



**Public law in the context of  
immigration and asylum cases**

# **Appealable and Non-appealable decisions**

**'at the  
heart of  
human  
rights'**

 The  
Migrants'  
Law Project



## Why is it important to know?

- Appeal or judicial review?
- Advantages of an appeal
  - Quicker, cheaper
  - Merits based review
- Disadvantages of appeal
  - No interim relief
  - Costs sanctions



# Immigration and Asylum Chamber First-Tier Tribunal

- Appeals against immigration decisions
- Defined in s. 82 of the Nationality, Immigration and Asylum Act 2002
- ... And Regulation 26 of the Immigration (EEA) Regulations 2006
- Appeals against refusal of asylum
- Restricted and out of country appeals

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# Social Entitlement Chamber

## First-Tier Tribunal

- Asylum Support Tribunal
- Appeals against refusal of s. 95 or s. 4 support
- Very tight timetable
- No legal aid
- No onward appeals to Upper Tribunal



## **Onward appeals – immigration and asylum cases**

- Permission to appeal required
- Appeal on an ‘error of law’ only
- Upper Tribunal – power to remit or rehear the case
- Court of Appeal – second appeals test
- Supreme Court



# Non-appealable decisions

- Any decision where there is no express right of appeal to the First-tier Tribunal such as:
  - Refusal of a fresh claim
  - Decision to detain
  - Dispersal of asylum seekers
- Be aware of other remedies - complaints and ombudsmen, MPs, fresh applications
- Non-appealable decisions made by First-tier Tribunal e.g. Asylum support, procedural decisions of the IAC
- Upper Tribunal decisions – enhanced test