

Factsheet: Basic First-tier Tribunal procedure

This factsheet is intended to assist non-lawyers to understand the basic procedures when an application for entry clearance or leave to remain is refused and the decision gives rise to a statutory right of appeal following the changes made by the Immigration Act 2014.

THE HEARING

- Normally heard by a First-tier Tribunal Judge sitting alone although panels can be used for complex cases.
- An average hearing usually takes between 1-3 hours but some particularly complex cases can take much longer.
- The hearing is usually held in public unless the Tribunal considers that there are good reasons for hearing evidence in private.
- The Tribunal may hear from witnesses, which includes "examination in chief" (questions from the person who is calling the witness, normally the appellant), "cross-examination" (questions from the opposing party, normally the Home Office) and "re-examination" (an opportunity to clarify questions arising from cross-examination). The parties then have an opportunity to make closing submissions. Written decision sent after the hearing.

RESPONDENT BUNDLES

The ECO or Home Office is then required to prepare a file of papers, a 'bundle', containing all the relevant documents relating to the application and the decision.

CASE MANAGEMENT

Sometimes the Tribunal will then have an administrative hearing to discuss the arrangements for the main hearing and any issues arising in the preparation of the case.

DIRECTIONS

The Tribunal has wide powers to make directions to the parties or other bodies relating to service of evidence or the general conduct of the proceedings.

NOTICE OF APPEAL TO BE LODGED

- If the person is in the UK ("in-country") not later than 14 days after they have been sent the notice of decision. If they are detained, other rules apply.
- If the person is outside the UK ("out of country") not later than 28 days after they depart the UK or received the decision
- If the notice of appeal is served late an application can be made to the Tribunal asking to extend time giving a full explanation

RIGHT OF APPEAL AGAINST THE FOLLOWING DECISIONS:

- A decision to refuse a "protection claim" (asylum or humanitarian protection); or
- A decision to refuse a "human rights claim"; or
- A decision to revoke existing protection status; or
- A decision to refuse to recognise a right of residence under the EEA Regulations 2006

Note: The Tribunal is a public court so if a client is nervous or unsure about the procedures they can attend the Tribunal at any time to watch other cases and get a feel for how the hearings are conducted.