Amnesty International UK

BRIEFING

30 September 2026

REFUGEE AND MIGRANT RIGHTS

Immigration and Asylum Appeals 2

In September 2025, Amnesty produced a briefing on government proposals to change the immigration and asylum appeals system. These proposals are to be implemented by Part 1 of the Immigration and Asylum Bill. This briefing provides analysis of that part.

Introduction

On 30 June 2026, the Home Secretary introduced the Immigration and Asylum Bill to Parliament. The bill received its first debate (called second reading) in the House of Commons on 13 July 2026.[i]

Part 1 of the bill consists of sixteen clauses and three schedules. It will create a new body to decide appeals against Home Office decisions (also applications for immigration bail).[ii] This is to be called the Independent Immigration Appeals Authority (**"the IIAA"**).[iii] The IIAA will replace the First-tier Tribunal (Immigration and Asylum Chamber) (**"FTTIAC"**).[iv] Two related concerns arise from this:

1. The FTTIAC is a professional body, whose decisions are made by judges. Decision-makers of the IIAA will be made by adjudicators, who will not be judges and may have no professional legal qualification or experience.

2. The FTTIAC is independent, like a court. The IIAA will not be independent of the Home Office.

Professionalism

Professionalism involves having specialist skills, learning, experience and a commitment to certain standards that relate to a specific role to be performed. Carpenters, social workers, and doctors may all be said to be professional but in specific relation to carpentry, social work and medicine. Others may have some transferable capacities and knowledge, but that is insufficient to replace the capacities and knowledge of the specific professional – plumbing and carpentry, social work and teaching, nursing and surgery are not the same and the differences matter.

Assessing evidence, finding facts and applying law is a legal and judicial task. However, **unlike judges of the FTTIAC, IIAA adjudicators may have no professional legal qualification or experience.**[v] Instead, the IIAA is to provide training and legal support for its adjudicators and set standards for them.[vi]

The only positions within the IIAA that will require professional legal qualification or experience will be the professional standards officer, the chief appeals officer, and anyone appointed to be a senior adjudicator. Those in these roles will be responsible for adjudicator's training, legal support, standards and quality control.[vii] A minimum of 5 years professional legal experience will be required to be

appointed as professional standards officer or chief appeals officer;[viii] a minimum of 2 years such experience for appointment as a senior adjudicator.[ix] This compares to 5 years required for appointment as an FTTIAC judge.[x]

Independence

Independence means being free from improper influence or control. Independence is a basic condition for any properly functioning judicial body (such as the FTTIAC) or a body intended to substitute for a judicial one (such as the IIAA). In considering appeals and bail applications against decisions of the Home Office, it is especially important that it is independent from that department. However, **neither the IIAA nor its adjudicators will be independent of the Home Office** as is demonstrated by the following points:

1. The **IIAA is to "*operate as a key part of the immigration and asylum system*," which is the system run by the Home Office to fulfil the aims and policies of the Home Secretary**. It will be required to have regard to that role in exercising its functions – including the decision-making of its adjudicators.[xi] By contrast, the FTTIAC is not part of the Home Office system. It is a part of the wider judicial system.

2. The inspectorate that is responsible for assessing the efficiency and effectiveness of the Home Office in its various immigration, asylum and nationality functions is also to inspect the IIAA.[xii]

3. The **Home Secretary has a primary or secondary role in the appointments of the IIAA's chair, professional standards officer, chief executive and chief appeals officer**.[xiii] These, together with the adjudicators, will make up the IIAA's primary executive and governing roles.[xiv]

4. **Appointees of the Home Secretary will directly appoint the adjudicators and be responsible for training them, allocating cases to them, organising legal support for them and overseeing their decision-making quality.**[xv] **Adjudicators will be employees of the IIAA,**[xvi] **meaning it may also dismiss them**. By contrast, the Home Secretary has no part in appointing FTTIAC judges; nor in their training, organisation or oversight.[xvii]

5. **Appeals and bail applications to the IIAA will be dealt with according to procedures made by a panel comprised of people appointed by the Home Secretary** and people appointed by those she appoints.[xviii] Some aspects of the IIAA's procedures and decision-making will be controlled and some directly influenced by the Home Secretary.[xix] By contrast, the FTTIAC's procedure rules are made by a judicial panel, in which the Home Secretary has no part.[xx]

The significance of this lack of independence is emphasised by reasons given for replacing the FTTIAC with the IIAA. These concern two related objectives – (i) reducing a backlog of appeals;[xxi] (ii) enabling the Home Office to remove more people from the UK and faster.[xxii] These are Home Office objectives. The first relates to the second objective and is also explained as needed to reduce Home Office asylum accommodation costs.

History of the appeals system

A two-tier appeals system was established in 1969.[xxiii] This system has remained two-tier ever since. Appeals against Home Office decisions are decided by the first tier.[xxiv] Appeals against decisions of the first tier, for which permission is required, are considered by the second tier. This structure will remain with the IIAA becoming the first tier and the Upper Tribunal remaining in place as the second tier.[xxv]

Although the basic two-tier structure has endured, there have been many changes to the appeals system since 1969. These changes have made the system more independent and more professional. As it has been made more independent and professional, the system (and each of its tiers) has been granted more autonomy from higher court supervision. For example:

1. Appeals against the decisions of the first tier are now only available on points of law.[xxvi] Originally, it was possible to appeal against the decision of the first tier (then comprised of adjudicators who were not judges and might have no professional legal qualification or experience) on the basis of an error of fact or of law.[xxvii]

2. It has always been necessary to obtain permission from either the first or second tier to appeal against a decision of the first tier. However, over time, the capacity to seek judicial review of a refusal of permission to appeal against the decision of the first tier has been constrained. Currently, such review is only available if some important point of principle or practice is at stake or there is some other compelling reason to permit it.[xxviii]

3. Appeals against decisions of the second tier have always been available, with permission, to the Court of Appeal. However, they are now only available if some important point of principle or practice is at stake or there is some other compelling reason to permit it.[xxix]

The bill undoes all changes to increase independence and professionalism within the first tier of the appeals system – indeed, it goes further.[xxx] The loss of professionalism is made more concerning because the law relating to decision-making within this system has been made more complicated (and this bill will complicate it further).[xxxi] The loss of independence is made more concerning because the policy area within which this system works has also become more politically contentious.

The impact is substantial because the IIAA will be the only body within the appeals system with a primary responsibility to assess the evidence and determine the facts. Nonetheless, **the bill undoes none of the increased freedom of this two-tier system from higher court supervision**.

Conclusion

As explained in Amnesty's September 2025 briefing on Immigration and Asylum Appeals, the original motivations for replacing the independent judicial body dealing with appeals against Home Office decisions raised serious concerns. The bill now shows those concerns to be real.

The aim of the bill is straightforwardly to remove independence and judicial scrutiny of the department's decision-making for the convenience of government policy and political ambitions. Importantly, **that not only includes the ambitions of the present government and the present Home Secretary – it includes that of any future government and Home Secretary**. The impact of this is enlarged since the people whose rights are affected are generally excluded from the democratic political process, yet their rights are especially vulnerable to that political process as is confirmed by the measures in this bill (including the provisions to remove the independent judicial body that currently serves as the primary guarantor of their rights against error or other violation by the Home Office).

Amnesty is opposed to the replacement of the FTTIAC by the IIAA or by any other Home Office creation or body. Any concerns with the functioning of the FTTIAC ought to be raised with and for the Ministry of Justice to consider with the independent judiciary responsible for that body. However, **the Home Office ought in any event take responsibility for its own inadequacies, inefficiencies and injustice that creates so much work for the FTTIAC and the legal system more generally** (as briefly discussed in Amnesty's September 2025 briefing on Immigration and Asylum Appeals.)

Notes

[i] *Hansard* HC, 13 July 2026 : Col 665
[ii] Clause 1(2)
[iii] Clause 1(1)
[iv] Schedule 1 is largely concerned with removing the statutory jurisdiction of the FTTIAC and passing this over to the IIAA.
[v] In its Call for Evidence in March 2026, the Home Office indicated that adjudicators would be expected to have experience of making "*consequential decisions.*" The meaning of 'consequential decisions' is one matter considered and addressed in Amnesty's May 2026 response to that Call for Evidence.
[vi] Clause 3(2), (3) and (6)
[vii] Clause 3(3), (4) and (6
[viii] Clause 2(7)(a)
[ix] Clause 2(8)(a)
[x] Paragraph 1(2) of Schedule 2 to the Tribunals, Courts and Enforcement Act 2007
[xi] Clause 1(5)(c), which applies to the IIAA's "*functions*" including those stated by clause 1(2) to be the "*primary function*."
[xii] Clause 13
[xiii] The Home Secretary appoints the chair and the professional standards officer: clause 2(2). The Home Secretary will appoint the first chief executive and chief appeals officer, and thereafter these roles will be appointed by the chair in consultation with the professional standards officer: clause 2(3) and (4).
[xiv] Clause 2(1)
[xv] The chief executive appoints the adjudicators and is responsible for their training: clauses 2(6) and 3(2). The chief appeals officer is responsible for allocating cases to them, providing legal support to them and overseeing the quality of their decision-making: clause 3(3). The professional standards officer is to set standards for them: clause 3(6).
[xvi] Paragraph 5(1) of Schedule 2 states that executive members are employees of the IIAA. Clause 2(1)(b)(iii) establishes that adjudicators are executive members. Paragraph 5(3) establishes that the IIAA will determine the terms and conditions of their employment. As regards who will determine those terms and conditions, the bill is not explicit. However, the chief executive (initially appointed by the Home Secretary) is to appoint adjudicators and the chief professional standards officer (appointed by the Home Secretary) is to set the standards required of them: clauses 2(5) and 3(6).
[xvii] Schedule 2 to the Tribunals, Courts and Enforcement Act 2007
[xviii] Clauses 4(3) and 5(1) and (2).
[xix] For example, clause 9 empowers the Home Secretary to seek expedition; and empowers her to set the process by which her request for expedition is to be decided. Clauses 11 and 12 empower the Home Secretary to require information from someone with potential consequences for the process of any subsequent appeal to the IIAA. Paragraph 11(3) of Schedule 3 establishes a further potential consequence that an adjudicator is required "*to take account, as damaging the credibility of an appellant or applicant for immigration bail*" any failure to comply with the Home Secretary's demand for information.
[xx] Paragraph 20 of Schedule 5 to the Tribunals, Courts and Enforcement Act 2007
[xxi] *Hansard* HC, Second Reading, 13 July 2026 : Col 670 *per* Rt Hon Shabana Mahmood, confirming what has been said by her predecessor as discussed in Amnesty's September 2025 briefing on Immigration and Asylum Appeals.
[xxii] *Hansard* HC, Second Reading, 13 July 2026 : Col 671 *per* Rt Hon Shabana Mahmood
[xxiii] Immigration Appeals Act 1969
[xxiv] The relevant history is further explained in Amnesty's September 2025 briefing on Immigration and Asylum Appeals.
[xxv] Clause 7
[xxvi] Section 11(1), Tribunals, Courts and Enforcement Act 2007
[xxvii] See, e.g., rule 18(4)(c) of the Immigration and Asylum Appeals (Procedure) Rules 2000, SI 2000/2333. Previous rules included different wording that permitted an appeal if the second tier was satisfied that the appellant was unwilling to go to a country where he had a well-founded fear of persecution: see, e.g., rule 14(2)(b) of the Immigration Appeals (Procedure) Rules 1984, SI 1984/2041 and see section 7 of the Immigration Appeals Act 1969.
[xxviii] *R (Cart) v The Upper Tribunal* [2011] UKSC 28
[xxix] Section 13(6), Tribunals, Courts and Enforcement Act 2007
[xxx] Clause 1(8) purports to exclude the questioning of an adjudicator's decision on an appeal or bail application in any legal proceedings other than in its own internal review process (clause 6) or on appeal to the Upper Tribunal (clause 7).
[xxxi] Paragraph 11 of Schedule 3 and Part 2 of the bill add significant complications to decision-making.

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