



## **Bar Council response to the Home Office's Open call for evidence on The new Independent Appeals Body**

1. This is the response of the General Council of the Bar of England and Wales (the Bar Council) to the Home Office's open call for evidence on the new Independent Appeals Body dated 25 March 2026 (with a deadline for responses of 22 April 2026, extended to 6 May 2026)<sup>1</sup> The Call for Evidence was preceded by a Home Office policy statement entitled "Restoring Order and Control" ('ROAC') first published on 17 November 2025.<sup>2</sup>

2. The Bar Council is the voice of the barrister profession in England and Wales. Our 18,000 + members – self-employed and employed barristers – make up a united Bar that aims to be strong, inclusive, independent and influential. As well as championing the rule of law and access to justice, we lead, represent and support the Bar in the public interest through:

- Providing advice, guidance, services, training and events for our members to support career development and help maintain the highest standards of ethics and conduct
- Inspiring and supporting the next generation of barristers from all backgrounds
- Working to enhance diversity and inclusion at the Bar
- Encouraging a positive culture where wellbeing is prioritised and people can thrive in their careers
- Drawing on our members' expertise to influence policy and legislation that relates to the justice system and the rule of law
- Sharing barristers' vital contributions to society with the public, media and policymakers

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<sup>1</sup> [The new Independent Appeals Body: Call for evidence](#) dated 25 March 2026.

<sup>2</sup> [Home Office Restoring Order and Control Policy Statement](#), published 17 November 2025.

- Developing career and business opportunities for barristers at home and abroad through promoting the Bar of England and Wales
  - Engaging with national Bars and international Bar associations to facilitate the exchange of knowledge and the development of legal links and legal business overseas
3. To ensure joined-up support, we work within the wider ecosystem of the Bar alongside the Inns, circuits and specialist Bar associations, as well as with the Institute of Barristers' Clerks and the Legal Practice Management Association.
4. As the General Council of the Bar, we are the approved regulator for all practising barristers in England and Wales. We delegate our statutory regulatory functions to the operationally independent Bar Standards Board (BSB) as required by the Legal Services Act 2007.

### **Overarching issues of concern**

5. Prior to responding to the individual questions within the Call for Evidence, we wish to address a number of overarching concerns arising from the Call for Evidence and ROAC policy statement that underpin the Home Office's proposal to establish a new Independent Appeals Body that will be responsible for immigration and asylum appeals and will replace the current First Tier Tribunal (Immigration and Asylum Chamber) ('FTT (IAC)').
6. **First**, we express concern that the Call for Evidence does not amount to a proper or fair consultation.
7. It neither allows stakeholders to provide their views on the root causes of the problems identified by the Home Office, nor does it permit them to comment on the necessity, rationality or effectiveness of the Home Office's proposed solution or identify alternative solutions. In our view, this evidence from stakeholders should have been obtained at the outset and should have informed a proper assessment and identification of the most effective and efficient solutions to resolve backlogs and delays within the immigration and asylum system as a whole.
8. The Call for Evidence instead restricts stakeholder engagement to commenting only on the processes and procedures of the solution identified, namely the new Independent Appeals Body. We consider this approach to be flawed and a missed opportunity. It deprives the Home Office of important evidence and

engagement from stakeholders to ensure proper identification of the root causes of the significant backlogs and delays in the immigration and asylum appeals system. Without proper consultation to inform proposed solutions, the Home Office risks implementing widescale changes (referred to as '*an entirely new asylum model*' in the ROAC) that not only give rise to serious concerns relating to procedural fairness, accessing to justice, judicial independence and trust in the justice system, but that may also prove to be ineffective and costly.

9. It appears to us to be irrational and counterproductive to propose such wide scales reforms that involve setting up a new appeals system from scratch. The proposals involve replacing *existing* trained and qualified FTT (IAC) judges, *existing* appeal processes and protocols as well as *existing* appeal hearing venues that are already set up and fully operational for this purpose, with entirely new Adjudicators, processes and arrangements. In our view these proposals distract from tackling the root causes of the delays and amount to an ill-informed and unjustified use of significant public funds that is not supported by any substantive evidence as to how the new model would be any better placed to deal with the appeal backlogs.

10. Augmenting the unfairness of this approach, the consultation period is too short and does not allow stakeholder organisations to respond in depth in the time available.

11. We consider that full and proper consultation is of paramount importance given the severity of the consequences that flow from these appeals involving significant numbers of vulnerable applicants and that engage the UK's obligations arising under international law such as the European Convention on Human Rights ('ECHR'), the Refugee Convention and the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT).

12. **Second**, and notwithstanding the concern identified above, we consider that the Home Office's Call for Evidence and ROAC policy statement provides insufficient data and information relating to its identification of the root cause of the backlogs and delays in appeals that it relies on to support and justify the proposal for the new Independent Appeals Body.

13. The ROAC policy statement identifies '*small boats*' as being the most visible source of rising claims (accounting for 39% of asylum claims this year) but acknowledges that this is not the only cause. Individuals seeking asylum after entering the UK on an alternative immigration route accounted for 37% of asylum claims this year. The UK's asylum system acting as a pull factor is also cited as a

cause. Statistics relied on are said to reveal that between 2023 and 2025 there was an increase from 7,000 unresolved appeals to 51,000. However, the Home Office acknowledges that during this same period, asylum decision-making was put on hold as a result of the Rwanda scheme with only 30,000 appeal decisions made in the first half of 2024.

14. Further data and explanation is, in our view, important given that the Home Office acknowledges within ROAC that steps *already being taken* are effectively addressing the problem within the current system, for example decision backlogs are 47% lower than they were in June 2023 due to increased asylum decision-making and returns have also increased.

15. In particular, the figures provided in relation to the backlog are not disaggregated to identifying the proportion of the backlog or increase in appeals that is directly attributable to the consequences of the Rwanda scheme. Given that the Home Office has increased asylum decision making by 47% in the past year, some of which will involve determining the backlog of outstanding asylum applications that were put on hold as part of the Rwanda scheme, the increase in appeals may only be a short term issue triggered by the Home Office's recent increased decision making. In which case, the justification for the introduction of a new Independent Appeals Body as a permanent reform to the appeals process is not clear to us. In our view, clearer analysis and data should have been provided by the Home Office, as a minimum, to identify the root cause of increasing levels of asylum appeals, to demonstrate why the new Independent Appeals Body is needed as a permanent solution and to explain more clearly how it is more capable than the existing FTT (IAC) to resolve the issue.

16. Without this critical data and analysis, it is not possible, in our view, to ascertain whether the new Independent Appeals Body can offer an effective solution to the delays.

17. Furthermore, absent proper consultation and analysis of the root causes of the problems, to inform the solutions being proposed, the introduction of a new Independent Appeals Body to replace the existing FTT (IAC) could, in our view, give rise to unintended and adverse consequences that could exacerbate the problem.

18. For the reasons related to fairness identified below, appeals decided by the new Independent Appeals Body could increase the overall number of appeals on points of law arising from fast-track paper-only appeals being decided by non-legally qualified Adjudicators. This could potentially cause the backlog and delays to

merely be transferred to the Upper Tribunal (IAC) or the Administrative Court. Therefore, it is unclear to us how the Home Office's statement in the Call for Evidence that the new Independent Appeals Body must be "*fully integrated within the wider immigration and asylum system*" will work in practice if it fails to address the root causes of the problem and/or simply causes the back log to be transferred to other courts / tribunals.

19. **Third**, we wish to register our concern regarding procedural and substantive fairness issues arising from the Home Office's proposals.

20. Immigration and asylum law is complex. Appeals arising from applications for international protection involve claims of persecution and serious harm that, if not decided lawfully and fairly, can place an individual at risk of return to a country where their life is at risk. In this context, the proposal to conduct paper-only appeals, in a fast-track process, with non-legally qualified Adjudicators, risks breaching international law, eroding trust in the justice system, denying access to justice and undermining minimum standards of procedural and substantive fairness. It arguably transgresses the rule of law.

21. **Fourthly**, but no less importantly, we express concern regarding the independence of the new Independent Appeals Body. Notwithstanding the title of this body, insufficient information has been provided to demonstrate how the full independence of this body will be guaranteed. It is not clear to us whether it will in practice operate more like an administrative review process with Home Office embedding and employing Adjudicators to effectively mark its own work.

22. The proposed reforms are being led by the Home Office, who are a party to the individual asylum and immigration appeals and have a vested interest in their outcomes. We raise serious concern regarding the fundamental appropriateness and fairness of this approach and the harm it could cause to public confidence and trust in the justice system.

23. **Finally**, given the Home Office's indication that the new Independent Appeals Body will replace the FTT (IAC) to determine appeals against Home Office decision-making, and therefore the Adjudicators will be exercising judicial functions but will not be legally qualified, it is not clear to us how judicial independence will be guaranteed if this body is overseen by the Home Office. The Call for Evidence and ROAC is made on behalf of the Home Office only. We note that no details have been provided regarding the involvement of the Ministry of Justice and/or HMCTS. We consider this to be a material omission.

## **Response to questions within the Call for Evidence**

24. Whilst we seek to provide responses to some of the questions within the Call for Evidence, in light of our overarching concerns, our answers are not to be taken as agreement with the premise that the new Independent Appeals Body is capable of resolving the issues identified. Furthermore, where we have not answered a question, this is not indicative of our agreement with the proposal. Rather, as a result of our concerns regarding the consultation, the restricted parameters of the Call for Evidence and the lack of important information provided, and the short consultation period, we have been unable to provide a substantive response.

### **Q1. Mandatory: Are you responding as an individual or on behalf of an organisation?**

25. b) On behalf of an organisation.

### **Q2. Mandatory: Which of the following best describes your position or organisation?**

26. a) Regulatory body and c) Professional body and representative organisation.

### **Q3. Mandatory: Please provide the name of the organisation you work for. If this is not applicable, please enter 'N/A'.**

27. This response is provided on behalf of the General Council of the Bar of England and Wales (the Bar Council).

### **Q4. Mandatory: What is your geographical location?**

28. London though the Bar Council represents all practising barristers in England and Wales.

### **Q5. How can the new Independent Appeals Body ensure parties to the appeal have fair access to legal or immigration advice, representation and the practical support required to participate effectively in the process?**

29. If appeals are to be accelerated, determined on the papers or otherwise restricted, we consider it imperative in the interests of access to justice and fairness that applicants are guaranteed access to fully funded (means tested) legal aid legal advice and representation earlier in the asylum system. We consider that all applicants should be entitled to means-tested access to fully funded legal aid advice

and representation before and during the substantive asylum interview to ensure that all relevant facts and evidence are put before the decision maker to increase the prospects of a successful application and reduce the number of appeals to the new Independent Appeals Body.

30. Only providing access to legal aid funded legal advice and representation *after* an asylum claim has been refused and in order to prepare an appeal would in our view risk unfairness in circumstances where there may be limits placed on evidence that can be submitted to the Independent Appeals Body and the asylum-seeker is prevented from giving oral evidence for their credibility to be assessed in person.

31. It is well known that adverse credibility findings can arise from poor translation, a shortage of translators able to translate effectively in different dialects (i.e., Arabic dialects) and applicants only being able to access telephone translation services. These findings have severe adverse consequences for the applicant and can be determinative of the application. Therefore, we consider that properly funded and guaranteed access to in-person and good quality / regulated translation services during the substantive asylum interview (with sufficient capacity for vulnerable individuals to request a same-sex interpreter) becomes more critical in circumstances where the asylum seeker is prevented from being able to give oral evidence as part of the appeal process.

**Q6. Can you tell us of your experience of immigration and legal advice, including whether you have concerns around access, availability or capacity.**

32. It is publicly known and widely reported that legal aid deserts and shortages in legal aid solicitors inhibit asylum seekers from being able to access good quality immigration advice and representation. It is also well documented that Legal Aid firms struggle to survive financially, and that the low numbers of legal aid immigration solicitors and barristers is in part attributable to chronically underfunded and unsustainable legal aid remuneration for this work.

33. Poor quality legal advice, or litigants in person unable to access legal representation, can complicate appeals, cause or contribute to delays, increase the court and judicial resources required and adversely impact the outcomes for applicants. Proper legal aid funding is therefore imperative to ensure the effective operation of the appeal system.

34. We therefore consider that the Legal Aid provision must necessarily be reconsidered and reformed as part of these proposals to address and significantly increase the legal aid capacity in the field of immigration and asylum law – particularly if Adjudicators deciding appeals for the new Independent Appeals Body are not legally qualified.

**Q7. Do you consider changes are required to ensure early legal advice is a core part of the system to avoid delays and late claims, and to lead to better decisions? Please include any suggestions on how legal advice or representation could be improved.**

35. Yes – see above answer to Q5.

36. Early and guaranteed access to good quality and properly funded legal aid immigration advice and representation, particularly before and during the asylum interview, will enable an asylum seeker to be supported to put all relevant facts and evidence before the decision maker, that in turn should lead to improved decision making by the Home Office and reduce the number of appeals.

37. Available data illustrates that the success rate for appeals to the FTT (IAC) against Home Office decisions is high, thereby revealing the importance of improving Home Office decision making as a solution that could reduce the number of successful appeals.

38. For example, between October and December 2025 it is reported by the Refugee Council that *“36% of determined appeals are successful. When Home Office reconsiderations are included, the overall success rate is up to 66%”*.<sup>3</sup>

**Q8. Drawing on the existing practices, procedural rules or approaches of the FTT-IAC, which do you consider could usefully be included, adapted or avoided in the design and operation of the new Independent Appeals Body? Please include any views on the current approach to publishing determinations.**

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<sup>3</sup> ‘Number of people waiting for asylum appeal almost doubles’, Refugee Council, <https://www.refugeecouncil.org.uk/press-office/media-centre/number-of-people-waiting-for-asylum-appeal-almost-doubles/#:~:text=The%20figures%20for%20October%20to,of%20determined%20appeals%20are%20successful.>

39. We have not been provided with sufficient information to identify how the new Independent Appeals Body would be better placed than the existing FTT (IAC) to address delays and backlogs. We are therefore unable to respond.

40. However, we consider it critical that any new appeal body has robust guidance, rules and protocols relating to vulnerable asylum seekers and the ability for appeals to be heard in person for those who have mental health issues, disabilities, or experience trauma-related barriers to disclosure etc.

**Q9. How should the new Independent Appeals Body accommodate specific needs or vulnerabilities, including by providing reasonable adjustments or tailored procedural support, to ensure fairness and accessibility?**

41. The ability for vulnerable and/or disabled individuals to request and be granted the right to an in-person appeal hearing is important as they are more likely to experience trauma-related barriers to or delayed disclosure that has adversely impacted their evidence resulting in adverse credibility findings that can only fairly be addressed on appeal through reasonable adjustments and an oral hearing.

42. Individual Expert evidence pertaining to vulnerabilities, disabilities, injuries, human trafficking and modern slavery, sexual and gender-based violence and persecution, where necessary and relevant, should be permitted and funded through legal aid.

**Q10. How should expert evidence (including medical, country and technical expertise) be commissioned, quality-assured and used within the appeals process?**

43. We have not been provided with sufficient information that identifies the need to reform the FTT (IAC)'s current approach to expert evidence and are therefore unable to respond.

44. The existing system, and the tribunal's case management powers, are in our view capable of addressing these matters in a fair and proportionate manner. Furthermore, when expert evidence is disputed, the process involving oral evidence of the expert and cross examination empowers judges to quality assure their assessments / evidence and make appropriate findings.

**Q11. What are your views on requiring parties to rely on a shared set of expert materials?**

45. It is in our view difficult to see how generic and shared expert material could be of material assistance in relation to claims that are highly individualised and fact sensitive, particularly those involving for example torture, sexual and gender-based violence, human trafficking and modern slavery, physical injuries / medical needs and mental health conditions. These necessarily require individualised assessment by qualified experts that cannot be addressed by reference to shared material.

46. As a matter of fairness and given the severe consequences for the individual involved of a negative appeal decision, applicants should not in our view be circumscribed in the evidence they are able to obtain in support of their claim that may involve a risk to life and engages issues of fundamental human rights. In that respect, we have been provided with insufficient evidence to explain why the FTT(IAC)'s current approach requires reform.

47. If, according to the question, expert evidence is to be commissioned and obtained by the Home Office and the parties are to be bound by this evidence, this could in practice give rise to further litigation and an increase in the number of onward appeals or challenges if the material was determinative of the appeal but was not agreed or was contradicted by other expert material that was excluded.

**Q12. What recruitment criteria would best ensure adjudicator independence, impartiality and credibility in the new appeals body?**

48. See response above under the heading 'overarching concerns' in relation to the independence of the new Independent Appeals body, judicial independence, non-legally qualified Adjudicators and the lack of information provided as to engagement with Ministry of Justice and/or HMCTS.

**Q13. What recruitment qualifications would best ensure adjudicator independence, impartiality and credibility in the new appeals body?**

49. See response above under the heading 'overarching concerns' in relation to the independence of the new Independent Appeals body, the use of non-legally qualified Adjudicators, issues of judicial independence and the lack of information provided as to engagement with Ministry of Justice and/or HMCTS.

**Q14. What recruitment safeguards would best ensure adjudicator independence, impartiality and credibility in the new appeals body?**

50. See response above under the heading ‘overarching concerns’ in relation to the independence of the new Independent Appeals body, issues of judicial independence and the lack of information provided as to engagement with Ministry of Justice and/or HMCTS.

**Q15. Which professional backgrounds or types of experience should be considered particularly valuable for adjudicators within the new appeals body? Why?**

51. See response above under the heading ‘overarching concerns’ in relation to the independence of the new Independent Appeals body, the use of non-legally qualified Adjudicators, issues of judicial independence and the lack of information provided as to engagement with Ministry of Justice and/or HMCTS.

**Q16. Which professional backgrounds or types of experience should be considered particularly unsuitable for adjudicators within the new appeals body? Why?**

52. See response above under the heading ‘overarching concerns’ in relation to the independence of the new Independent Appeals body, the use of non-legally qualified Adjudicators, issues of judicial independence and the lack of information provided as to engagement with Ministry of Justice and/or HMCTS.

**Q17. For adjudicators to be professionally trained, what should a training package include to support robust, professional, fair and high-quality decision-making in the new appeals body?**

53. See response above under the heading ‘overarching concerns’ in relation to the independence of the new Independent Appeals body, the use of non-legally qualified Adjudicators, issues of judicial independence and the lack of information provided as to engagement with Ministry of Justice and/or HMCTS.

**Q18. Are there any circumstances in which certain case types should have specialist processes? If so, what specialist processes or hearing models would be appropriate for these case types? Please explain.**

54. At a minimum, cases involving unaccompanied asylum-seeking children, age disputes, claims of human trafficking and modern slavery, and cases involving disabled or vulnerable applicants, in person appeals should be routinely available.

**Q19. What additional decision-making safeguards should the new Independent Appeals Body adopt to ensure consistency, quality and fairness?**

55. Appeal rights on points of law to the UT (IAC) should not be restricted or curtailed – the UT provides quality assurance and the Home Office would in our view benefit from being able to monitor the quality of decision made by the new Independent Appeals Body based on the volume and success rates of onward appeals to the UT.

**Q20. What are the challenges and opportunities for paper-based hearings?**

56. Asylum claims often involve complex facts and adverse credibility or character findings that are determinative of the outcome. In the interests of fairness, applicants should not be restricted to paper-based appeal hearings and should be permitted to give oral evidence in order for Adjudicators to fairly assess their credibility in person. To deny this risks undermining trust in the justice system and denying access to justice.

**Q21. What are the challenges and opportunities for virtual hearings?**

57. We consider that there are multiple difficulties in fairly and effectively assessing an individual's credibility relevant to the success of their appeal via remote hearings arising from translation difficulties, barriers to disclosure, vulnerability and potential discrimination against those with protected characteristics / failure to make reasonable adjustments.

**Q22. What are the challenges and opportunities for in-person hearings?**

58. We consider that the new system should permit in person hearings in cases involving adverse credibility findings in order to ensure a fair approach to assessing credibility on appeal based on oral evidence, cross examination and reasonable adjustments and special measures for vulnerable and disabled asylum-seekers.

**Q23. What technology, infrastructure or operational measures are required to ensure that remote or hybrid (a mix of remote and in-person) hearings are fair, accessible and secure?**

59. See answer to Q21.

**Q24. What considerations should inform decisions regarding how and where appeals are heard in the new Independent Appeals Body, including alternatives to the existing appeals estate (buildings and locations) and other spaces?**

60. We consider that any venue for appeals must have disabled access, security measures, and be easily accessible via public transport across all regions for those with limited financial means.

**Q25. What measures could improve compliance with directions and timeframes, and support effective engagement and attendance from appellants, representatives and the Home Office throughout the appeals process?**

61. We have not been provided with sufficient information that identifies the need to reform the FTT (IAC)'s current approach and the existing system and are therefore unable to respond.

**Q26. What should constitute a reasonable timeframe for deciding cases?**

62. We have been provided with insufficient data and statistical analysis to enable us to answer this question.

**Q27. In what circumstances should exceptions be permitted?**

63. We have been provided with insufficient data and statistical analysis to enable us to answer this question.

**Q28. What changes to the current system will ensure appeals are decided within a single appeal route?**

64. We have not been provided with sufficient information that identifies the need to reform the FTT (IAC)'s current approach and the existing system and are therefore unable to respond.

**Q29. How should the new Independent Appeals Body prioritise or accelerate cases, and should it adopt a more codified approach to case management than**

**exists in the current FTT-IAC? You may wish to comment on whether certain categories of cases might be appropriately prioritised or accelerated, and what safeguards, fairness considerations, or operational factors should be taken into account, and on reasonable timeframes for doing so.**

65. We have not been provided with sufficient information that identifies the need to reform the FTT (IAC)'s current approach and the existing system and are therefore unable to respond.

66. We note that the Home Office's previous Detailed Fast Track and associated successful litigation challenging it is illustrative of how fairness is undermined in accelerated procedures involving vulnerable applicants. The lessons learnt from this should inform any reforms to the appeal process.

**Q30. What mechanisms should be in place to ensure accountability the new appeals body?**

67. See response above under the heading 'overarching concerns' in relation to the independence of the new Independent Appeals body, the use of non-legally qualified Adjudicators, issues of judicial independence and the lack of information provided as to engagement with Ministry of Justice and/or HMCTS.

**Q31. What mechanisms should be in place to ensure transparency of the new appeals body?**

68. See response above under the heading 'overarching concerns' in relation to the independence of the new Independent Appeals body, the use of non-legally qualified Adjudicators, issues of judicial independence and the lack of information provided as to engagement with Ministry of Justice and/or HMCTS.

**Q32. What mechanisms should be in place for effective oversight of the new appeals body? Please include in your response whether you consider it should be subject to a regulator or an ombudsman.**

69. See response above under the heading 'overarching concerns' in relation to the independence of the new Independent Appeals body, the use of non-legally qualified Adjudicators, issues of judicial independence and the lack of information provided as to engagement with Ministry of Justice and/or HMCTS.

**Bar Council**  
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