented on a phased basis between October 2014 and April 2015. Guidance on appeals under the reformed appeals system, together with transitional arrangements can be found on GOV.UK, see related link.

This guidance covers appeals policy. It provides advice on:

- the UK appeals system
- decisions which attract a right of appeal
- appeal hearings and their outcomes

For guidance on appeals process, see related link.

This guidance is mainly based on the:

- Nationality, Immigration and Asylum Act 2002
- Asylum and Immigration Tribunal (Procedure) Rules 2005

Where the guidance relates to other acts or rules this will be referred to.

Unless specifically stated, this guidance deals with appeals to the First-tier Tribunal only.

For guidance on appeals against decisions made overseas (out of country decisions), see related link.

For the separate arrangements for appeals by those detained under fast track arrangements, see related link: Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005.

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Related link

Links to staff intranet removed

External links

[Asylum and Immigration Tribunal \(Procedure\) Rules 2005](#)

[Appeals against out of country decisions](#)

[Asylum and Immigration Tribunal \(Fast Track Procedure\) Rules 2005](#)

[Nationality, Immigration & Asylum Act 2002](#)

[Immigration Act 2014 - Appeals](#)

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	<p>Changes to this guidance – This page tells you what has changed since the previous version of this guidance.</p> <p>Contact – This page tells you who to contact for help if your senior caseworker or line manager can't answer your question.</p> <p>Information owner – This page tells you about this version of the guidance and who owns it.</p> <p>Safeguard and promote child welfare – This page explains your duty to safeguard and promote the welfare of children and tells you where to find more information.</p>	
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Appeals: changes to this guidance

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page lists changes to the 'Appeals policy' guidance, with the most recent at the top.</p> <table border="1"><thead><tr><th data-bbox="600 363 981 403">Date of change</th><th data-bbox="981 363 1601 403">Details of change</th></tr></thead><tbody><tr><td data-bbox="600 403 981 592">14 January 2016</td><td data-bbox="981 403 1601 592">Change request:<ul style="list-style-type: none">the table on page 35 has been amended to clarify the number of days by which to lodge an appeal</td></tr><tr><td data-bbox="600 592 981 853">2 March 2015</td><td data-bbox="981 592 1601 853">Change request: About this guidance:<ul style="list-style-type: none">new first paragraph</td></tr><tr><td data-bbox="600 853 981 930">13 February 2014</td><td data-bbox="981 853 1601 930">Completely revised by the modernised guidance team.</td></tr></tbody></table>	Date of change	Details of change	14 January 2016	Change request: <ul style="list-style-type: none">the table on page 35 has been amended to clarify the number of days by which to lodge an appeal	2 March 2015	Change request: About this guidance: <ul style="list-style-type: none">new first paragraph	13 February 2014	Completely revised by the modernised guidance team.	<p>In this section Contact Information owner</p>
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The appeals system

<p>About this guidance Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This section tells you about the legal framework for appealing immigration and related decisions.</p> <p>It contains information about:</p> <ul style="list-style-type: none">• the Immigration and Asylum Chamber of the First-tier Tribunal and Upper Tribunal• onward appeal rights and appeal arrangements in different jurisdictions• fees for appealing a decision	<p>In this section First-tier Tribunal and Upper Tribunal</p> <p>Onward appeal rights in the UK</p> <p>Fees</p> <p>External links HM Courts and Tribunal Service: Immigration & Asylum Tribunal</p>
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Appeals: first-tier tribunal and upper tribunal

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about the different tiers of the immigration appeals system.</p> <p>There are two tribunal tiers:</p> <ul style="list-style-type: none">• the First-tier Tribunal• the Upper Tribunal <p>Both tiers are managed by Her Majesty's Courts & Tribunals Service and have immigration and asylum chambers responsible for immigration appeals. Unless specifically stated, this guidance deals with appeals to the First-tier Tribunal only.</p> <p>First-tier Tribunal Appeals are initially made to the First-tier Tribunal which can:</p> <ul style="list-style-type: none">• allow the appeal• dismiss it <p>Upper Tribunal The Upper Tribunal is a superior court of record. It is a separate body from the First-tier Tribunal and its decisions are made by judges of the Upper Tribunal only. The Upper Tribunal must decide whether the First-tier Tribunal has made an error of law and, if it has, it can either:</p> <ul style="list-style-type: none">• make any decision or directions the First-tier Tribunal could have made (having considered whether an error in law has been made)• direct the first-tier tribunal to remake its own decision <p>In addition, the Tribunal Procedure Rules for each tribunal tier enable them to make findings on the timeliness (appropriate timing) and validity of appeals, either at or before the hearing. For more information see related links:</p>	<p>In this section Onward appeal rights in the UK</p> <p>Fees</p> <p>External links Immigration and Asylum (First-tier Tribunal) guidance</p> <p>Immigration and Asylum (Upper Tribunal) guidance</p>
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- Immigration and Asylum (First-tier Tribunal) guidance
- Immigration and Asylum (Upper Tribunal) guidance

Permission to appeal to the Upper Tribunal

Decisions made by the First-tier Tribunal can be appealed to the Upper Tribunal by either party (that is, either the appellant or respondent from the First-tier Tribunal).

Permission to appeal to the Upper Tribunal must first be sought from the First-tier Tribunal. If permission is refused an application can be lodged directly with the Upper Tribunal.

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Onward appeal rights in the UK

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about onward appeal rights from the First-tier and Upper Tribunals and the different appeal arrangements that apply in the UK jurisdictions.</p> <p>This is based on chapter 2 of the Tribunal, Courts and Enforcement Act 2007.</p> <p>Domestic jurisdictions</p> <p>Domestic onward rights of appeal – derived from (based on) where the most recent hearing took place - are made to the relevant UK jurisdiction:</p> <ul style="list-style-type: none">• the Court of Appeal in England and Wales• the Court of Session in Scotland• the Court of Appeal in Northern Ireland <p>Permission for onward appeal</p> <p>Permission to appeal to these courts must initially be sought from the Upper Tribunal (Immigration and Asylum Chamber). If permission is refused, applications may be made direct to the appellate court of the relevant jurisdiction.</p> <p>Further onward rights of appeal are made to the Supreme Court of the UK.</p> <p>For information on the administrative processes involved in onward appeal rights, see related link: Onward appeal rights.</p>	<p>In this section</p> <p>First-tier Tribunal and Upper Tribunal</p> <p>Fees</p> <p>Related links</p> <p>External links</p> <p>Chapter 2 of the Tribunal, Courts and Enforcement Act 2007</p> <p>Court of Appeal in England and Wales</p> <p>Court of Session in Scotland</p> <p>Court of Appeal in Northern Ireland</p> <p>The Supreme Court</p>
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Appeals: fees

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This page tells you about the fees charged to appeal a decision.

Under the First-tier Tribunal (Immigration and Asylum Chamber) Fees Order 2011 (the 2011 order) individuals must pay a fee if they wish to appeal an immigration decision, which can include a decision to refuse:

- entry clearance
- to vary leave to enter or remain
- a certificate of entitlement
- European residence documentation

Article 5 of the 2011 order provides exemptions from appeal fees, and sets out that no fee is payable for an appeal against certain decisions including:

- revoking indefinite leave to enter or remain in the UK
- depriving right of abode or citizenship
- a decision to make a deportation order
- removing certain people who are unlawfully in the UK

Similarly, appellants do not have to pay a fee if they receive:

- asylum support
- legal aid
- local authority benefits under section 17 of the Children Act 1989

Appeal fees are the responsibility of Her Majesty's Courts and Tribunals Service (HMCTS). For more information, on fee regulations (including what happens when somebody does not pay a fee when required), see related link: [HMCTS Immigration and Appeals Tribunal fees guidance](#).

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[First-tier Tribunal and Upper Tribunal](#)

[Onward appeal rights in the UK](#)

External links

[First-tier Tribunal \(Immigration and Asylum Chamber\) Fees Order 2011](#)

[HMCTS Immigration and Appeals Tribunal fees guidance](#)

[Asylum and Immigration Tribunal \(Procedure\) Rules 2005](#)

[Section 17 of the Children Act 1998](#)

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	If an appeal is allowed under section 23A of the Asylum and Immigration Tribunal (Procedure) Rules 2005, the tribunal can order the Home Office as respondent to pay costs up to the full amount of the fee paid (depending on the circumstances of the case).	
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This section tells you about decisions made by the Home Office which attract a right of appeal.

Immigration decisions as defined by section 82(2) of the Nationality, Immigration and Asylum Act 2002 (the 2002 act) attract a right of appeal. Other decisions which don't meet this definition of an 'immigration decision' may also attract a right of appeal. For more information, see related link: Other appealable decisions.

Non-appealable decisions

The types of decision listed below do not attract a right of appeal. This is not an exhaustive list but includes the most common non-appealable decisions:

- refusing asylum (other than in the circumstances set out in section 83 of the 2002 act, see related link: Other appealable decisions)
- issuing removal directions under Schedule 2 or 3 of the 1971 Act (but a decision to remove is appealable)
- imposing conditions of leave or refusal to revoke any conditions
- granting a lesser period of leave than sought
- refusing to grant leave to a person without leave at the date of application

For more information on the legislation, see related links.

Judicial review

Judicial review (JR) is not a statutory right of appeal and JR applications are only likely to proceed when all possible avenues of appeal are exhausted, or no right of appeal exists.

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External links
[Section 82\(2\) of the Nationality, Immigration and Asylum Act 2002](#)

[Section 83 of the Nationality, Immigration and Asylum Act 2002](#)

[Section 96 of the Nationality, Immigration and Asylum Act 2002](#)

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Appeals: immigration decisions

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Appeals: entering or remaining in the UK

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This page tells you about appealable immigration decisions relating to entering or remaining in the UK as set out in section 82(2) of the Nationality, Immigration and Asylum Act 2002 (the 2002 act).

Decision	Appeals paragraph
Refusal of leave to enter	<p>Appealable under section 82(2)(a) of the 2002 act.</p> <p>Leave to enter can be refused at port if the applicant does not qualify for entry. Only a person refused leave to enter who holds valid entry clearance for the purpose or which he seeks entry can appeal that refusal (see section 88 of 2002 act).</p>
Refusal of entry clearance	<p>Appealable under section 82(2)(b) of the 2002 act.</p> <p>Entry clearance (including a visa) will be refused at visa issuing posts overseas if the applicant does not qualify. Not all refusals of entry clearance give a right of appeal (see section 88A of the 2002 Act).</p>
Refusal of a certificate of entitlement under section 10 of the 2002 act.	Appealable under section 82(2)(c) of the 2002 act.
Refusal to vary a person's leave to enter or remain in the UK if the result of the refusal is that the person has no leave.	<p>Appealable under section 82(2)(d) of the 2002 act but only if:</p> <ul style="list-style-type: none"> the application was made while the applicant had leave to enter or remain – (the application was in-time), and

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Related links

[Exceptions and limitations to grounds of appeal \(general\)](#)

[Limits to grounds of appeal for decisions made under section 82\(2\) of the 2002 act](#)

External links

[Section 82\(2\) of the Nationality, Immigration and Asylum Act 2002](#)

[Section 88 of the Nationality, Immigration and Asylum Act 2002](#)

[Section 88A of the Nationality, Immigration and Asylum Act 2002](#)

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		<ul style="list-style-type: none"> the applicant's leave has expired by the time they are notified of the decision to refuse further leave. 	
	<p>Variation of a person's leave to enter or remain in the UK if, when the variation takes effect, the person has no leave to enter or remain (curtailment or revocation of leave).</p>	<p>Appealable under section 82(2)(e) of the 2002 act.</p>	
	<p>Revocation of indefinite leave to enter or remain under section 76 of the 2002 act.</p>	<p>Appealable under section 82(2)(f) of the 2002 act.</p>	
<p>For more information, please see related links:</p> <ul style="list-style-type: none"> Exceptions and limitations to grounds of appeal (general) Limits to grounds of appeal for decisions made under section 82(2) of the 2002 act Section 88 of the Nationality, Immigration and Asylum Act 2002 Section 88A of the Nationality, Immigration and Asylum Act 2002. 			

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Appeals: removal from the UK

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about appealable immigration decisions relating to removal from the UK as set out in section 82(2) of the Nationality, Immigration and Asylum Act 2002 (the 2002 act).</p> <table border="1"> <thead> <tr> <th data-bbox="448 399 1120 438">Decision</th> <th data-bbox="1120 399 1769 438">Appeals paragraph</th> </tr> </thead> <tbody> <tr> <td data-bbox="448 438 1120 590">A person is to be removed from the UK under section 10(1)(a),(b),(ba) or (c) of the Immigration and Asylum Act 1999 (removal of person unlawfully in UK).</td> <td data-bbox="1120 438 1769 590">Appealable under section 82(2)(g) of the 2002 act.</td> </tr> <tr> <td data-bbox="448 590 1120 774">An illegal entrant is to be removed from the UK by way of directions under paragraphs 8 to 10 of schedule 2 to the Immigration Act 1971 (control of entry: removal) (the 1971 act).</td> <td data-bbox="1120 590 1769 774">Appealable under section 82(2)(h) of the 2002 act.</td> </tr> <tr> <td data-bbox="448 774 1120 965">A person is to be removed from the UK by way of directions under section 47 of the Immigration, Asylum and Nationality Act 2006 (removal: persons with statutorily extended leave)</td> <td data-bbox="1120 774 1769 965">Appealable under section 82(2)(ha) of the 2002 act.</td> </tr> <tr> <td data-bbox="448 965 1120 1109">A person is to be removed from the UK under paragraph 10A of schedule 2 (family member of a person who is to be removed) to the 1971 act.</td> <td data-bbox="1120 965 1769 1109">Appealable under section 82(2)(i) of the 2002 act.</td> </tr> <tr> <td data-bbox="448 1109 1120 1260">A person is to be removed from the UK by way of directions under paragraph 12(2) of schedule 2 to the 1971 act (seamen and aircrews).</td> <td data-bbox="1120 1109 1769 1260">Appealable under section 82(2)(ia) of the 2002 act.</td> </tr> <tr> <td data-bbox="448 1260 1120 1337">To make an order under section 2A of the 1971 Act (deprivation of right of abode).</td> <td data-bbox="1120 1260 1769 1337">Appealable under section 82(2)(ib) of the 2002 act.</td> </tr> </tbody> </table>	Decision	Appeals paragraph	A person is to be removed from the UK under section 10(1)(a),(b),(ba) or (c) of the Immigration and Asylum Act 1999 (removal of person unlawfully in UK).	Appealable under section 82(2)(g) of the 2002 act.	An illegal entrant is to be removed from the UK by way of directions under paragraphs 8 to 10 of schedule 2 to the Immigration Act 1971 (control of entry: removal) (the 1971 act).	Appealable under section 82(2)(h) of the 2002 act.	A person is to be removed from the UK by way of directions under section 47 of the Immigration, Asylum and Nationality Act 2006 (removal: persons with statutorily extended leave)	Appealable under section 82(2)(ha) of the 2002 act.	A person is to be removed from the UK under paragraph 10A of schedule 2 (family member of a person who is to be removed) to the 1971 act.	Appealable under section 82(2)(i) of the 2002 act.	A person is to be removed from the UK by way of directions under paragraph 12(2) of schedule 2 to the 1971 act (seamen and aircrews).	Appealable under section 82(2)(ia) of the 2002 act.	To make an order under section 2A of the 1971 Act (deprivation of right of abode).	Appealable under section 82(2)(ib) of the 2002 act.	<p>In this section Entering or remaining in the UK Deportation from the UK External links Section 82(2) of the Nationality, Immigration and Asylum Act 2002 Section 10(1) of the Immigration and Asylum Act 1999 Immigration Act 1971 Section 47 of the Immigration, Asylum and Nationality Act 2006</p>
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Appeals: deportation from the UK

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This page tells you about appealable immigration decisions relating to deportation as set out in section 82(2) of the Nationality, Immigration and Asylum Act 2002 (the 2002 act).

For information on appeal rights in relation to automatic deportations under the UK Borders Act 2007 (the 2007 act), see related link: Other appealable decisions.

Decision	Appeals paragraph
<p>A decision to make a deportation order under section 5(1) of the Immigration Act 1971 (the 1971 act). The deportation process applies if:</p> <ul style="list-style-type: none"> the Home Office decides deporting the person is conducive to the public good, or the person is related to someone to be deported (section 3(5)(a) and (b) of the 1971 act) deporting the person has been recommended by a criminal court under section 3(6) of the 1971 act. 	<p>Appealable under section 82(2)(j) of the 2002 act.</p> <p>This does not apply to a 'foreign criminal', as defined by section 32(1) of the 2007 act. There is a separate right of appeal under section 82 (3A) of the 2002 act in such cases.</p>
<p>Refusal to revoke a deportation order under section 5(2) of the 1971 act. A deportation order remains in force until it is revoked. A person can apply for a deportation order to be revoked and refusal to revoke carries a right of appeal.</p>	<p>Appealable under section 82(2)(k) of the 2002 act.</p>

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[Immigration and Asylum Act 1999](#)

[Immigration \(Regularisation Period for Overstayers\) Regulations 2000](#)

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Other appealable decisions

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about appealable Home Office decisions which are not ‘immigration decisions’ set out in section 82(2) of the Nationality, Immigration and Asylum Act 2002 (the 2002 act).</p> <table border="1"> <thead> <tr> <th data-bbox="448 438 1030 478">Type of decision</th> <th data-bbox="1030 438 1780 478">Appeals paragraph</th> </tr> </thead> <tbody> <tr> <td data-bbox="448 478 1030 949">Refusal of asylum</td> <td data-bbox="1030 478 1780 949"> <p>A decision to refuse asylum is not in itself appealable but it is often accompanied by an appealable decision, such as a removal decision, and the asylum decision can be dealt with at that appeal.</p> <p>However, under section 83 of the Nationality, Immigration and Asylum Act 2002 a person refused asylum but has been granted leave to enter or remain of more than a year can appeal against the asylum refusal (on asylum or humanitarian grounds only).</p> </td> </tr> <tr> <td data-bbox="448 949 1030 1093">Withdrawal of refugee status</td> <td data-bbox="1030 949 1780 1093">Appealable under section 83A of the Nationality, Immigration and Asylum Act 2002, provided the person is given limited leave on another basis.</td> </tr> <tr> <td data-bbox="448 1093 1030 1436"> <p>Deprivation of citizenship under section 40 of the British Nationality Act 1981 (the 1981 act).</p> <p>Any British citizen, British overseas territories citizen, British Overseas citizen, British National (Overseas), British protected person or British subject may, by order, be deprived of</p> </td> <td data-bbox="1030 1093 1780 1436">Appealable under section 40A(1) of the 1981 act.</td> </tr> </tbody> </table>	Type of decision	Appeals paragraph	Refusal of asylum	<p>A decision to refuse asylum is not in itself appealable but it is often accompanied by an appealable decision, such as a removal decision, and the asylum decision can be dealt with at that appeal.</p> <p>However, under section 83 of the Nationality, Immigration and Asylum Act 2002 a person refused asylum but has been granted leave to enter or remain of more than a year can appeal against the asylum refusal (on asylum or humanitarian grounds only).</p>	Withdrawal of refugee status	Appealable under section 83A of the Nationality, Immigration and Asylum Act 2002, provided the person is given limited leave on another basis.	<p>Deprivation of citizenship under section 40 of the British Nationality Act 1981 (the 1981 act).</p> <p>Any British citizen, British overseas territories citizen, British Overseas citizen, British National (Overseas), British protected person or British subject may, by order, be deprived of</p>	Appealable under section 40A(1) of the 1981 act.	<p>In this section Immigration decisions</p> <p>Appeals: national security</p> <p>Appeals: public good</p> <p>External links Nationality, Immigration and Asylum Act 2002</p> <p>Section 83 of the Nationality, Immigration and Asylum Act 2002</p> <p>British Nationality Act 1981</p> <p>UK Borders Act 2007</p> <p>Immigration (European Economic Area) Regulations 2006</p> <p>Immigration (European Economic Area) (Amendment) Regulations 2009</p> <p>Immigration (European</p>
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	<p>their citizenship or status if:</p> <ul style="list-style-type: none"> • the Home Office judges it would be conducive to the public good, or • citizenship was obtained by fraud, deception or concealment of a material fact. 		<p>Economic Area (Amendment) Regulations 2012</p> <p>Immigration (European Economic Area) (Amendment) (No. 2) Regulations 2012</p> <p>The Transfer of the Functions of the Asylum and Immigration Tribunal Order 2010</p>
	<p>Automatic deportation</p> <p>As of 1 August 2008 (subject to a number of exceptions) all foreign national prisoners with a custodial sentence of 12 months or more are subject to automatic deportation under section 32 of the UK Borders Act 2007 (the 2007 act). If such a sentence is imposed, the Home Office is legally obliged to make a deportation order.</p>	<p>Appealable under section 35 of the 2007 act (the appealable decision is that section 32(5) of the 2007 act applies).</p>	
	<p>European Economic Area</p>	<p>Appealable under regulation 26 of the Immigration (European Economic Area) regulations 2006.</p> <p>Regulation 26 (1) provides for appeal rights to arise in cases where a European Economic Area (EEA) decision has been made. An EEA decision means a decision under these Regulations that concerns:</p> <ul style="list-style-type: none"> • a person's entitlement to be admitted to the UK • a person's entitlement to be issued with or have renewed, or not have revoked, a registration certificate, 	

		<p>residence card, derivative residence card, document certifying permanent residence or permanent residence card</p> <ul style="list-style-type: none"> • a person's removal from the UK • the cancellation pursuant to regulation 20A, of a person's right to reside in the UK. <p>Regulation 26(2) – (5) sets out the requirements an appellant must meet to exercise a right of appeal under regulation 26(1) and certain restrictions which apply where such a right can be exercised.</p> <p>Regulation 27 sets out the circumstances in which an appeal may only be brought outside the UK.</p> <p>Schedule 1(1) of the EEA regulations provides for an appeal against an EEA decision to be heard at the First-tier Tribunal as though it was an appeal against an immigration decision under section 82(1) of the 2002 act. Schedule 1(1) also provides for most of the provisions of sections 82 to 106 of the 2002 act to apply to EEA appeals.</p> <p>For more information see related links.</p>	
<p>For information about appealing decisions on national security and the public good, see related links.</p>			

This guidance is mainly based on immigration-related primary legislation and the Asylum and Immigration Tribunal (Procedure) Rules 2005

Appeals policy

Appeals: national security

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about appeal rights in relation to decisions to exclude or remove somebody on grounds of national security.</p> <p>Section 97 certificates</p> <p>Certificates may be issued in national security cases under section 97 of the Nationality, Immigration and Asylum Act 2002 (the 2002 act). The effect of a section 97 certificate is that an appeal may not be brought to the tribunal. Any appeal already lodged will lapse. Instead there is a right of appeal to the Special Immigration Appeals Commission (SIAC).</p> <p>Section 97 certificates are issued if the Secretary of State has decided, or directed, that either :</p> <ul style="list-style-type: none">• a person's exclusion or removal is:<ul style="list-style-type: none">○ for reasons of national security○ in the interests of relations between the UK and another country• a decision is or was based on information not to be made public:<ul style="list-style-type: none">○ for reasons of national security○ in the interest of relations between the UK and another country○ to protect the public interest in some other way <p>Section 97A certificates</p> <p>Certificates can also be issued under section 97A of the 2002 act:</p> <ul style="list-style-type: none">• if a certificate is issued under section 97A(1) or 97A(2), then an appeal against a deportation order or removal notice cannot be brought or continued from within the UK• if a certificate is issued under section 97A(2B) to the effect that removal of the individual will not breach the UK's obligations under the European Convention on Human Rights (ECHR) and any appeal against the decision to make the deportation order can only be brought from outside the UK• Section 97A(2C) interprets section 97A(2B) as meaning that the person in question	<p>In this section</p> <p>Immigration decisions</p> <p>Other appealable decisions</p> <p>Appeals: public good</p> <p>External links</p> <p>Nationality, Immigration and Asylum Act 2002</p> <p>HM Courts and Tribunal Service Special Immigration Appeals Commission guidance</p>
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	<p>would not be subject to 'serious irreversible harm' if removed</p> <ul style="list-style-type: none">• when although there is no right of appeal in the UK (in-country), section 97A(2F) allows for the person in question to apply to the Special Immigration Appeals Commission to set aside the certificate: this challenge will be heard on judicial review principles	
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Appeals policy

Appeals: public good

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about appeal rights in relation to decisions to exclude or remove somebody on grounds of the public good.</p> <p>If the Home Office certifies that a refusal of an application for entry clearance or leave to enter has been taken wholly or partly on the grounds that the exclusion or removal of the applicant from the UK is conducive to the public good, any appeal can only be brought on the following residual grounds:</p> <ul style="list-style-type: none">• asylum (does not apply in entry clearance cases)• human rights• race discrimination <p>This appeal will normally be to the First-tier Tribunal. If the test for certification under section 97 of the Nationality, Immigration and Asylum Act 2002 (the 2002 act) is also satisfied then a certificate under that provision can be issued. If certificates under both sections 97 and 98 of the 2002 act are issued there would be a suspensive appeal (an appeal lodged in the UK) to the Special Immigration Appeals Commission on residual grounds.</p> <p>For more information on certificates issued under section 97 of the 2002 act, see related link: Appeals: national security.</p> <p>For more information on residual rights of appeal, see related link: Exceptions and limitations to grounds of appeal (general).</p>	<p>In this section Immigration decisions</p> <p>Other appealable decisions</p> <p>Appeals: national security</p> <p>Related links Exceptions and limitations to grounds of appeal (general)</p> <p>External links Nationality, Immigration and Asylum Act 2002</p>
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Appeals policy

Appeals: notices of decision

<p>About this guidance The appeals system Appealable decisions Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This section tells you what information to include about appeal rights in a notice of decision. It also has information about how, where and to whom the notice is issued.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none">• Contents of notices• Notifying residual grounds of appeal• Means and date of service• Serving notices on file• Who receives notices	<p>In this section Contents of notices</p> <p>Notifying residual grounds of appeal</p> <p>Means and date of service</p> <p>Serving notices on file</p> <p>Who receives notices</p>
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Appeals policy

Appeals: contents of notices

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This page tells you about the contents of Home Office notices of decision.

The Immigration (Notices) Regulations 2003 (the 2003 regulations) require the Home Office to serve a notice of decision whenever an appealable decision is made. For information on appealable decisions, see related link.

If a decision is appealable, the notice of decision should contain (although not all of the following are statutory requirements):

Content type	Content details
Date of decision (including this is good practice rather than a statutory requirement).	The date the Home Office decision-maker made the decision.
Date of service of the decision (good practice rather than a statutory requirement).	This is part of the appeals coding entry completed by the decision-maker at the top right of all notices of decision. It will be the actual or deemed date that the individual will receive their decision. For more information on date of service, see related link: Means and date of service.
Statement of reasons to explain the refusal (regulations 5(1)(a) and 5(2) of the 2003 regulations).	A summary paragraph included in the text of the notice or added separately in a 'reasons for refusal letter'. If an appeal can be made under section 83 of the Nationality, Immigration and Asylum Act 2002 (the 2002 act), you must include a statement of reasons for the refusal of the asylum claim, even if that claim was refused separately earlier and reasons for refusal were issued then (referring to previous

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		correspondence as necessary).	
	Where the decision is to refuse leave to enter the UK, make a deportation order under section 5(1) of the Immigration Act 1971 or to remove a person from the UK - the name of the country or territory to which the person is to be removed (regulation 5(1)(b) of the 2003 regulations).	If the person can lawfully be removed to more than one country (see Schedule 2 and 3 of the 1971 act), you must specify all such countries. This includes removal decisions taken following a refusal of leave to enter.	
	Advice of the right of appeal and the statutory provision on which any appeal will be based (regulation 5(3)(a) of the 2003 regulations).	This should be incorporated into template headings and will normally be the statutory basis of refusal.	
	Whether or not an appeal may be brought in the UK (regulation 5 (3)(b) of the 2003 regulations).	This is also part of the appeals coding entry at the top right of all notices of decision.	
	Grounds on which an appeal may be brought (regulation 5(3)(c) of the 2003 regulations).	Set out in section 84 of the Nationality, Immigration and Asylum Act 2002 (the 2002 act).	
	Facilities available for advice and assistance with the appeal (regulation 5(3)(d) of the 2003 regulations).	The relevant legal aid agency note must be provided with the notice of decision. This is the blank appeal form and includes the time limits for appealing and details of how to submit the form.	

This guidance is mainly based on immigration-related primary legislation and the Asylum and Immigration Tribunal (Procedure) Rules 2005

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Notifying residual grounds of appeal

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about grounds of appeal to be notified in Home Office notices of decision, including decisions which can only be challenged on residual grounds.</p> <p>Normally, a right of appeal under section 82(2) of the Nationality, Immigration and Asylum Act 2002 (the 2002 act) can be brought on any one or more of the grounds of appeal listed in section 84(1) of that act. However, there are certain circumstances in which the right of appeal can only be brought on a limited number of grounds (residual grounds). Residual grounds are:</p> <ul style="list-style-type: none">• asylum (does not apply in entry clearance cases)• human rights• race discrimination <p>For information on appealable decisions which attract a full right of appeal, see related link: Appealable decisions.</p> <p>Notice of decision: residual grounds</p> <p>If a decision can only be challenged on residual grounds, you must not enclose a blank appeal form with your notice of decision and the notice must not include details of either:</p> <ul style="list-style-type: none">• appeal rights• the help available to those lodging an appeal <p>In such cases, the notice of decision must only give a statement of:</p> <ul style="list-style-type: none">• the reasons for the refusal• (in removal cases) the country (or countries) to which removal is proposed <p>As a matter of good administrative practice, the notice of decision must still include the completed appeal coding at the top right to help Her Majesty's Courts & Tribunals Service</p>	<p>In this section Contents of notices</p> <p>Means and date of service</p> <p>Serving notices on file</p> <p>Who receives notices</p> <p>Related links Appealable decisions</p> <p>Clearly unfounded asylum and human rights claims</p> <p>External links Nationality, Immigration and Asylum Act 2002 Immigration (Notices) Regulations 2003 Equality Act 2010 Human Rights Act 1998</p>
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	<p>staff identify if an appeal is out of time or invalid.</p> <p>However, if a person has raised human rights or race relations in their application, then notice must be served, including a notice of appeal.</p> <p>Where a person later claims that the residual grounds apply, the decision maker must re-serve the notice of decision under regulation 4, and the time limit for appealing will run from the date when the notice of decision was re-served.</p> <p>For more information see regulation 5(6) (noting the exceptions in regulations 5(7) and 5(8) of related link: Immigration (Notices) Regulations 2003.</p>	
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Appeals: means and date of service

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This page tells you how decisions can be served and how the date of service is calculated.

Under regulation 7(1) of the Immigration (Notices) Regulations 2003 (the 2003 regulations) a notice of decision can be:

- given by:
 - hand
 - fax
- sent:
 - by post (first class recorded delivery) to an address provided by the applicant or representative
 - electronically
 - by document exchange to a document exchange number or address
 - by courier
- collected by the person who is the subject of the decision or their representative

Serving a notice by post

Under regulation 7(1)(c)(ii) of the 2003 regulations, if no address for correspondence has been given, you can serve the notice at the last-known address (or place of business in the case of a representative). It is the applicant's or representative's responsibility to inform the Home Office of any change to the address for correspondence.

Deemed date of service for notices served by post

A notice sent by post (as above) to a place within the UK is deemed (considered) to have been served two business days after it is posted, unless the applicant can provide evidence to prove otherwise. Saturdays, Sundays, bank holidays (under the Banking and Financial Dealings Act 1971), Christmas Day and Good Friday do not count as business days. For more information see regulation 7(4) of the related link: Immigration (Notices) Regulations 2003.

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This guidance is mainly based on immigration-related primary legislation and the Asylum and Immigration Tribunal (Procedure) Rules 2005

	<p>Deemed date of service for notices posted overseas</p> <p>A notice sent to a place outside the UK is deemed to have been served 28 calendar days after it was posted, unless the applicant can provide evidence to prove otherwise.</p> <p>In some cases an actual date of service will be known, for example:</p> <ul style="list-style-type: none">• when somebody is detained• a notice of decision is served at a reporting event	
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This guidance is mainly based on immigration-related primary legislation and the Asylum and Immigration Tribunal (Procedure) Rules 2005

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This page tells you when and how decisions can be served on file.

Where it has not been possible to serve a notice of decision in line with the arrangements in this guidance (see related link: Means and date of service) the decision-maker must record the reasons for this and place the notice on file. The notice is then deemed to have been served.

Requirements

To serve a notice on file all of the following requirements must also be met:

- a person's whereabouts are not known
 - no address has been provided for correspondence and the decision maker does not know the last known or usual place of abode or place of business of the person
 - the address provided to the decision-maker is defective, false or no longer in use by the person
- no representative appears to be acting for the person

For more information, see regulation 7(2) of the related link: Immigration (Notices) Regulations 2003.

Decision notice

If a decision is not appealable, the usual requirements for notice of decision contents and notification must still be met. For more information, see the following two links:

- Contents of notices
- Notifying residual grounds of appeal.

You must:

- clearly note the circumstances and reasons why normal service is not possible in case

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[Section 3C of the Immigration Act 1971](#)

of legal action later (it may be necessary to provide this record in evidence as well as the original notice of decision)

- sign and date the notice in the normal way
- place it in a pouch at the bottom of the file (it must be docketed to the file or its presence and location on the file clearly minuted)

Serving a notice of decision on file terminates the application and starts the period for appealing. If the application was made in time, service also triggers the provisions of section 3C of the Immigration Act 1971. 3C leave ends at the end of the period for appealing if no appeal is lodged and from that point on the person is an overstayer. For information on 3C leave, see related link: Section 3C of the Immigration Act 1971.

Locating the person

If the person is subsequently located, you must give them:

- a copy of the notice of decision as soon as possible (although the notice is not served again as it was deemed to have been served when it was placed on file)
- details of when and how it was given
- any additional papers relating to the right of appeal (the time for appealing does not start again and the person would not normally have a right of appeal – although they can make an out of time application to the tribunal setting out why they could not be served with the earlier decision)

For more information see regulation 7(3) of the related link: Immigration (Notices) regulations 2003.

An out of time appeal can still be accepted by the tribunal if they believe it would be particularly unjust to prevent an appeal proceeding.

This guidance is mainly based on immigration-related primary legislation and the Asylum and Immigration Tribunal (Procedure) Rules 2005

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Appeals: who receives notices

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you who receives notices of decision.</p> <p>Main applicants and representatives The notice is usually served on:</p> <ul style="list-style-type: none">the person who is the subject of the immigration decision that person's representative <p>Where applicants are under 18 and have no representative, you may serve the notice on a parent, guardian or other adult with responsibility for the child.</p> <p>It is not a requirement of the Immigration (Notices) Regulations 2003 (the 2003 regulations) to serve the notice on both the person with a right of appeal and their representative but it is our practice to do so.</p> <p>Section 84 of the Immigration and Asylum Act 1999 (the 1999 act) You must not serve a notice on an applicant's representative when that representative is not:</p> <ul style="list-style-type: none">registered with the Office of the Immigration Services Commissioner (OISC), orexempt from registration with the OISC. <p>Dependants All dependants refused in line with a main applicant must be notified of the immigration decision made in their case. For a person to be regarded as a dependant they must meet the requirements of the Immigration Rules for that type of application.</p> <p>Dependants of applicant's claiming asylum In asylum cases both the main applicant and the dependant must be notified in writing of the immigration decision.</p>	<p>In this section Contents of notices</p> <p>Notifying residual grounds of appeal</p> <p>Means and date of service</p> <p>Serving notices on file</p> <p>External links The Immigration (Notices) Regulations 2003</p> <p>Immigration Act 1971</p> <p>Immigration and Asylum Act 1999</p> <p>Office of the Immigration Services Commissioner</p>
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Lodging an appeal

<p>About this guidance The appeals system Appealable decisions Notices of decision Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This section tells you how, when and from where somebody can lodge an appeal.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none">• How appeals are lodged• Time limits• Invalid appeals• Pending appeals• Appealing in the UK• Clearly unfounded asylum and human rights claims• Lodging an appeal for dependants	<p>In this section</p> <p>How appeals are lodged</p> <p>Time limits</p> <p>Invalid appeals</p> <p>Pending appeals</p> <p>Appeals lodged in the UK</p> <p>Clearly unfounded asylum and human rights claims</p> <p>Lodging an appeal for dependants</p>
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Appeals: how appeals are lodged

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you how somebody can lodge an appeal.</p> <p>Rule 6 of the Asylum and Immigration Tribunal (Procedure) Rules 2005 (the 2005 rules) provides that appeals can only be initiated by somebody submitting a notice of appeal against an appealable decision in line with the 2005 rules. The notice of appeal must be submitted to Her Majesty's Courts & Tribunals Service (the tribunal) on the appropriate form:</p> <ul style="list-style-type: none">• appeals lodged in the UK – non fast track (form IAFT-1)• appeals lodged overseas (form IAFT-2)• when the decision is made while the applicant is in the UK but the appeal can only be lodged after the applicant has left the country (form IAFT-3)• appeals lodged in the UK – fast track (form IAFT-4) <p>All submitted appeal forms must:</p> <ul style="list-style-type: none">• be signed, dated and include the name and address of the appellant:<ul style="list-style-type: none">○ the form may be signed by either the appellant or their representative but, if the latter, the representative must confirm the form has been completed in line with the appellant's instructions• state whether there is an authorised representative and give their name and address• state the appellant's grounds of appeal and the reasons given in support of those grounds• when possible, list any documents on which the appellant relies in support of their appeal	<p>In this section</p> <p>Time limits</p> <p>Invalid appeals</p> <p>Pending appeals</p> <p>Appeals lodged in the UK</p> <p>Clearly unfounded asylum and human rights claims</p> <p>Lodging an appeal for dependants</p> <p>External links</p> <p>Asylum and Immigration Tribunal (Procedure) Rules 2005</p> <p>HM Courts and Tribunal Service: Immigration Asylum Tribunal Forms</p>
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Appeals: time limits

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This page tells you when somebody can lodge an appeal.

A notice of appeal must be lodged with the tribunal within the specified period below from the date of service of the appealable decision.

Where the appeal is brought	Number of days from date of service in which to lodge an appeal
In the UK	<ul style="list-style-type: none"> • 14 days after the appellant is sent the notice against which the appeal is brought
Outside the UK	<ul style="list-style-type: none"> • 28 days after departure if the appellant was in the UK when served with the relevant decision • 28 days from date of service in any other case.

For further information about calculating the date of service, see related link: Means and date of service.

Out of time appeals

Rule 10 of the Asylum and Immigration Tribunal (Procedure) Rules 2005 requires appellants who submit their notice of appeal late to request an extension of the time in which to lodge their appeal. This must:

- give the reasons why the appeal is late
- include any written evidence relied upon in support of those reasons

The tribunal can extend the time limit for appealing if it is satisfied that there are special circumstances that would make it unjust not to do so. If the tribunal decides an appeal has been brought outside the relevant time limit but no application to extend time has been

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This guidance is mainly based on immigration-related primary legislation and the Asylum and Immigration Tribunal (Procedure) Rules 2005

	<p>included, it can:</p> <ul style="list-style-type: none">• extend the time of its own choosing• notify the person their notice was given out of time; the appellant is then given the opportunity to file written evidence within specified time limits to demonstrate either:<ul style="list-style-type: none">○ the notice was given in time○ there are special circumstances why this was not done	
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Invalid appeals

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you when an appeal is invalid.</p> <p>Rule 9 of the Asylum and Immigration Tribunal (Procedure) Rules 2005 (the 2005 rules) provides that the tribunal may not accept a notice of appeal where there has been no relevant decision. This will include where somebody:</p> <ul style="list-style-type: none">• is seeking to rely on grounds of appeal that do not apply in their case• has lodged an appeal in the UK when they only have an out of country appeal right <p>Section 78 of the Nationality, Immigration and Asylum Act 2002 provides that the Home Office cannot remove someone while an appeal is pending. It is therefore important that questions about the validity of an appeal are raised immediately. The tribunal's urgent business process (rule 11 of the 2005 rules) reduces some of the time limits in the appeals process and may be used where an incorrectly instituted appeal may delay removal.</p>	<p>In this section How appeals are lodged</p> <p>Time limits</p> <p>Pending appeals</p> <p>Appeals lodged in the UK</p> <p>Clearly unfounded asylum and human rights claims</p> <p>Lodging an appeal for dependants</p> <p>External links Asylum and Immigration Tribunal (Procedure) Rules 2005</p> <p>Nationality, Immigration and Asylum Act 2002</p>
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Pending appeals

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This page tells you what happens when an appeal is pending.

Section 104 of the Nationality, Immigration and Asylum Act 2002 (the 2002 act) says an appeal is pending while the time limit for appealing is running. This will be either:

- from the date of service of the Home Office's notice of decision
- (when an appeal has been lodged) from the date the appellant provides notice of appeal (including when that notice is out of time – leave under 3C of the Immigration Act 1971 will only be re-instated if permission to appeal out of time is granted)

A person cannot be removed while an appeal that may be brought in the UK (an 'in-country' appeal) is pending. This only applies to appeals under section 82 of the 2002 act, which are in-country appeals under section 92 of the 2002 act. A person appealing an asylum decision under section 83 of the 2002 act cannot be removed because they will have leave to remain in the UK.

An appeal ceases to be pending when the appeal is finally determined, withdrawn or abandoned.

Upper tribunal

Where the tribunal dismisses the appeal, and once the time limit for appealing to the upper tribunal or higher court has expired, the appeal ceases to be pending unless (and until) the appellant receives the court's permission to appeal out of time. If a higher court decides to remit (give back) a case to the tribunal, the remittal decision is not a final determination of the appeal and therefore the appeal continues to be pending.

Judicial review

Judicial review is not part of the appeals system and the fact that an applicant may seek a judicial review does not affect whether or not an appeal is pending.

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Appeals policy

Appeals lodged in the UK

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you when appeals can be brought in the UK and when they can only be brought from abroad.</p> <p>Rights of appeal which allow appellants to remain in the UK while their appeal is heard are referred to as 'suspensive'. Non-suspensive rights of appeal are those that may not be heard until the appellant has left the UK.</p> <p>An appellant who is entitled to bring an appeal in the UK may leave first and lodge the appeal from abroad but the appeal is deemed to be abandoned if an appellant lodges the appeal first and then leaves the UK. For more information see section 104(4) of the related link: Nationality, Immigration and Asylum Act 2002.</p> <p>Suspensive appeals</p> <p>Under section 92 of the 2002 act a person may only appeal from within the UK, and remain in the UK while their appeal is heard, when they are in the UK when the immigration decision is made and their appeal is against one of the following immigration decisions:</p> <ul style="list-style-type: none">• refusal of a certificate of entitlement – section 82(2)(c) of the 2002 act• refusal to vary existing leave to enter or remain where the result is that the applicant has no leave remaining – section 82(2)(d) of the 2002 act• variation of leave to enter or remain so that a person has no leave (curtailment) – section 82(2)(e) of the 2002 act• revocation of indefinite leave to enter or remain under section 76 of the 2002 act – section 82(2)(f) of the 2002 act• removal from the UK under section 47 of the Immigration, Asylum and Nationality Act 2006 (removal: persons with statutorily extended leave) - section 82(2)(ha) of the 2002 act• a decision to make a deportation order under section 5(1) of the Immigration Act 1971 – section 82(2)(j) of the 2002 act• refusal of leave to enter – section 82(2)(a) of the 2002 act – providing at the time of the	<p>In this section</p> <p>How appeals are lodged</p> <p>Time limits</p> <p>Invalid appeals</p> <p>Pending appeals</p> <p>Clearly unfounded asylum and human rights claims</p> <p>Lodging an appeal for dependants</p> <p>External links</p> <p>Nationality, Immigration and Asylum Act 2002</p> <p>Immigration & Asylum Act 1999</p> <p>Immigration Act 1971</p>
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refusal the appellant was in the UK and (on arrival) had entry clearance – section 92(3) of the 2002 act

- however, if leave had been sought for a purpose other than that specified in the entry clearance the person may not appeal against a refusal of leave to enter while they are in the UK (even if these conditions are met) – section 92(3A) and (3C) of the 2002 act
- for more information about when appeals can be brought in the UK in relation to refusals of leave to enter, see section 92 of related link: Nationality, Immigration and Asylum Act 2002

Asylum and human rights claims and claims of a breach of European Economic Area (EEA) Treaty rights

Section 92 of the 2002 act also confers an in-country right of appeal against any decision if the applicant:

- has made either an asylum or human rights claim while in the UK – section 92(4)(a) of the 2002 act (unless a section 94 certificate has been issued)
- is an EEA national or family member of an EEA national who claims the decision breaches treaty rights in respect of entry to or residence in the UK – section 92(4)(b) of the 2002 act

Non-suspensive appeals

The remaining immigration decisions do not confer a right of appeal in the UK. For example, an appeal against a decision to remove someone as an overstayer under section 10 of the Immigration & Asylum Act 1999 will be out of country (outside the UK), unless the person has made an asylum or human rights claim or raised their rights under European treaties relating to free movement while in the UK.

This guidance is mainly based on immigration-related primary legislation and the Asylum and Immigration Tribunal (Procedure) Rules 2005

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Appeals: clearly unfounded asylum and human rights claims

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you when an appeal on asylum or human rights (HR) grounds can be certified as clearly unfounded.</p> <p>Section 94 of the Nationality, Immigration and Asylum Act 2002 applies to an appeal against decisions under section 82(1) of that act to which:</p> <ul style="list-style-type: none">• an in-country right of appeal might arise (see related link: Appeals lodged in the UK)• where the appellant has made an asylum or human rights claim (or both) <p>It provides that a person is not entitled to appeal from inside the UK if their asylum or HR claim is certified as clearly unfounded.</p> <p>Such an appellant must leave the UK before their appeal is heard, and cannot therefore return to the UK to attend any appeal hearing. However, a claim cannot be certified as clearly unfounded once an appeal has been lodged.</p> <p>Third country cases</p> <p>An appeal cannot be lodged in the UK if a certificate has been issued under schedule 3 of the Asylum & Immigration (Treatment of Claimants etc) Act 2004 and any HR claim has been certified as clearly unfounded. It is possible to appeal from abroad, for example on the ground that the decision was unlawful, but it is not possible to appeal on asylum or HR grounds in regards to the country listed as safe.</p>	<p>In this section</p> <p>How appeals are lodged</p> <p>Time limits</p> <p>Invalid appeals</p> <p>Pending appeals</p> <p>Appeals lodged in the UK</p> <p>Lodging an appeal for dependants</p> <p>External links</p> <p>Nationality, Immigration and Asylum Act 2002</p> <p>Asylum & Immigration (Treatment of Claimants etc) Act 2004</p>
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Appeals policy

Lodging an appeal for dependants

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about the lodging of appeals by dependants.</p> <p>Main applicants and their dependants will not always have the same appeal rights, even when their applications have been refused at the same time.</p> <p>For example, a main applicant who submits an in time application for further leave and is refused will have a right of appeal. The dependant, however, may not have had leave at the time of the application and may therefore only have an appeal against removal from outside the UK.</p> <p>Dependants who have not had their own asylum or human rights claim refused are entitled to appeal against a decision to remove them but only from outside the UK.</p>	<p>In this section How appeals are lodged</p> <p>Time limits</p> <p>Invalid appeals</p> <p>Pending appeals</p> <p>Appeals lodged in the UK</p> <p>Clearly unfounded asylum and human rights claims</p>
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Appeals Guidance

Grounds of appeal

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This section tells you about grounds of appeal, exceptions and limitations to grounds of appeal and explains the concept of the one-stop system in relation to appeals.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none">• Grounds of appeal available• Exceptions and limitations to grounds of appeal (general)• Limits to grounds of appeal against decisions made under section 82(2) of the Nationality, Immigration and Asylum Act 2002• One-stop system	<p>In this section Grounds of appeal available</p> <p>Exceptions and limitations to grounds of appeal (general)</p> <p>Limits to grounds of appeal against decisions made under section 82(2) of the 2002 Act</p> <p>One-stop system</p> <p>External links Nationality, Immigration and Asylum Act 2002</p>
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Grounds of appeal available

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about the reasons an appellant can put forward as to why a decision is wrong.</p> <p>Section 84 of the Nationality, Immigration & Asylum Act 2002</p> <p>Under section 84 of the Nationality, Immigration & Asylum Act 2002, an appeal under section 82(1) of that act may be brought against a decision on any one or more of the grounds below:</p> <ul style="list-style-type: none">• the decision is:<ul style="list-style-type: none">○ not in accordance with the Immigration Rules○ unlawful under section 29 of the Equality Act 2010 which says a public authority cannot discriminate against a person in relation to race as defined by section 9(1) of that act○ unlawful under section 6 of the Human Rights Act 1998 which says a public authority must not contravene (go against) its obligations under the European Convention on Human Rights○ otherwise not in accordance with the law (for example it did not follow a published policy)• the appellant is a European Economic Area (EEA) national or a member of the family of an EEA national and the decision breaches the appellant's rights under the community treaties in respect of entry to or residence in the UK• the person taking the decision should have exercised differently a discretion conferred (given) by Immigration Rules• removal of the appellant from the UK as a result of the immigration decision would breach the UK's obligations under the 1951 Refugee Convention or would be unlawful under section 6 of the Human Rights Act 1998 as being incompatible with the appellant's convention rights	<p>In this section</p> <p>Exceptions and limitations to grounds of appeal (general)</p> <p>Limits to grounds of appeal against decisions made under section 82(2) of the 2002 Act</p> <p>One-stop system</p> <p>External links</p> <p>Nationality, Immigration and Asylum Act 2002</p> <p>Equality Act 2010</p> <p>Human Rights Act 1998</p> <p>1951 Refugee Convention</p>
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Exceptions and limitations to grounds of appeal (general)

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about limits that can be placed on the grounds of appeal that an appellant can rely on.</p> <p>Residual rights of appeal</p> <p>The Nationality, Immigration and Asylum Act 2002 (the 2002 act) limits the right of appeal in some cases by restricting the grounds on which a person can appeal. When this happens, the person is said to have ‘residual rights of appeal’.</p> <p>When somebody has residual rights of appeal they can only bring an appeal on certain grounds, which are those referred to in section 84(1)(b), (c), and sometimes (g,) of the 2002 act:</p> <ul style="list-style-type: none">• that the decision is unlawful by virtue of section 29 of the Equality Act 2010 (discrimination in the exercise of public functions) so far as it relates to race as defined by section 9(1) of that act (discrimination by public authorities)• that the decision is unlawful under section 6 of the Human Rights Act 1998 as being incompatible with the appellant’s rights under the European Convention on Human Rights (ECHR)• that removal would breach the UK’s obligations under the 1951 Refugee Convention <p>Appeals under section 83 of the 2002 act</p> <p>Appeals under section 83 of the 2002 act, following a refusal of asylum but where the person has leave to enter or remain of more than a year, can only be brought on asylum or humanitarian protection grounds.</p>	<p>In this section</p> <p>Grounds of appeal available</p> <p>Limits to grounds of appeal against decisions made under section 82(2) of the 2002 Act</p> <p>One-stop system</p> <p>Related links</p> <p>Notifying residual grounds of appeal</p> <p>External links</p> <p>Nationality, Immigration and Asylum Act 2002</p> <p>Equality Act 2010</p> <p>Human Rights Act 1998</p> <p>1951 Refugee Convention</p>
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Limits to appeal against decisions made under section 82(1) of the 2002 act

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about limits on the grounds that can be raised in appeals against immigration decisions made under section 82(1) of the Nationality, Immigration and Asylum Act 2002 (the 2002 act).</p> <p>Exceptions under section 88 of the 2002 act</p> <p>Normally, whenever there is a right of appeal against an immigration decision made under section 82(1) of the 2002 act, any of the grounds listed in section 84(1) of that act can be raised. However, section 88 of the 2002 act removes the right of appeal in certain circumstances and provides that an appeal can only be brought on residual grounds, which are those referred to in section 84 (b), (c) and (g) of the 2002 act. For more information, see related link: Exceptions and limitations to grounds of appeal (general).</p> <p>Exceptions under section 88 of the 2002 act – grounds of refusal</p> <p>Appeal rights for the immigration decisions in sections 82(2)(a), (b), (d) or (e) of the 2002 act will be limited to residual grounds only if the decision is taken on the grounds that the person:</p> <ul style="list-style-type: none">• does not satisfy an age, nationality or citizenship requirement specified in the Immigration Rules (section 88(2)(a) of the 2002 act)• does not have a genuine immigration document of a particular kind or any immigration document (entry clearance, passport, work permit letter or immigration employment document, travel document for non-UK nationals) (section 88(2)(b) of the 2002 act)• has failed to supply a medical report or a medical certificate in line with a requirement of the Immigration Rules (section 88(2)(ba) of the 2002 act)• is seeking to be in the UK for a longer period than is permitted under the Immigration Rules (section 88(2)(c) of the 2002 act)• is seeking to enter or remain in the UK for a purpose other than one permitted under the Immigration Rules (section 88(2)(d) of the 2002 act)	<p>In this section</p> <p>Grounds of appeal available</p> <p>Exceptions and limitations to grounds of appeal (general)</p> <p>One-stop system</p> <p>External links</p> <p>Nationality, Immigration and Asylum Act 2002</p> <p>Race Relations Act 1976</p> <p>Human Rights Act 1998</p> <p>1951 Refugee Convention</p>
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Appeals: one-stop system

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about the one-stop system for appealing decisions in the UK.</p> <p>The one-stop system applies where:</p> <ul style="list-style-type: none">• a person has made an application for leave to enter or remain in the UK• an immigration decision (within the meaning of section 82 of the Nationality, Immigration and Asylum Act 2002 (the 2002 act)) has been taken or may be taken in respect of that person <p>Purpose of the one-stop system Section 120 of the 2002 act:</p> <ul style="list-style-type: none">• seeks to make sure that all grounds of appeal are raised in a single appeal• prevents appellants from extending their stay by mounting a series of appeals <p>An applicant can only have one application running at a time until such time as the Home Office makes a decision (any changes to that application are treated as variations). Applications attract only one decision and one appeal regardless of the number of times they are varied.</p> <p>Main applicant At any time following an application, the Home Office may serve an applicant with a written one-stop notice (see section 120 of the 2002 act). The one-stop notice:</p> <ul style="list-style-type: none">• requires the applicant to state all the reasons (outside the scope of the original application) why they wish to enter or remain in the UK, including any grounds on which they should be permitted to enter or remain or on which they should not be removed• warns the applicant of the penalties for not complying with this requirement	<p>In this section Grounds of appeal available</p> <p>Exceptions and limitations to grounds of appeal (general)</p> <p>Limits to grounds of appeal against decisions made under section 82(2) of the 2002 Act</p> <p>External links Nationality, Immigration and Asylum Act 2002</p>
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	<p>The notice will often be served when an application is made and, while there is no obligation to serve a section 120 notice, it will often be served if an application is refused with a right of appeal in the UK. There is no limit to the number of times a person can be served with a one-stop notice.</p> <p>One-stop notices can also be given to someone who has not made an application, for example someone who may be removed as an overstayer or illegal entrant. If an application is refused and the refusal attracts a right of appeal in the UK, the notice of decision or refusal letter can contain a paragraph giving the one-stop notice.</p>	
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Appeals policy

Appeal hearings: policy

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal outcomes: policy</p>	<p>This page tells you how appeal hearings are prepared for and conducted. It also includes information about what evidence the tribunal can consider and explains the statutory provisions for appeals to be treated as withdrawn or abandoned.</p> <p>The Home Office is normally represented at hearings by presenting officers (POs) or sometimes by a case owner (CO) in asylum appeals. However, in some significant cases counsel may be instructed. The following legislation will allow the tribunal to decide how the appeal hearing will be conducted:</p> <ul style="list-style-type: none">• Nationality, Immigration and Asylum Act 2002• Asylum and Immigration (Treatment of Claimants etc) Act 2004• Asylum and Immigration Tribunal (Procedure) Rules 2005 <p>For information on the appeal hearings process, including how to prepare an appeal, see related links:</p> <ul style="list-style-type: none">• Appeal hearings• Prepare appeal	<p>In this section</p> <p>Directions</p> <p>Hearing dates: asylum</p> <p>Matters to be considered</p> <p>Hearing in the absence of a party</p> <p>Adjournments</p> <p>Withdrawals</p> <p>Abandonments</p> <p>Appeal hearings: dependants</p> <p>Related link</p> <p>Links to staff intranet removed</p> <p>External links</p> <p>Nationality, Immigration and Asylum Act 2002</p> <p>Asylum and Immigration (Treatment of Claimants</p>
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Appeals: directions

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This page tells you about directions issued by the appeal tribunal.

The tribunal has powers to make both parties (the appellant and respondent) provide documents before the final hearing. If either party fail to comply by the deadline it can result in the appeal being determined without a hearing, in line with Rule 15 of the Asylum and Immigration Tribunal (Procedure) Rules 2005 (the 2005 rules). The tribunal issues two types of directions:

- pre-hearing
- case specific

Responses to directions must include:

- details of the information being provided
- any reasons why elements of the request cannot be provided

Pre-hearing directions

These directions are issued to both parties when a case is first listed and documents need to be provided before the hearing. The appeal bundle usually satisfies these directions and only needs to be supplemented with a separate skeleton argument when the appellate authority identifies specific issues.

For such issues, reference to the reasons for refusal letter and any supplementary letter(s) would normally suffice. It is not necessary to provide or refer to precedent cases as what is being sought is the evidence to support the Home Office decision.

Case-specific directions

These are requests from the tribunal to the Home Office for additional explanations, submissions and considerations. They are often issued after a first hearing but can be given at a case management review hearing. The Home Office will have already provided a

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skeleton argument in the form of the notice of decision or reasons for refusal letter and there is no set format for this additional material. It must simply and briefly set out what each additional issue is and the Home Office response on that issue (referring to relevant precedents or documentary evidence). You may need to contact policy colleagues if you need further information.

Unreasonable or impossible directions

The tribunal must be informed when their deadline for receiving additional papers is unreasonable or impossible to meet. A written explanation of why the direction fails to meet the requirements of rule 45 of the 2005 rules must be provided (refer all these cases to a senior caseworker).

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Hearing dates: asylum

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about appeal hearing dates in asylum cases.</p> <p>When the appellant is in the UK and the appeal relates in whole (or in part) to an asylum claim, the tribunal must set the appeal hearing either:</p> <ul style="list-style-type: none">• no later than 35 days after it receives the notice of appeal• 35 days after it has decided that a late notice of appeal can be considered <p>If an asylum appeal is to be determined without a hearing then the tribunal must decide this no later than 35 days after the receipt of the appeal notice.</p>	<p>In this section</p> <p>Directions</p> <p>Matters to be considered</p> <p>Hearing in the absence of a party</p> <p>Adjournments</p> <p>Withdrawals</p> <p>Abandonments</p> <p>Appeal hearings: dependants</p>
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Appeals: matters to be considered

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This page tells you about the matters the tribunal must consider at an appeal hearing as set out in section 85 of the Nationality, Immigration and Asylum Act 2002 (the 2002 act).

In appeals against immigration decisions made under section 82 of the 2002 act, the tribunal must consider:

- all Home Office decisions where the appellant has an appeal right under section 82 of the 2002 act
- any matter raised as additional grounds in response to a one-stop notice, including those raised before and during the appeal, provided they meet the grounds of appeal definition in section 84 of the 2002 act

For more information on appealable decisions (under section 82 and 83 of the 2002 act), see related link.

In appeals under section 82 or 83 of the 2002 act, the tribunal can consider evidence about any matter which it believes is relevant to the substance of the decision, including evidence which concerns a matter arising after the date of the decision, with the following exceptions:

- in entry clearance and certificate of entitlement cases - the tribunal can only consider the circumstances as they stood at the date of the decision being appealed; this does not exclude later evidence which sheds light on earlier circumstances.
- in cases under the points-based system the tribunal can only consider evidence that was submitted in support of, and at the time of making, the application, which was considered by the Home Office decision-maker (including evidence requested under evidential flexibility arrangements, for more information see related link) - however, exemptions exist to allow evidence submitted after the decision to be considered:
 - in support of human rights, race relations, asylum or European Economic Area (EEA) grounds of appeal
 - in support of grounds that do not relate to the acquisition of points

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- to prove that a document already submitted is genuine or valid

Precedent, country guidance and practice directions

The tribunal is bound by precedents set by:

- higher courts
- starred or reported tribunal determinations

It is also required to treat country guidance cases as providing authoritative findings on country conditions in asylum or human rights appeals, provided the case depends on the same or similar evidence to that considered in the relevant case and there has not been a significant change of circumstances since the country guidance case.

The tribunal must also follow practice directions issued by:

- the senior president or president of the tribunal
- the president of the Immigration and Asylum Chamber

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Appeals: hearing in the absence of a party

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about appeal hearings in the absence of a party.</p> <p>Rule 19 of the Asylum and Immigration Tribunal (Procedure) Rules 2005 (the 2005 rules) allows appellate authorities to hear an appeal in the absence of a party or representative, providing that party or representative:</p> <ul style="list-style-type: none">• was given notice of the date, time and place of the hearing• has provided no satisfactory explanation for the absence <p>Rule 19 of the 2005 rules also states appellate authorities can hear an appeal in the absence of a party if:</p> <ul style="list-style-type: none">• a representative of the party is present at the hearing• the party is:<ul style="list-style-type: none">○ outside the UK○ suffering from a communicable disease○ likely to behave in a violent or disorderly manner○ unable to attend due to illness, accident or some other good reason○ unrepresented and cannot be given notice of the hearing○ not minded to attend and has told the tribunal	<p>In this section Directions</p> <p>Hearing dates: asylum</p> <p>Matters to be considered</p> <p>Adjournments</p> <p>Withdrawals</p> <p>Abandonments</p> <p>Appeal hearings: dependants</p> <p>External links Asylum and Immigration Tribunal (Procedure) Rules 2005</p>
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Appeals: adjournments

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Appeals: withdrawals

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This page tells you about withdrawals of immigration appeals.

Under rule 17 of the Asylum and Immigration Tribunal (Procedure) Rules 2005 appeals can be withdrawn by the appellant or their representative on their behalf at any time before they are determined.

Notifying a withdrawal

Notice of withdrawal must be given in writing except when an appeal is withdrawn orally before the tribunal. An appeal is also treated as withdrawn if the Home Office notifies the tribunal it has withdrawn the immigration decision to which the appeal relates.

If an appeal is withdrawn or treated as withdrawn, the tribunal must serve a notice to this effect on all parties. If the tribunal fails to provide this notice however, it does not invalidate the withdrawal. The withdrawal takes effect as soon as the Home Office, the appellant or their representative provides proper notice to the tribunal.

Incorrectly withdrawn appeals

Withdrawn appeals cannot be reinstated but an appellant can argue the appeal was withdrawn incorrectly and is therefore extant (on-going). You must tell appellants who wish to reinstate an appeal:

- to contact the tribunal directly
- that enforcement action will not be suspended to allow them to do so - however, where such an application has been made the Home Office would normally defer removal until the outcome of the referral is known

Invitations to withdraw

Invitations to withdraw made by the Home Office must be made with caution as they can adversely affect the appellant's future appeal rights and leave the Home Office open to accusations of coercion, that is, having forced the appellant to withdraw.

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	<p>Death of an appellant Although an appeal can be treated as withdrawn if an appellant dies before their appeal has been determined, the tribunal, where the tribunal considers it necessary, can allow a representative to continue proceedings. For example, this may occur if the appeal includes dependants who require a determination.</p>	
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Appeals policy

Appeals: abandonments

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about abandoned immigration appeals.</p> <p>Section 104(4) of the 2002 Act (the 2002 act) requires appeals under section 82 of that act to be treated as abandoned when the appellant:</p> <ul style="list-style-type: none">• lodges an in-country appeal while in the UK and then leaves the UK• is granted leave to enter or remain in the UK, unless the appellant:<ul style="list-style-type: none">○ is given leave for more than 12 months and the appeal is on asylum grounds○ has appealed on race discrimination grounds <p>In these circumstances, it is for the appellant to give notice they want to pursue the appeal. For more information, see section 104(4B) and (4C) and rule 18 of the Asylum and Immigration Tribunal (Procedure) Rules 2005 (the 2005 rules).</p> <p>Appeals abandoned under the European Economic Area (EEA) Regulations</p> <p>Paragraph 4(2) of schedule 2 to the Immigration (European Economic Area) Regulations 2006 (EEA regulations) also says an appeal shall be treated as abandoned if the appellant has:</p> <ul style="list-style-type: none">• been issued with one of the following documents under the EEA regulations:<ul style="list-style-type: none">○ registration certificate○ residence card○ derivative residence card○ document certifying permanent residence○ permanent residence card• been issued with an accession worker card under the Accession (Immigration and Worker Authorisation) Regulations 2006 (Bulgarian and Romanian nationals only)• had their passport stamped with a family member residence stamp <p>However, a pending appeal under the EEA regulations must not be treated as abandoned</p>	<p>In this section</p> <p>Directions</p> <p>Hearing dates: asylum</p> <p>Matters to be considered</p> <p>Hearing in the absence of a party</p> <p>Adjournments</p> <p>Withdrawals</p> <p>Appeal hearings: dependants</p> <p>External links</p> <p>Nationality, Immigration and Asylum Act 2002</p> <p>Asylum and Immigration Tribunal (Procedure) Rules 2005</p> <p>Practice Direction 52 - Appeals</p>
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solely because the appellant has left the UK (regulation 25(4)).

Informing the appellate authorities

Rule 18 of the 2005 rules requires the appellant or their representative to inform the appellate authorities if an appeal is abandoned. On receipt of such notice, the tribunal must serve formal notice on all parties informing them the appeal is being abandoned.

Section 104(4) of the 2002 act does not apply to appeals brought by a person while outside the UK or to appeals under sections 83 or 83A of that act.

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Appeal hearings: dependants

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This page tells you about appeal hearings and dependants.

Rule 20 of the Asylum and Immigration Tribunal (Procedure) Rules 2005 provides for appeals of main applicants and their dependants to be heard together.

If only the main applicant appeals, the tribunal cannot consider the position of the dependants. However, dependants cannot be removed until the appeal of the main applicant has been decided. If only dependants appeal, they can still appeal in the UK if either:

- their application for further leave had been made in time (subject to the requirements of sections 88 and 88A of the Nationality, Immigration and Asylum Act 2002 which both apply to dependants)
- they raise asylum or humanitarian protection grounds

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[Section 88 of the Nationality, Immigration and Asylum Act 2002](#)

[Section 88A of the Nationality, Immigration and Asylum Act 2002](#)

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Appeal outcomes: policy

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy</p>	<p>This page tells you how decisions are made and communicated by Her Majesty's Courts and Tribunals Service. It also includes information about Home Office processes in relation to appeal determinations and onward appeal rights.</p> <p>Under section 86 of the Nationality, Immigration and Asylum Act 2002 (the 2002 act), the tribunal must determine (reach a decision) on any matter raised as a ground of appeal and any matter that section 85 of the 2002 act requires it to consider. If the tribunal fails to do so it can be an error of law and form the basis of an application for an onward appeal.</p> <p>The tribunal must allow an appeal if either:</p> <ul style="list-style-type: none">• the Home Office decision was not in line with the law (including the Immigration Rules)• discretion within the rules should have been exercised differently (a refusal to depart from the rules does not count as an exercise of discretion in this context) <p>In all other circumstances, the tribunal must dismiss the appeal.</p> <p>For information on the appeal outcome process and onward appeal rights, see related links:</p> <ul style="list-style-type: none">• Appeal outcome• Onward appeal rights	<p>In this section</p> <p>Determinations without hearings</p> <p>Serving determinations</p> <p>Non-statutory recommendations</p> <p>Finally determined appeals</p> <p>Related links</p> <p>Links to staff intranet removed</p> <p>External links</p> <p>Nationality, Immigration and Asylum Act 2002</p>
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Appeals: determinations without hearings

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you when appeals can be determined (decided) without hearings.</p> <p>Rule 15 of the Asylum and Immigration Tribunal (Procedure) Rules 2005 (the 2005 rules) allows appellate authorities to determine an appeal without a hearing if:</p> <ul style="list-style-type: none">• all parties to the appeal consent subject to the exception in rule 15(2)(aa) of the 2005 rules which allows the appeal to be determined without a hearing (without the appellant's consent) where the Lord Chancellor has refused to issue a certificate of fee satisfaction for the fee payable for a hearing• the appellant is outside the UK and does not have a representative with an address for service in the UK• a party has not complied with the procedure rules or a direction of the appellate authorities and the tribunal is satisfied it is appropriate to determine the appeal without a hearing - if the party who has not complied is the appellant, the tribunal can dismiss the appeal without determining it (this will rarely be appropriate, however, if there is evidence on which the tribunal can determine the appeal)• the tribunal is satisfied the appeal can be justly determined without a hearing, however, the tribunal must give the parties a chance to comment in writing <p>The tribunal must still issue a full, written determination that informs the parties of any onward appeal rights (which are unaffected by the absence of a hearing), although its contents may be limited where it has dismissed the appeal without a hearing.</p>	<p>In this section Serving determinations</p> <p>Non-statutory recommendations</p> <p>Finally determined appeals</p> <p>External links Asylum and Immigration Tribunal (Procedure) Rules 2005</p>
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Appeals policy

Appeals: serving determinations

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about serving appeal determinations.</p> <p>The tribunal must serve a written determination, which provides the reasons for its decision, on all parties.</p> <p>Non-asylum cases For non-asylum cases:</p> <ul style="list-style-type: none">• if there has been a hearing, the tribunal must send a written determination to parties within 10 working days of its conclusion• if there has not been a hearing, determinations must be sent to parties within 10 working days of their completion <p>Asylum cases For asylum cases where the appellant has appealed from within the UK, the tribunal serve the determination on the Home Office and the Home Office must serve the determination on the appellant either:</p> <ul style="list-style-type: none">• no later than the date on which such an application is made (if the Home Office wants to appeal the determination), or (in all other cases)• no later than 28 days after receiving the determination from the tribunal	<p>In this section Determinations without hearings</p> <p>Non-statutory recommendations</p> <p>Finally determined appeals</p>
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Appeals: non-statutory recommendations

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This page tells you about non-statutory recommendations made by the tribunal.

When dismissing an appeal, or when an appeal is withdrawn, the tribunal can make a non-statutory recommendation that the Home Office should exercise discretion in favour of the appellant (they often suggest the Home Office reconsider the application or grant discretionary leave).

You should only act upon such recommendations if the determination and/or recommendation disclose clear exceptional compassionate circumstances which:

- were not previously considered
- warrant the exercise of discretion outside the Immigration Rules

You must consider these recommendations as soon as reasonably possible. You must consider tribunal determinations which suggest the Home Office should reconsider a case but which are not strictly recommendations as if they were recommendations.

Accepted recommendations

If the Home Office agrees to accept the tribunal's recommendation and leave is granted you must do the following:

- inform the appellant in a covering letter that any outstanding appeal (to the tribunal or another court) will be treated as abandoned in line with section 104(4) of the Nationality, Immigration and Asylum Act 2002 (unless sections 104(4B) or 104(C) of that act apply)
- inform the tribunal or appropriate court

Recommendations which are not accepted

If the tribunal's recommendation is not accepted you must send a letter to the appellant which:

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External links

[Nationality, Immigration and Asylum Act 2002](#)

[Immigration, Asylum and Nationality Act 2006](#)

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	<ul style="list-style-type: none">• gives details of the tribunal recommendation• states that the Home Office has decided the written determination does not disclose clear exceptional compassionate circumstances which were not previously considered and which merit exercise of (using) discretion outside the Immigration Rules	
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Finally determined appeals

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page tells you about finally determined appeals.</p> <p>An appeal is finally determined when it is decided by the tribunal and all onward appeal rights have been exhausted.</p> <p>Section 104(5) of the Nationality, Immigration and Asylum Act 2002 (the 2002 act) also says an appeal against the following immigration decisions is finally determined if a deportation order is made against the appellant:</p> <ul style="list-style-type: none">• refusal of leave to enter• refusal of certificate of entitlement under section 10 of the 2002 act• refusal to vary leave if the result is the applicant has no leave• variation of leave if the result is the applicant has no leave (curtailment)• revocation of leave under section 76 of the 2002 act <p>In each case, the appellant will have had a right of appeal against the decision to make a deportation order. Rule 18 of the Asylum and Immigration Tribunal (Procedure) Rules 2005 requires parties to inform the appellate authorities if an appeal should be treated as finally determined in this way. The tribunal must then serve notice and take no further action, as with abandonments under section 104(4) of the 2002 act.</p>	<p>In this section</p> <p>Determinations without hearings</p> <p>Serving determinations</p> <p>Non-statutory recommendations</p> <p>External links</p> <p>Nationality, Immigration and Asylum Act 2002</p> <p>Asylum and Immigration Tribunal (Procedure) Rules 2005</p>
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Appeals: contact

<p>About this guidance The appeals system Appealable decisions Notices of decision Lodging an appeal Grounds of appeal Appeal hearings: policy Appeal outcomes: policy</p>	<p>This page explains who to contact for more help with a specific case relating to an appeal.</p> <p>If you have read the relevant legislation and this guidance and still need more help with an appeal case, you must first ask your senior caseworker or line manager.</p> <div style="border: 2px solid red; padding: 10px; text-align: center;"><p>Official sensitive – do not disclose – start of section</p><p>The information in this page has been removed as it is restricted for internal Home Office use only.</p><p>Official sensitive – do not disclose – end of section</p></div> <p>Changes to this guidance can only be made by the Guidance, Rules and Forms team (GRaFT). If you think the policy content needs amending you must contact the Legal Strategy team, who will ask the GRaFT to update the guidance, if appropriate.</p> <p>The GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: Guidance – making changes team.</p>	<p>In this section Changes to this guidance</p> <p>Information owner</p> <p>External links Links to staff intranet removed</p>
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This page tells you about this version of the 'Appeals policy' guidance and who owns it.

Version	3.0
Valid from date	
Policy owner	Removed: official sensitive
Cleared by director	Removed: official sensitive
Director's role	Removed: official sensitive
Clearance date	29 January 2014
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