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## **Introduction**

This document is an example application to delay an immigration appeal (called 'adjourning' the appeal) that could be used by unrepresented people who need more time to find a lawyer. This is a generic example application written in March 2024 and updated in November 2025, so it may not be up to date or right for every individual's situation and care should be taken to ensure that anything submitted to the Tribunal is accurate and truthful.

It is also important to explain the individual circumstances of the case and people may want to attach a supporting letter explaining what steps they have been taking or have been taken for them to find a lawyer. The Tribunal will expect every effort to be taken to find a lawyer, so this should be explained fully and any charities supporting the person with this should provide a supporting letter.

An adjournment application can usually be emailed by an appellant to the individual Tribunal hearing centre or otherwise to [customer.service@justice.gov.uk](mailto:customer.service@justice.gov.uk). If there is any uncertainty the Tribunal can also be telephoned to check the application is being dealt with. Contact details are online at:

<https://www.gov.uk/courts-tribunals/first-tier-tribunal-immigration-and-asylum>.

Applications for adjournments should usually be made no later than 4pm one clear working day before the hearing – so eg if an appeal is on a Monday then the application would need to be sent by 4pm on the Thursday. If there is no response in time or if the application is made later, then the person will need to attend the Tribunal and ask for an adjournment on the day. This document can be used for that too. It is recommended people apply in good time, however.

If an adjournment application is refused by a caseworker then it can be sent in again with a request for a judge to look at it. It is usually best to address the reasons given by the caseworker for refusing it the first time. If a hearing goes ahead unfairly, because the adjournment application was refused then that could be a possible basis for an appeal to the Upper Tribunal, but usually a person would need legal advice to check this.]

**IN THE FIRST TIER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case No. [eg PA/1234/2024]

**BETWEEN**

**[APPELLANT'S FULL NAME]**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

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**ADJOURNMENT APPLICATION**

**Hearing listed []**

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1. The Appellant applies for an adjournment under rule 4(3)(h) of the Tribunal Procedure Rules.
2. The Appellant requires legal representation in order to be able to participate effectively in the appeal and in order to have a fair hearing. The Appellant is eligible for legal aid. However, due to the collapse of the legal aid system for immigration and asylum cases, the Appellant is still looking for a legal representative.<sup>1</sup> The Appellant requests additional time in order to seek legal assistance, which is needed in order to prepare and present the case for appeal.
3. The Appellant is [introduce case and any vulnerabilities/clear problems with the case proceeding unrepresented].
4. The Appellant has taken the following steps to try and obtain legal representative and is continuing to actively seek legal representation. [List steps taken by Appellant and on their behalf or refer to supporting letter which sets this out]
5. The overriding objective in any appeal is for the Tribunal to deal with cases fairly and justly (rule 2 of the Tribunal Procedure Rules). This includes:

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<sup>1</sup> As an illustrative example, more than half of people seeking asylum in England and Wales are unable to access a legal aid lawyer, a figure which does not account for non-asylum legal aid cases:  
<<https://freemovement.org.uk/over-half-the-people-seeking-asylum-are-now-unable-to-access-a-legal-aid-lawyer/>>

- a. by dealing with the case in a way which is proportionate to the importance of the case. This case is of overwhelming importance to the Appellant, because it engages their fundamental rights and is critical to their welfare and future.
  - b. by dealing with the case in a way that is proportionate to the complexity of the issues. Immigration and asylum cases are particularly legally complex, with evidential and factual complexity.
  - c. by dealing with the case in a way that is proportionate to the anticipated costs and the resources of the parties and of the Tribunal. Access to representation funded by legal aid is necessary for the Appellant to prepare their case, for ensuring equality of arms and for their fair engagement with the process.
  - d. avoiding unnecessary formality and seeking flexibility in the proceedings. In this case this flexibility is sought in respect to the timing of the appeal.
  - e. ensuring, so far as practicable, that the parties are able to participate fully in the proceedings. In this case effective participation is dependent on access to legal representation.
  - f. using any special expertise of the Tribunal effectively. The Judge may be able to provide some assistance to an unrepresented party, but immigration and asylum appeals are adversarial proceedings and the Judge cannot 'step into the arena' to assist an unrepresented party *IS* [2015] EWHC 1965 (Admin) at [71] . Ultimately if the Appellant is unrepresented they will not be able to fairly participate in the appeal.
  - g. avoiding delay, so far as compatible with proper consideration of the issues. The Appellant no more wants undue delay in their case than the Tribunal, but their case cannot be properly assessed without access to legal assistance to prepare and present it. Ultimately it would waste Tribunal resources to proceed with a case in a way that is procedurally unfair and so may result in an onward appeal or miscarriage of justice.
6. The leading authority is *Nwaique (adjournment:fairness)* [2014] UKUT 418 where the then President of the Upper Tribunal confirmed that if a refusal to adjourn would

deny an appellant a fair hearing then this would be an error for law and that “it is important to recognise that the question for the Upper Tribunal is not whether the FtT acted reasonably, Rather, the test to be applied is that of fairness.” [Underlining in the original].

7. Joint Presidential Guidance Note No1 of 2014 states that one factor weighing in favour of an application for an adjournment would be where further time is needed because of a delay in obtaining evidence which is outside the party’s control. It is submitted that this applies here, where the Appellant needs legal assistance to prepare their evidence for appeal.
8. Joint Presidential Guidance Note No1 of 2014 also states that one factor weighing against an adjournment would be where the ‘application does not show that anything material would be achieved by the delay, for example, where an appellant wants more time to instruct a legal representative but there is no evidence that funds or legal aid is available’. This issue will be of concern to the Tribunal. However, the Appellant is proactively seeking legal representation, the lack of which is no fault of the Appellant’s and ultimately the case cannot proceed fairly and justly without legal assistance. The Appellant would welcome any assistance the Tribunal can provide in helping them find legal representation.
9. In R (Karim) v Upper Tribunal (IAC) and SSHD [2024] EWHC 438 (Admin), Fordham J confirmed in that case that an adjournment was necessary to allow an Appellant to have legal representation, stating ‘*Oral hearings and the engagement which they bring are a central value to our legal system and there is all the difference in the world between any litigant – whether the SSHD or a claimant – appearing in person and being represented by specialist Counsel*’.
10. The constitutional right of access to the courts is inherent in the right of law, allowing laws to be applied and enforced and there is a wider public interest in fair access to the tribunals and courts (R (Unison) v Lord Chancellor [2017] UKSC 51). A person must not only have the right to access the court in the direct sense, but also the right

to access legal advice if, without such advice, access to justice would be compromised (*R (FB (Afghanistan)) v SSHD* [2020] EWCA Civ 1338).

11. Whether or not an Appellant will be able to present their case effectively and without obvious unfairness in the absence of legal representation requires a fact sensitive enquiry taking into account issues like the complexity of the process, what is at stake and the Appellant's ability to cope with the stress and demands of the proceedings (eg *R (Gudanaviciene) v the Director of Legal Aid Casework* [2014] EWCA Civ 1622 and *R (Kumar) v SSHD* [2023] EWHC 1741 (Admin)). However immigration and asylum proceedings are so important to the individual concerned, so complex and are also adversarial, so that it is very often the case that the denial of access to legal aid would breach fundamental rights. The courts and tribunals have repeatedly commented on the complexity of immigration law and processes, eg Lord Carnwath in *Patel v SSHD* [2013] UKSC 72 agreed that it is '*an impenetrable jungle of intertwined statutory provisions and judicial decisions*'.
12. It is submitted that in this case the Appellant cannot have a fair hearing without access to legal representation. It is submitted that in all the circumstances an adjournment to allow the Appellant to keep seeking legal representation is in the interests of justice and in line with the overriding objective. It is submitted that proceeding with this case to a final hearing while the Appellant is unrepresented would be procedurally unfair.
13. This application has been prepared using a precedent drafted by Jennifer Blair, a barrister at No5 Chambers, on behalf of the charity Migrants Organise. The precedent was drafted in March 2024 for use by unrepresented people experiencing difficulties due to being unable to secure legally aided representation.