



**IN THE UPPER TRIBUNAL**  
**IMMIGRATION AND ASYLUM CHAMBER**

Case Nos: UI-2022-002015 & UI-2022-002013 & UI-2022-002014  
FtT Nos: HU-04003-2020 & HU-03954-2020 & HU-03957-2020

**THE IMMIGRATION ACTS**

**Decision Issued:**  
**On 17 June 2023**

Before:

UPPER TRIBUNAL JUDGE GILL

Between

Entry Clearance Officer

Appellant

And

Salomey Banka Amakye  
Elizabeth Ohenewaah Amakye  
Moses Kwame Amakye  
**(ANONYMITY ORDER NOT MADE)**

First respondent  
Second respondent  
Third respondent

**Representation:**

For the Appellant:

Ms S Lecointe, Senior Home Office Presenting Officer

For the Appellant:

Mr M Ume-Ezeoke, of Counsel, instructed by Citi Law Solicitors.

Heard at Field House on 26 May 2023

**DECISION AND REASONS**

1. The respondents are nationals of Ghana. They are siblings. By a “Decision and Directions” (signed on 3 March 2023 and served on the parties on 20 April 2023) (the “EOL Decision”), I set aside the decision of Judge of the First-tier Tribunal Bart-Stewart (hereafter the “judge”) who, in a decision promulgated on 18 January 2022 following a combined hearing on 11 January 2022, purportedly allowed the appeal of one of the respondents against decisions of the ECO dated 7 February 2020 to refuse their applications of 12 December 2019 for entry clearance as dependent children of Rhoda Amakye (the “sponsor”).
2. I shall refer to the respondents hereafter as (respectively) the “first claimant”, the “second claimant” and the “third claimant”.
3. The judge made an adverse credibility assessment. She made findings of fact that are summarised at para 14 of the EOL Decision and set out at para 13 below. It is clear from paras 1-35 of her decision that she considered the evidence in relation to the appeals of the three claimants. However, at paras 36-37, she referred to the appeal of a single appellant who had characteristics that none of the claimants had,

i.e. the father of “the appellant” being a British citizen and the mother having limited leave to remain whereas the father of the claimants was not a British citizen and their mother had indefinite leave to remain in the United Kingdom. The sentence under the heading “*Decision*” only referred to one appeal being allowed but the judge did not specify which.

### The EOL Decision

4. In the EOL Decision, I found that the judge’s adverse reasoning and findings were completely at odds with paras 36 and 37 of her decision where she referred to “*the appeal*”, that is the appeal of one appellant (as opposed to three appellants), and where she referred to ‘*the appellant’s*’ father being a British citizen and mother having limited leave to remain whereas the claimants’ father was not a British citizen and their mother (the sponsor) had indefinite leave to remain in the United Kingdom.
5. I was satisfied (para 26 of the EOL Decision) that, at paras 1-35 of her decision where the judge assessed the evidence in the appeals of the three claimants, her mind was correctly focused on the issues and the evidence in relation to the appeals of the three claimants but that it was clear that, from para 36 onwards, the judge was referring to another appeal.
6. I was satisfied, for the reasons given at para 27 of the EOL Decision, that it was not the case that the judge had made inconsistent findings whilst being correctly focused on the same case/appeals and that, if one were to delete paras 36-37, the remainder of the judge’s decision made sense. I concluded, at para 28 of the EOL Decision, that, in all of the circumstances, the judge had used a template for a different case and accidentally omitted to delete paras 36-37 that concerned that other appeal and did not concern any of the three appeals of the three claimants. I was satisfied that she did not intend to allow any of the appeals of the claimants.
7. At paras 29-31 of the EOL Decision, I rejected the submission advanced on behalf of the claimants that the judge’s error was not material. In summary, this was because it was not open to the claimants to contend that the judge had erred in her assessment of credibility and the reliability of the documentation submitted in reaching her finding that the claimants had not established that they satisfied the requirements of para 297(i) of the Immigration Rules. This, in turn, was because the claimants had not filed and served a Reply under Rule 24 of the Tribunal Procedure (Upper Tribunal) Rules 2008 (the “UT Rules”) nor did they even make an application at any stage up to and including the hearing on 20 February 2023 to file a Rule 24 Reply out of time supported by grounds explaining why the judge had erred in law in making her adverse assessment and findings.
8. Accordingly, I concluded that the judge’s adverse assessment and adverse findings of fact at paras 27-35 stood unchallenged (paras 32 and 34 of the EOL Decision).
9. At para 34 of the EOL Decision, I set aside paras 36-37 of the judge’s decision and the sentence “*The appeal is allowed*” under the heading “*Decision*”.
10. I decided (paras 35-39 of the EOL Decision) that the decision on the appeals of the claimants would be re-made by the Upper Tribunal.
11. At paras 40-41 of the EOL Decision, I considered the submission advanced on behalf of the ECO that I should simply reverse the decision on the appeals and dismiss all three appeals on the basis that it was inevitable that the judge intended to dismiss the appeals. I considered that the difficulty with this submission was that the only

paragraph which dealt with proportionality was para 37 which could not stand and which I had therefore set aside.

12. It followed that there was no assessment of proportionality. It was therefore necessary for the Upper Tribunal to re-make the decision on each claimant's appeal by considering whether the ECO's decision was disproportionate.

13. I now set out in full para 14 of the EOL Decision which summarised the judge's assessment and findings at paras 27-35:

"14. The judge's assessment and findings at paras 27-35 are, in summary, as follows:

- (i) at para 28, the judge said that there is DNA evidence that confirms that the claimants are related as claimed to the sponsor;
- (ii) at para 29, the judge said that, if it is true that the claimants' father had died, the issue of sole responsibility would no longer apply. However, she went on to find that there was no reliable evidence before her that he was deceased, having applied Tanveer Ahmed \* [2002] UKIAT 00439;
- (iii) at para 31, the judge found that the claimants' father was still involved in their lives;
- (iv) at para 30, the judge rejected the reliability of the claimants' birth certificates and together with other inadequate evidence (educational records, photographs) concluded that *"taking the evidence as a whole I am not satisfied that all [the claimants] are the ages claimed"*;
- (v) at para 34, the judge said that she did not consider it likely that the second claimant was under the age of 18 years at the date of the application;
- (vi) at para 32, the judge expressed concerns about the reliability of the evidence of Naomi Achaama who had been variously described as an aunt, a cousin of the sponsor and a live-in carer for the claimants' late maternal grandfather;
- (vii) at para 34, the judge said that *"I accept that evidence of financial support alone is not enough to discharge the burden of proof although the evidence indicates that this has been regular and committed with the bulk of sender receipts going back to 2016"*;
- (viii) at para 35, the judge said that she was not satisfied that the claimants had shown that they satisfy the sole responsibility test in para 297(i)(e) of the Immigration Rules; and
- (ix) at para 34, the judge found that *"there is no evidence of any serious and compelling circumstances why the [claimants] could not remain in Ghana"* and that the burden of proof under para 297(i)(f) had not been discharged."

14. Paras 42-43 of the EOL Decision are also relevant for the purposes of the resumed hearing. They read:

"42. The following shall apply in respect of the resumed hearing:

- (i) The sole issue at the resumed hearing will be whether the ECO's decision to refuse entry clearance to the claimants is disproportionate.
- (ii) The judge's assessment and findings at paras 27-35 stand, for the reasons given above. Accordingly, it will not be open to the claimants to argue that they satisfy the sole responsibility requirement or the requirement in para 297(i)(f).
- (iii) Paras 14-25 of the judge's decision stand as a record of the evidence that was before the judge with the following corrections:

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- “22. ... The father had left the children's upbringing [to] her cousin and then to the [grand] father and her[.] [S]he's aware [they] communicate regularly with their mother on the phone and other forms of social media and that her cousin tries to visit Ghana as often as much as she can.
23. In addition in oral evidence the [sponsor] said that the children currently live with her sister ...
24. [In answer] to my question she said that the children's father's date of birth is 27th January 1958.”

43. The claimants are reminded that the judge's findings at paras 27-35 mean that they have failed to show that they satisfy the requirements under para 297 of the Immigration Rules. This is relevant in carrying out the balancing exercise outside the Immigration Rules in relation to their Article 8 claims. In addition, the judge found that the second claimant was not under the age of 18 years as at the date of her application. Given that she and the third claimant are said to be twins, it follows that the third claimant was also over the age of 18 years as at the date of his application for entry clearance.”

15. As the judge found, there was no evidence before her of compelling circumstances in relation to each claimant. I record that no fresh evidence was submitted by the claimants in response to the directions issued in the EOL Decision nor was any application made for them to be permitted to rely upon fresh evidence.

#### The resumed hearing

16. In opening, Mr Ume-Ezeoke acknowledged the EOL Decision which he said the claimants accepted, including the judge's finding that they had not established that the sponsor had had sole responsibility for them, given that a Reply was not submitted on their behalf under Rule 24 of the UT Rules.
17. Mr Ume-Ezeoke submitted that the decision to refuse the claimants entry clearance was disproportionate, especially in the case of the first claimant who was under 18 years of age as at the date of her application for entry clearance. As she was under 18 years of age as at the date of her application for entry clearance, she had established family life with the sponsor and there was a risk (in his submission) that there was no one caring for her in Ghana. The judge had accepted the evidence of the sponsor having remitted funds on a regular basis. He submitted that it would be disproportionate to refuse the first claimant entry clearance in order to join her mother in the United Kingdom as the refusal would mean that she would be alone in Ghana. He acknowledged that, on the judge's findings, the first claimant was living with her adult siblings and that she was in contact with her father. However, he submitted that it was in the best interests of the first claimant for her to join her mother in the United Kingdom.
18. In the case of the second claimant, Mr Ume-Ezeoke accepted the judge's finding that she was over 18 years of age as at the date of her application for entry clearance. However, he submitted that, she was still “*of the age of full-time education*” and still dependent upon her mother. I drew Mr Ume-Ezeoke’s attention to the judge's finding at para 34 of her decision that the second claimant “*may well be working as a nurse*”. Mr Ume-Ezeoke responded that the second claimant was still “*of the age of full-time education*” and she enjoyed family life with her mother. It would therefore be disproportionate to refuse her entry clearance.
19. In relation to the third claimant, Mr Ume-Ezeoke said that he was conscious that I had said at para 43 of the EOL Decision that, given the judge’s finding that the second claimant was over the age of 18 years as at the date of her application and that the

evidence before the judge was that the second and third claimants were twins, it followed that the third claimant was also over the age of 18 years as at the date of his application for entry clearance.

20. However, he asked me to bear in mind that the judge only found that the second claimant was over the age of 18 years as at the date of her application for entry clearance. She did not make a finding that the third claimant was also over the age of 18 years then. He asked me to assume that the claimants had falsely claimed that the second and third claimants were twins. In any event, he submitted that I should proceed to re-make the appeal on the basis that the third claimant was under the age of 18 years at the date of his application for entry clearance.
21. However, whether the third claimant was over or under the age of 18 years as at the date of his application for entry clearance, Mr Ume-Ezeoke submitted that he was still “*of the age of full-time education*” and he was dependent upon the sponsor. It would therefore be disproportionate to refuse him entry clearance to join his mother with whom he enjoyed family life.
22. In the case of all three claimants, Mr Ume-Ezeoke asked me to take into account the duty under s.55 to consider the best interests of each of the claimants.
23. I heard briefly from Ms Lecointe following which I reserved my decision.

## **ASSESSMENT**

24. Given that there is no right of appeal against a decision made under the Immigration Rules, the claims under Article 8 fall to be considered outside the Immigration Rules. I take into account the human rights of the sponsor who will plainly be affected by the decision to refuse the claimants entry clearance. Indeed, it is her presence in the United Kingdom that enables the Article 8 claims of the claimants to be considered notwithstanding that they are outside the territory of the United Kingdom.
25. Para 17 of the judgment of Lord Bingham in R (Razgar) v SSHD (2004) UKHL 27 explains the five-step approach in deciding claims under Article 8. The burden is on each claimant to establish family and/or private life rights that engage the Article. The burden of proof in establishing facts to be relied upon is on the claimants and the standard is the balance of probabilities.
26. If the issue of proportionality is reached, the burden is on the ECO to show that any interference resulting from the refusal would nevertheless be proportionate, although the claimants are nevertheless expected to put before the Tribunal evidence which is within their realm of knowledge, such as, for example, evidence of any compelling circumstances if relied upon. At para 60 of the Supreme Court’s judgment in R (Agyarko and another) v SSHD [2017] UKSC 11, Lord Reed described the relationship between the Immigration Rules and Article 8 of the ECHR as follows:

“60. It remains the position that the ultimate question is how a fair balance should be struck between the competing public and individual interests involved, applying a proportionality test. The Rules and Instructions in issue in the present case do not depart from that position. The Secretary of State has not imposed a test of exceptionality, in the sense which Lord Bingham had in mind: that is to say, a requirement that the case should exhibit some highly unusual feature, over and above the application of the test of proportionality. On the contrary, she has defined the word “exceptional”, as already explained, as meaning “circumstances in which refusal would result in unjustifiably harsh consequences for the individual such that the refusal of the application would not be proportionate”. So understood, the provision in the Instructions that leave can be granted outside the Rules

where exceptional circumstances apply involves the application of the test of proportionality to the circumstances of the individual case, and cannot be regarded as incompatible with article 8. That conclusion is fortified by the express statement in the Instructions that “exceptional” does not mean “unusual” or “unique”.

27. The fact that an individual does not satisfy any relevant provision for the grant of leave to remain or entry clearance is a factor which strengthens the weight to be attached to the public interest in maintaining immigration control, although that is not determinative, in the same way as the fact that the individual satisfies the requirements for entry clearance or leave to remain under the Immigration Rules diminishes the weight to be attached to the public interest in maintaining immigration control but is not determinative.
28. I remind myself that it is necessary to consider Article 8 separately in relation to each claimant albeit that I am permitted to take into account their overall circumstances, on the facts as found by the judge, in reaching my decision as to whether the decision to refuse entry clearance to each of the claimants is disproportionate.
29. In considering the issue of proportionality, I follow the “*balance sheet*” approach suggested by the Supreme Court in the case of Hesham Ali v SSHD [2016] UKSC 60.
30. Section 117B(1)-(5) of the Nationality, Immigration and Asylum Act 2002 provide as follows:

**“117B Article 8: public interest considerations applicable in all cases**

- (1) The maintenance of effective immigration controls is in the public interest.
- (2) It is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are able to speak English, because persons who can speak English—
  - (a) are less of a burden on taxpayers, and
  - (b) are better able to integrate into society.
- (3) It is in the public interest, and in particular in the interests of the economic well-being of the United Kingdom, that persons who seek to enter or remain in the United Kingdom are financially independent, because such persons—
  - (a) are not a burden on taxpayers, and
  - (b) are better able to integrate into society.
- (4) Little weight should be given to—
  - (a) a private life, or
  - (b) a relationship formed with a qualifying partner, that is established by a person at a time when the person is in the United Kingdom unlawfully.
- (5) Little weight should be given to a private life established by a person at a time when the person’s immigration status is precarious.”

31. Turning to the instant appeals, it is obvious that s.117B(4) and (5) are not applicable.
32. The judge accepted that the claimants enjoyed family life with the sponsor (para 26).
33. The level of interference required in order to satisfy the second of the five-step approach explained in Razgar is not a high one. In any event, it is not disputed that the ECO’s decisions to refuse entry clearance to the claimants would interfere with the family life being enjoyed between each of them and the sponsor. Likewise, it is

not disputed that the ECO's decision is in accordance with the law and that it pursues the legitimate aim of maintaining immigration control.

34. The question in the instant appeals is therefore whether the decision to refuse entry clearance is disproportionate in respect of each claimant.
35. One factor against each claimant is the fact that they do not satisfy the requirements for entry clearance under the Immigration Rules. In particular, they have not established that the sponsor had had sole responsibility for their upbringing. They have not established that there were any serious and compelling circumstances why they could not remain in Ghana such as to bring themselves within para 297(i)(f) of the Immigration Rules (para 34 of the judge's decision). Section 117B(1) therefore applies in respect of each of them.
36. Although the fact that each claimant does not satisfy the requirements under the Immigration Rules for entry clearance to be granted is not determinative, it is necessary to consider whether there are exceptional circumstances in relation to each claimant meaning that the decision in his or her case would result in unjustifiably harsh consequences for him or her and members of his or her family unit such that the decision would not be proportionate.
37. The factors in favour of each of the claimants are as follows:
  - (i) The judge accepted that the claimants had established that they were related as claimed to the sponsor. This goes in favour of each claimant.
  - (ii) The judge found that the claimants enjoy family life with the sponsor.
  - (iii) The judge accepted that the sponsor provided financial support to the claimants, describing such financial support as being "*regular and committed with the bulk of sender receipts going back to 2016*" (at para 34 of her decision). This goes in favour of each claimant.
38. The ECO did not take issue with the remaining requirements of the Immigration Rules, i.e. as to accommodation and maintenance. However, s.117B(3) is a neutral factor as is s.117B(2) even if s.117B(2) is satisfied.
39. Having set out at para 35 above that s.117B(1) goes against each of the claimants because they do not satisfy the requirements under the Immigration Rules for the grant of entry clearance and at para 37 above the factors in favour of each of the claimants, I will now deal with the other factors that apply for and against each of them.
40. In relation to the first claimant:
  - (i) The first claimant was under the age of 18 years as at the date of her application for entry clearance. This goes in her favour.
  - (ii) However, against the first claimant is the judge's finding that the second claimant was over the age of 18 years at the date of her application for entry clearance and she was someone who the judge found (para 34) "*may well be now working as [sic] qualified nurse*". It follows that, on the judge's findings, the first claimant was living with her adult sibling, being the second claimant. There is no evidence before me that, as an adult sibling living with the first claimant, the second claimant was unable or unwilling to care for the first claimant. I therefore

reject Mr Ume-Ezeoke's submission that there is a risk that no one would be caring for the first claimant and/or that the refusal would mean that she would be alone in Ghana.

- (iii) Also against the first claimant is the fact that no evidence was adduced before the judge or before me at the resumed hearing (see para 15 above) to show that the first claimant's welfare needs as a child were not being met or that there was anything else about her circumstances which would mean that the refusal decision would result in unjustifiably harsh consequences for her such that the decision would not be proportionate.
  - (iv) Mr Ume-Ezeoke submitted that it would be in the best interests of the first claimant to join her mother in the United Kingdom. However, there is no evidence before me of the impact on the first claimant of not being permitted to join her mother. This is relevant, given that the first claimant has to date enjoyed her family life with the sponsor from a distance supplemented by visits by the sponsor without there being any evidence that this physical separation from her mother on a day-to-day basis has had any material impact on her well-being and health. The refusal would maintain her current situation.
  - (v) Against the first claimant is the fact that, if she were to join her mother in the United Kingdom, she would lose the benefit of her father's involvement in her life (as found by the judge, at para 31) and the company of her aunt, not to mention that she would have to adjust to life in a strange country. However, she would benefit from the day-to-day involvement of her mother in her life if she were to be granted entry clearance to join the sponsor.
  - (vi) If the first claimant were to remain living in Ghana, there is no reason why the sponsor's financial support of her could not continue.
  - (vii) In all of these circumstances, I am not satisfied that it would be in the first claimant's best interests for her to join the sponsor in the United Kingdom.
41. On the whole of the evidence and having given such weight as I consider appropriate to each factor for and against the first claimant and taking into account the fact that the decision also interferes with the sponsor's rights under Article 8, I am satisfied that the state's interest in effective immigration control decision is a weighty consideration which far outweighs the weight to be given to the factors in favour of the first claimant. I am not satisfied that the decision would result in unjustifiably harsh consequences for the first claimant and the sponsor such that the decision would not be proportionate
42. Turning to the second claimant, the judge found that she was over the age of 18 years as at the date of her application for entry clearance. The evidence before the judge was that the second claimant was in the third year of a Diploma in Nursing course (para 30 of the judge's decision). The judge found that the second claimant "*may well now be working as a qualified nurse*". Accordingly, on the judge's findings, the second claimant is an adult who may well be working as a nurse. There is no evidence to the contrary.
43. Mr Ume-Ezeoke submitted that the second claimant was still "*of the age of full-time education*". If the submission is that the second claimant should be assumed to be in full-time education because people living in Ghana who are of the same or similar age are usually in full-time education, the submission is misconceived as it not only



ignores the judge's reasoning that the second claimant may well be working as a nurse it also ignores the fact that it is for the second claimant to produce evidence of her actual circumstances. As I said at para 15 above, no fresh evidence in relation to the second claimant was submitted for the resumed hearing nor was any application made for the second claimant to be permitted to rely upon any fresh evidence. There is therefore no evidence to contradict the judge's finding that the second claimant may well be working as a nurse. In any event, even if she is still in full-time education, there is no reason why the sponsor's financial support of her could not continue if she were to remain living in Ghana.

44. Contrary to Mr Ume-Ezeoke's submission, the duty under s.55 does not apply in the second claimant's case because she was over the age of 18 years at the date of her application for entry clearance.
45. If the second claimant were to join her mother, she would lose the benefit of her father's involvement in her life, although she would then benefit from the day-to-day involvement of her mother in her life.
46. There is no evidence that there is anything about the second claimant's circumstances which would mean that the refusal decision would result in unjustifiably harsh consequences for her such that the decision would not be proportionate.
47. On the whole of the evidence and having given such weight as I consider appropriate to each factor for and against the second claimant and taking into account the fact that the decision also interferes with the sponsor's rights under Article 8, I am satisfied that the state's interest in effective immigration control decision is a weighty consideration which far outweighs the weight to be given to the factors in favour of the second claimant. I am not satisfied that the decision would result in unjustifiably harsh consequences for the second claimant and the sponsor such that the decision would not be proportionate.
48. Turning to the third claimant, Mr Ume-Ezeoke asked me to bear in mind that the judge did not make a finding that the third claimant was over the age of 18 years at the date of his application for entry clearance notwithstanding that the claimants' evidence before the judge was that the second and third claimants were twins.
49. I agree with Mr Ume-Ezeoke that the judge did not make a finding *in terms* that the third claimant was over the age of 18 years at the date of his application for entry clearance. However, there is no basis at all for Mr Ume-Ezeoke's submission that I should assume that the claimants had falsely claimed that the second and third claimants were twins or for his submission, in the alternative, that I should proceed to re-make the appeal on the basis that the third claimant was under the age of 18 years at the date of his application for entry clearance. The fact is that it was the evidence of the claimants and the sponsor that the second and third claimants were twins. They cannot now complain if the third claimant's Article 8 claim is decided on the basis of their own evidence that the second claimant and the third claimant are twins.
50. I therefore decide the third claimant's Article 8 claim on the basis that he too was over the age of 18 years at the date of his application of entry clearance.
51. As for Mr Ume-Ezeoke submission that the third claimant was still "*of the age of full-time education*", the submission is misconceived because (as in the case of the second claimant) it ignores the fact that it is for the third claimant to produce evidence of his actual circumstances. Again, and as I said at para 15 above, no fresh evidence

in relation to the third claimant was submitted for the resumed hearing nor was any application made for the third claimant to be permitted to rely upon any fresh evidence. Even if it is the case that the third claimant is still in full-time education, there is no reason why the sponsor's financial support of him could not continue if he were to remain living in Ghana.

52. Again, contrary to Mr Ume-Ezeoke's submission, the duty under s.55 does not apply in the third claimant's case, given the evidence that he is the second claimant's twin and she was found to be over the age of 18 years as at the date of her application for entry clearance.
53. I have noted that the third claimant's school reports indicate that he struggles. However, there is no evidence that his circumstances are such that the refusal decision would result in unjustifiably harsh consequences for him such that the decision would not be proportionate.
54. On the whole of the evidence and having given such weight as I consider appropriate to each factor for and against the third claimant and taking into account the fact that the decision also interferes with the sponsor's rights under Article 8, I am satisfied that the state's interest in effective immigration control decision is a weighty consideration which far outweighs the weight to be given to the factors in favour of the third claimant. I am not satisfied that the decision would result in unjustifiably harsh consequences for the third claimant and the sponsor such that the decision would not be proportionate.
55. The Article 8 claims of each of the claimants therefore fail.

### **Decision**

The making of the decision of the First-tier Tribunal involved the making of an error of law sufficient to require it to be set aside. Accordingly, the decision of the First-tier Tribunal to allow the appeal of "the appellant" (it not being specified whose appeal was being allowed) was set aside.

I re-make the decision on the appeal of each of the claimants by dismissing each of their appeals against the decisions of the ECO.

Signed  
Upper Tribunal Judge Gill

Date: 30 May 2023

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#### **NOTIFICATION OF APPEAL RIGHTS**

1. A person seeking permission to appeal against this decision must make a written application to the Upper Tribunal. Any such application must be **received** by the Upper Tribunal within the **appropriate period** after this decision was **sent** to the person making the application. The appropriate period varies, as follows, according to the location of the individual and the way in which the Upper Tribunal's decision was sent:
2. Where the person who appealed to the First-tier Tribunal is **in the United Kingdom** at the time that the application for permission to appeal is made, and is not in detention under the Immigration Acts, the appropriate period is **12 working days (10 working days, if the notice of decision is sent electronically)**.
3. Where the person making the application is in detention under the Immigration Acts, **the appropriate period is 7 working days (5 working days, if the notice of decision is sent electronically)**.
4. Where the person who appealed to the First-tier Tribunal is **outside the United Kingdom** at the time that the application for permission to appeal is made, the appropriate period is **38 days (10 working days, if the notice of decision is sent electronically)**.
5. A "working day" means any day except a Saturday or a Sunday, Christmas Day, Good Friday or a bank holiday.
6. The date when the decision is "sent" is that appearing on the covering letter or covering email