



Home Office

Appeals process: allocating, expediting, adjourning and concluding

Version 1.0

This guidance is about how appeals are allocated, case management reviews, adjourned appeals and post appeal action.

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About this guidance

This guidance covers the processes to be followed when appeal court list data is sent to presenting officer units (POUs) (usually 6 working days before the hearing date). It covers how appeals are to be allocated, case management reviews, adjourned appeals and post appeal action. It is intended for POUs administrative staff, presenting officers (POs) and POU managers and senior caseworkers.

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or where you think that the guidance has factual errors then you can email the Appeals Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

Publication

Below is information on when this version of the guidance was published:

- version **1.0**
- published for Home Office staff on **24 April 2018**

Changes from last version of this guidance

This guidance replaces all guidance on:

- PO allocation
- priority representation
- case management reviews
- adjourned appeals
- appeal determinations post appeals work

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Court lists allocation to presenting staff

This section tells administration staff within presenting officers units (POUs) how to allocate case files to presenting staff.

POU cases

When case files arrive in the POU prior to the hearing date they must be stored in the hearing hold in hearing date order.

Administrative staff must record that you have received the file on the record management system (RMS).

When files are received from other locations, administrative staff must update:

- RMS to show receipt of the file
- the case ownership tab on CID to show the correct POU as the sub owner for the duration of the appeal

The court lists should be received from Her Majesty's Courts and Tribunals Service (HMCTS) hearing centre 6 working days before the hearing. The lists may consist of substantive hearings only, or a mixture of substantive, case management reviews and bail hearings.

When the lists are received, diary managers at the POUs must allocate presenting officers (POs) to the lists at least 2 days before the hearing date.

Administrative staff must gather the Home Office files for each list and track them on the RMS to the presenting officer (PO) responsible for that list.

If a file has not arrived in the POU when the court lists are received administrative staff must make an urgent file request and monitor the request to make sure the file is received in time for the hearing.

Administrative staff at POUs must maintain a diary system to show when POs are available to attend the Tribunal and set aside time for case preparation.

If there are not enough POs to cover the lists, a team manager or senior caseworker will decide whether any of the cases can be unrepresented. These cases are called 'no PO cases'. For information on which appeals must be represented, see [Priority representation](#).

Where a court list has not been allocated to a PO (for instance going 'No PO') a member of the POU administration or workflow team will notify the local Hearing Centre.

List changes

The hearing centre may make changes to the court lists, which will be communicated by email to the local POU Administration team. The latest point this should happen is midday the day before the hearing. If changes are made the POU Administration team must make sure the PO is aware of the list changes either by telling them in person, or sending them an email and ensure that any new files are provided to the PO and all file movements are recorded on the record management system (RMS).

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Priority representation

This section tells team managers and senior caseworkers at presenting officers units (POUs) how they must allocate appeals to presenting officers (POs) where there are insufficient POs available to cover the entire Tribunal list. It also sets out how priority appeals can be identified and how to get cases that are restricted unlocked from CID.

When an appeal is received in a presenting officers' unit (POU) it will be checked by the administrative team who will look at CID and see whether any cases are identified as requiring priority representation. Where a case is identified diary managers will be notified accordingly and will ensure cases are represented.

Where an appeal has been handled by an entry clearance post the administrative team will need to check the central reference system (CRS).

Priority appeals

These are cases which must be represented at appeal. Priority cases can be identified by the references on CID as below:

- any cases where the appellant is detained - this should be established by checking the detained screen on CID
- Special Cases Unit appeals - Special Cases Unit will usually contact the POU or the Specialist Appeals team (SAT) pre-hearing but if the CID screen is restricted, or if there is a SCU special conditions flag (or reference to War Crimes), the POU should contact Special Cases Unit by email to establish the priority of the appeal and discuss appropriate representation
- any human rights or protection appeal made when a deportation order is in place or where there is an intention to make a deportation order - this can be checked on case details, using the case ownership or case outcome information
- all Upper Tribunal appeals
- all bail hearings (the local Hearing Centre will notify each POU of all bail hearings taking place each day)
- deprivation of nationality appeals – check case ownership and case outcome details on CID
- any appeals where Educational Testing Service (ETS) deception has been raised - ETS appeals are flagged through a special condition flag and will have entered next to them either 'AGKAI' where there is a specific invalid testing outcome, or 'AGKAQ' where there is a specific questionable outcome

Official – sensitive: start of section

The information in this section has been removed as it is restricted for internal Home Office use.

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Case management reviews

This section is intended for administrative staff at presenting officers units (POUs) and presenting officers (POs) and tell them about case management review hearings and their alternatives. It applies to all cases where the Immigration and Asylum Chamber (IAC) lists an appeal for a case management review.

The case management review can be at any stage prior to the listing of the substantive appeal. As a result of tight timescales, files must arrive in the POU 2 days before the date of the case management review.

The case management review is attended by a PO. The purpose of the review is to identify the important issues upon which the appeal relies and upon which the substantive hearing will focus. The PO will submit any objective evidence and caselaw to be relied upon at the substantive hearing, which has not already been served in the appeals bundle. A time estimate for the length of the substantive hearing will be agreed.

Request to concede aspects of the case

Representatives or judges may ask the PO to concede aspects of the case at the case management review. POs must identify any areas that are likely to be raised prior to the case management review and must follow the guidance set out in withdrawing decisions and conceding appeals.

Where new evidence is submitted or a new issue raised at the case management review POs should not concede points and must instead consider any issues raised following the guidance on withdrawing decisions and conceding appeals.

Directions following a case management review

Following a case management review the PO must do all of the following:

- minute the file with any directions issued
- update CID with the hearing details and outcome
- in asylum team cases, ensure the 'POU responsible' field on CID shows the name of the asylum team who own the case

Case management orders

The judge may issue a case management order giving directions that the parties to the appeal must comply with, before the substantive hearing.

The PO is responsible for making sure the directions are complied with in time. They may ask for administration or casework support to do this.

If the file moves to a different POU, the PO must update the file location on the record management system.

If the decision maker is required to take action, the PO must make a full minute on the file and forward it for action in sufficient time for a response to be made either by the substantive hearing or earlier if that is specified in directions.

For cases owned by Criminal Casework, if directions other than standard directions have been issued, the PO must notify the caseworker by telephone within 24 hours of receipt and e-mail them with the directions.

Standard case management review directions

The [Immigration Asylum Chamber's published practice directions](#) at paragraph 7.5, set out the standard appeal directions at a CMR:

The Tribunal will normally have given to the parties the following directions with the notice of hearing:

(a) not later than 5 working days before the full hearing (or 10 days in the case of an out-of country appeal) the appellant shall serve on the Tribunal and respondent:

(i) witness statements of the evidence to be called at the hearing, such statements to stand as evidence in chief at the hearing;

(ii) a paginated and indexed bundle of all the documents to be relied on at the hearing with a schedule identifying the essential passages;

(iii) a skeleton argument, identifying all relevant issues including human rights claims and citing all the authorities relied upon; and

(iv) a chronology of events.

(b) not later than 5 working days before the full appeal hearing, the respondent shall serve on the Tribunal and the appellant a paginated and indexed bundle of all the documents to be relied upon at the hearing, with a schedule identifying the relevant passages, and a list of any authorities relied upon.

Complying with directions

The PO must make sure any additional evidence and caselaw not included in the appeal bundle which will be relied upon in the hearing is served no later than 5 working days before the full hearing. The only exception to this is where the Tribunal gives non-standard directions in accordance with the directions set out at the case management review hearing. The PO must serve the caselaw and evidence on the:

- judge
- appellant's legal representative (if there is one)
- appellant (if there is no representative)

For further guidance see Bundles: Preparation of appeals bundles and updating caseworking systems.

Pre-hearing reviews

Some hearing centres conduct case management reviews on the papers. This is called a pre-hearing review.

The judge will consider the case in chambers and may issue directions to make sure the case is prepared for the substantive hearing.

Case management reviews (CMR) by telephone

Some hearing centres conduct case management reviews by telephone. The hearing notice will clearly state that the case has been listed for a telephone review and give the time slot allocated for the case. The PO will be contacted on a designated telephone number at the allocated time. If they are not available the review may take place in their absence.

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Adjourned or part heard appeals

This section tells presenting officers (POs) about the process they must follow where an appeal is adjourned or part heard.

Substantive hearings can be adjourned for various reasons. Examples of why a PO may ask for an adjournment include:

- new evidence has been submitted which needs to be checked
- there is new case law which the PO considers may substantially affect the appeal outcome and the PO needs to seek advice on what lines to take
- there is an appeal by a family member on similar facts and the cases should be heard together

The above list is not exhaustive of reasons why an adjournment may be sought. An adjournment should only be sought where it is considered necessary. Where an appeal can proceed without an adjournment for example, where new evidence is submitted and that evidence is unlikely to be determinative of an appeal, then the PO should not ask for an adjournment.

There will be times where a PO is confronted with new evidence or caselaw on the day of the hearing. Where a PO considers that they would be able to continue with the appeal provided they were given time to consider the new material this should be explained to the Tribunal with a request that a brief delay to the hearing be granted. As with an adjournment request it will be for the Tribunal to decide whether to grant the PO any time.

If a hearing is adjourned the PO must:

- minute the file with the reasons for the adjournment and identify whether any casework is required
- update hearing details on CID
- if no casework is required send the file to the hearing hold to be stored under the new hearing date
- where casework is required to comply with directions the PO should normally be able to carry these out on non-court days
- where casework or directions are urgent or complex the PO should discuss with their team manager to ensure that the casework is completed by an appropriate person with any time required being facilitated

If the new hearing date was not given at the adjourned hearing, the PO must send the file to the 'await hearing hold'.

A hearing can also be part heard. If this happens, the hearing will be concluded on another date. The PO must:

- minute the file with the progress of the case and identify whether casework is required

- update hearing details on CID
- if a new hearing date is obtained at the adjourned hearing - send the file to the 'await hearing hold' to be stored under the new hearing date
- if no new date is obtained at the adjourned hearing - store the file in the 'awaiting hearing hold'
- notify the diary manager of the part heard case and, if known, the date when the PO will be required to attend the second part of the hearing

Action required before the next hearing date

If casework is needed or if the judge has issued directions, it is the responsibility of the PO to make sure these are complied with by the stipulated time. Once directions have been complied with, the PO must send the file to the hearing hold to be stored under the hearing date.

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Appeal hearing concluded: post appeal action

This section tells presenting officers (POs) and administrative staff at presenting officers units (POUs) what to do after a substantive hearing has taken place.

Where the PO has concluded an appeal hearing they must:

- within 48 hours of the hearing taking place update CID with the hearing details
- minute the file using an ICD.2742 on DocGen
- send the file to the awaiting determination hold to be stored under the hearing date

No presenting officer (PO) cases

When a case is heard without a PO, the file should already be in the 'awaiting determination' hold. The appeals administration staff within the POU must make sure the hearing details are completed on CID within 48 hours of the hearing. To obtain the hearing details you may need to contact the hearing centre.

If you are not able to obtain the information, you must update CID to show the hearing went ahead. This will allow you to meet the target for updating CID within 48 hours of the hearing. If the case was adjourned Her Majesty's Courts and Tribunals Service will notify you in due course and the hearing details on CID can be amended.

If the file is not already in the 'awaiting determination' hold you must locate the file using the record management system (RMS) and then move it there.

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