

Immigration and Asylum Accreditation – Candidates' Guidance (Assessment Guidelines)

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1. Overview

This document is to assist you in preparing for the Immigration Asylum Accreditation (IAA) examinations. This Guidance relates to the following examinations only:

- Trainee Casework Assistant
- Casework Assistant
- Senior Casework Assistant
- Supervising Senior Caseworker

These examination guidelines are accurate as at **11 November 2022** and may be updated again before the exams. Where the guidelines are updated, candidates booked onto an examination will be notified by email of the update.

References to statutes, regulations, rules, and Home Office guidance include any

subsequent provision directly or indirectly amending, consolidating, extending, replacing or re-enacting them, and to all orders, directions and notices made or served under them.

2. Examination Duration

The duration of the relevant examinations is set out below:

Trainee Casework Assistant	90 minutes
Caseworker Assistant	3 hours and 30 minutes
Senior Caseworker	3 hours and 30 minutes
Supervising Senior Caseworker	3 hours and 45 minutes

3. Pass mark

The pass mark for the relevant examinations is set out below:

Trainee Casework Assistant	60%
Caseworker Assistant	50%
Senior Caseworker	50%
Supervising Senior Caseworker	50%

4. Exam format and content

The Trainee Casework Assistant is a multiple-choice test.

The format for the Casework Assistant and Senior Caseworker is set out in the table below:

Format	Content	Total marks
Part 1	5 multiple choice questions	15 marks
Part 2	Asylum and related questions arising from advance fact pattern (Advance materials) requiring legal Analysis and application	30 marks
Part 3	Compulsory drafting question and short questions arising from advance materials	30 marks
Part 4	Questions arising from unseen fact pattern	25 marks
Total		100 marks

The Supervising Senior Caseworker examination requires candidates to answer multiple choice questions, questions based on the review of case studies, files and a typical day's in-tray.

5. Advance materials

This is applicable for the Casework Assistant and Senior Caseworker examinations only.

Candidates will be issued with advance materials/fact patterns 7 calendar days before the examination. The questions relating to the advance materials/fact patterns count towards 60% of the marks.

The first fact pattern will give rise to questions about asylum and related areas [30 marks].

The second scenario will give rise to the compulsory drafting question [24 marks] and supplementary questions [6 marks].

Candidates are advised to treat the advance materials in the same way as they would in practice.

Candidates should consider all possible questions that might reasonably be asked, that could arise from the materials, research the law, policy and procedure and be ready to draw on that research to answer the questions that arise in the exam. When candidates have identified the relevant law, policy and procedure from section 10, they are advised to have that available to them when taking the exam (see section 8).

The remaining 40% of the examination will cover areas other than those contained in the advance materials.

The advance materials will be provided again in the examination.

6. Professional conduct and gross professional error

This is applicable for the Casework Assistant, Senior Caseworker and Supervising Senior Caseworker examinations.

Professional conduct will be assessed throughout the examination. If the candidate is found to have committed a gross professional error, they will fail the examination irrespective of the overall mark obtained.

A gross professional error is defined as: *"a serious departure from, or breach of, the standards of professional conduct and ethics."*

There will be a compulsory professional conduct question in the exam. If the candidate does not attempt to give a **substantive answer** to the professional conduct question, they will fail the examination, irrespective of the overall mark obtained.

It is **not sufficient** to state only: *'This is a professional conduct question, I will consult my supervisor/office manual'* or similar. Candidates who write this, without an attempt to answer the question, will fail the examination. An explanation of the issue, and resolution must be provided to this question.

In the Supervising Senior Caseworker examination, professional conduct is a pervasive topic and failing to correctly identify and give a **substantive answer** to the professional conduct question will result in a candidate failing the examination irrespective of the overall mark obtained.

7. Drafting, English and overriding fault in English

English will be assessed throughout all examinations. If an overriding fault in English is found anywhere in the examination script, the candidate will fail the whole examination, irrespective of the overall mark obtained. An overriding fault in English is *"an error, or a combination of errors, that compromises the client"*.

Part 3 of the Casework Assistant and Senior Caseworker examinations contain a compulsory drafting question worth 24 marks. If the drafting question is not attempted, the candidate will fail the examination irrespective of the overall mark obtained.

The candidate must achieve 50% of the marks available in the drafting question. If a candidate does not achieve 50%, they will fail the whole examination, irrespective of the overall mark obtained.

In the drafting question, candidates should demonstrate:

- A good and appropriate structure and a complete answer;
- Identification of correct law;
- Inclusion of all relevant facts and supporting material;
- Accurate transposition of facts;
- Exclusion of irrelevant facts or other material;
- Correct application of law to facts of case;
- Correct sentence construction, punctuation and accurate grammar;
- Appropriate and correct vocabulary; and
- Correct spelling.

Marks are allocated in the following categories

- Content;
- Structure;
- Grammar, sentence construction and punctuation; and
- Vocabulary and spelling.

An incomplete answer reduces the available marks.

Marks are available for application of relevant law to facts and for citing the correct legal authority. It is not sufficient to write out facts or law, without connecting the two.

8. Useful materials – All examinations

Section 10 sets out the syllabus: the areas of law that are examinable, the levels of ability required at each stage of accreditation, and the sources of law, policy and procedure for the syllabus. The exam questions will be confined to the syllabus set out in section 10. If any other sources are relevant, these will be provided in the exam.

This is an open book exam. However, candidates can only use materials saved on their own devices. They must not access the internet or use any other form of electronic communication during the exam.

They must also not refer to pre-prepared answers or group work to assist with answering any questions. Candidates identified as having colluded will be reported to their professional body.

9. Legal authorities, Policy and Procedure

Candidates will be tested on their awareness, knowledge and competence in understanding and use of the law, policy and procedure arising from the syllabus set out at section 10 of this guidance. The Authorities are suggested only as a guide.

Candidates are expected to know what sources of law, policy and procedure apply to the area of the syllabus in which they are being tested, and be able to look at those authorities to find answers to questions.

Candidates are advised to undertake self-study to supplement legal practice experience.

10. Syllabus overview

The syllabus is confined to work that can be conducted under an Immigration Legal Aid contract including under exceptional funding and comprises:

- Legal Aid
- Professional Conduct
- Drafting and English
- Legal Practice
- Asylum and Humanitarian Protection law and practice
- Article 3 medical cases
- Trafficking and modern slavery
- Asylum and trafficking support
- Domestic abuse
- Article 8 (long residence, family and private life)
- Detention
- Deportation and Removal
- Appeals and Administrative Review
- Judicial Review
- Human Rights

The LAA contract immigration specification sets out what tasks can be carried out by Supervisor Senior Caseworkers, Senior Caseworkers, Assistant Caseworkers and Trainee Casework Assistants.

The exam will test for levels of learning within the syllabus as follows:

Level of ability	Definition
Awareness	Knowledge that law/policy/procedure exists, and its purpose
Knowledge	Knowledge and ability to apply law, policy and procedure
Competence	Knowledge, understanding and ability to complete a task
Supervisor	Supervisors are required to be Competent in all areas of the syllabus, and have an ability to assess, mentor and improve the skills of less experienced fee earners in particularly avoiding professional errors.

10.1 Trainee Casework Assistant

Level of ability and area	
<p>1. Legal Aid</p> <ul style="list-style-type: none"> • Knowledge of what areas are in scope of Legal Aid • Knowledge of what work is permitted at interim and full accreditation • Awareness of exceptional case funding scheme • Awareness of means and sufficient benefit tests for legal help <p><u>Authorities</u></p> <ul style="list-style-type: none"> • Legal Aid Agency key card • LASPO 12 Civil Legal Aid S8 - 12 and Schedule 1 	
<p>2. Professional Conduct</p> <ul style="list-style-type: none"> • Awareness of the SRA Codes of Conduct • Knowledge of duty to client and duty not to mislead the Court and the immigration authorities • Competence in understanding duty of confidentiality • Knowledge of immigration offences <p><u>Authorities</u></p> <ul style="list-style-type: none"> • SRA Code of Conduct • R (Hamid) v Secretary of State for the Home Department [2012] EWHC 3070 (Admin) • Sections 24, 24B, 25, 25B, and 26 Immigration Act 1971 	

3. Drafting and English

- Competence to write accurate English
- Competence to draft a chronology

4. Legal Practice

- Awareness of what client care/terms of business/initial advice letters should include.

Authorities

- SRA Code of Conduct

5. Asylum Law and Practice

- Awareness of the legal tests within Article 1A(2) 1951 Convention and 1967 Protocol relating to the Status of Refugees
- Knowledge of Home Office procedures for claiming asylum and the various stages of an asylum claim

Authorities

- Article 1A(2) 1951 Convention as amended by the 1967 Protocol relating to the Status of Refugees.
- HO guidance: Asylum screening and routing

6. Trafficking and modern slavery

- Awareness of trafficking and modern slavery, and of the NRM
- Knowledge of Immigration Rules for overseas domestic workers who are victims of trafficking

Authorities

- Modern Slavery: Statutory Guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and Non-Statutory Guidance for Scotland and Northern Ireland (Only Glossary and sections 2 and 3)

- Immigration Rules: Appendix Domestic Worker who is a Victim of Modern Slavery

7. Domestic abuse and violence

- Awareness of applications for ILR as a victim of domestic violence or abuse

Authorities

- Immigration Rules: Appendix FM: Section DV

8. Appeals and Administrative review

- Awareness of Tribunal appeals and Administrative Review as potential remedies
- Knowledge to draft a chronology
- Knowledge to assist in preparing a bundle for an appeal hearing
- Knowledge of appeal and Administrative Review time-limits
- Knowledge of the importance of making in-time applications, and of continuing leave

Authorities

- First-tier Tribunal (Immigration and Asylum Chamber) Procedure Rules: consolidated version: Rules 19 and 20
- Immigration Rules: Para 34R
- Immigration Act 1971: Section 3C

9. Deportation and removal

- Awareness of difference between deportation and removal

10. Judicial review

- Awareness of Judicial Review as a potential remedy

- Knowledge of time limit to bring a claim for Judicial Review

11. Human rights

- Awareness of Article 3 and 8 ECHR
- Knowledge in completing Home Office application forms for areas within syllabus

Authorities

- ECHR: Articles 3 & 8

12. Asylum support

- Awareness of asylum support.

Authorities

- Immigration Act 1999: Sections 4, 95, 98 and 122
- Nationality, Immigration and Asylum Act 2002: Section 55

10.2 Casework Assistant

Level of ability and area	
1. Legal Aid	<ul style="list-style-type: none"> • Competency in means and sufficient benefit tests, evidence of means for Legal Help, and completing CW1 form • Knowledge of when an out-of-scope area is relevant • Knowledge of the exceptional case funding scheme • Knowledge of the Immigration and Asylum Specification of the 2018 LAA civil contract <p><u>Authorities</u></p> <ul style="list-style-type: none"> • 2018 Legal Aid Agency Standard Civil Contract Category Specific Rules: Immigration and Asylum • Guide to Determining Financial Eligibility for Controlled Work and Family Mediation. • Lord Chancellor's Exceptional Funding Guidance (Non-Inquests)
2. Professional Conduct	<ul style="list-style-type: none"> • Competence in the SRA Code of conduct
3. Drafting and English	<ul style="list-style-type: none"> • Competence to write in clear, accurate and professional English • Competence to draft with appropriate structure and vocabulary • Knowledge of how to draft a witness statement • Knowledge to draft client advice letters • Knowledge to draft letters of representation to the Home Office, Legal Aid Agency, letters to GPs and other professionals and letters to witnesses

4. Legal Practice

- Knowledge of what a client care/terms of business letter should include.
- Competence in what a client closing letter should contain
- Knowledge to find relevant case law, legal and statutory provisions, guidance, procedure, fees and evidential requirements relevant to subject areas in the syllabus
- Knowledge required to research, identify and apply relevant law to fact patterns
- Competence required to take initial instructions and record in an attendance note.
- Knowledge required to advise in person (advice on law, procedure, evidence, timescales, strengths and weaknesses, potential outcomes and next steps) and in a written advice letter.

Authorities

- SRA Code of Conduct

5. Asylum Law and Practice

- Knowledge required to advise on procedure for claiming asylum (screening, detained asylum casework, substantive processes and timescales)
- Knowledge required to prepare asylum claims (claims for asylum and Humanitarian Protection), including knowledge of best practice
- Knowledge required to advise on and prepare straightforward family reunion applications under Immigration Rules, 352A-352D, 352FA-352FG
- Awareness of all Immigration Rules categories that might be relevant to an asylum seeker
- Knowledge of Further Submissions process, and requirements of para 353, Immigration Rules
- Knowledge of Inadmissibility and Differential Treatment provisions in NABA 2022

Authorities

- The 1951 Convention and 1967 Protocol relating to the Status of Refugees (Articles 1, 31-33)
- Immigration Rules: Parts 11, 11B, and 12, and Appendix Settlement Protection
- Part 2, NABA 2022 (sections 12-17, and 30-38)
- Section 8 Asylum and Immigration (Treatment of Claimants etc.) Act 2004
- HO Guidance: Asylum policy instruction: further submissions

- Immigration Rules: Long Residence, Family and Private Life and Business, Study and Employment categories
- HO Guidance: Family reunion
- HJ(Iran) v SSHD Rev 1 [2010] UKSC 31; RT (Zimbabwe) v SSHD [2011] UKSC 38: Whether an asylum-seeker should change behaviour to avoid persecution
- AH(Sudan) v SSHD [2007] EWCA Civ 297: Internal relocation/unduly harsh
- Shah and Islam v SSHD and IAT [1999] UKHL 20: Risk of persecution cannot define membership of a social group
- HK v Secretary of State for the Home Department [2006] EWCA Civ 1037: if a part in the asylum seeker's story seems inherently unlikely, that does not mean it is untrue

6. Trafficking and modern slavery

- Knowledge of who is a victim of slavery, including how to identify relevant indicators
- Knowledge of NRM procedures, including how to refer someone into the NRM and Competent Authority Reasonable and Conclusive Grounds decision making
- Knowledge of interplay between NRM decision making and asylum and human rights claims
- Competence in Immigration Rules for overseas domestic workers who are victims of trafficking
- Knowledge of Legal Aid provisions relating to victims of slavery
- Knowledge of trafficking support: role of trafficking support workers, and financial support
- Knowledge of how and when to seek Discretionary leave for victims of slavery
- Knowledge of best practice in working with victims of slavery

Authorities

- Council of Europe Convention against trafficking in Human Beings (Articles 4, 10-17)
- Modern Slavery: Statutory Guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and Non-Statutory Guidance for Scotland and Northern Ireland (Sections 4-8, Annexes A, D-F)
- Modern Slavery: Statutory Guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and Non-Statutory Guidance for Scotland and Northern Ireland (Section 9, Annex G, D-F)
- The Slavery and Human Trafficking (Definition of Victim) Regulations 2022
- Home Office Guidance: Discretionary leave considerations for victims of modern slavery

7. Domestic abuse and violence

- Knowledge to make applications for ILR for victims of domestic abuse
- Competence to make applications for Discretionary Leave under the destitution domestic violence concession
- Knowledge to make applications for a family member who has retained the right of residence as a victim of domestic violence or abuse under Appendix EU

Authorities

- Immigration Rules: Appendix FM: Section S-ILR
- HO Guidance: Victims of domestic violence and abuse
- HO Guidance: Destitute domestic violence (DDV) concession
- Immigration Rules: Appendix EU: Validity and Suitability sections, and Eligibility for those with retained rights
- HO Guidance: EU Settlement Scheme: EU, other EEA and Swiss citizens and their family members (Section 'A relevant family relationship with a relevant EEA citizen (or with a qualifying British citizen or relevant sponsor) has broken down permanently as a result of domestic violence or abuse')

8. Appeals and Administrative review

- Knowledge of the appropriate remedies: eligible and appealable decisions, and judicial review
- Knowledge of how to appeal and seek Administrative Review, including time limits

Authorities

- Immigration Rules: Paras 34L-X
- Immigration Rules: Appendix AR: Para AR3.2(c)
- Nationality, Immigration and Asylum Act 2002: Part 5
- The Immigration (Citizens' Rights Appeals) (EU Exit) Regulations 2020: Regulation 3
- Parts 1-3, First-tier Tribunal (Immigration and Asylum Chamber) Rules: consolidated version
- First-tier Tribunal (Immigration and Asylum Chamber) User Guide

9. Detention

- Knowledge required to advise on liability to be detained
- Knowledge of Immigration Bail, and drafting bail applications to the Home Office
- Competence to write to Home Office to vary conditions of Immigration Bail

Authorities

- Schedules 2 & 3 Immigration Act 1971
- Section 62 Nationality, Immigration and Asylum Act 2002
- Section 36 UK Borders Act 2007
- Immigration Act 2016: Schedule 10
- HO Guidance: Adults at Risk in Immigration detention, and
- Pregnant Women in Detention

10. Deportation and removal

- Knowledge of powers to deport and remove

Authorities

- Immigration act 1971: Sections 3(5), 5, 7
- Immigration and Asylum Act 1999: Section 10
- UK Borders Act 2007: Sections 32 and 33

11. Judicial review

- Knowledge of decisions that can be subject to Judicial Review
- Knowledge of Judicial Review Pre-Action protocol

12. Human rights

- Awareness of all ECHR Articles relevant to immigration cases

- Knowledge of law relating to applications relying on Article 8 ECHR and relevant procedures for making such applications
- Competence in making fee waiver applications
- Competence in drafting letters to GPs and other people for relevant reports or other evidence

Authorities

- ECHR: Articles 2, 3, 4, 5, 8, 12 and 14
- Immigration Rules: Part 8 (paras 297, 298), Appendix FM, Appendix Private Life, Appendix Settlement Family Life, Appendix Relationship with Partner
- Razgar v SSHD [2004] UKHL 27: 5-step test in Article 8 claims.
- Beoku Betts v SSHD [2008] UKHL 39: Whose Article 8 rights should be considered?

13. Asylum support

- Knowledge of asylum support.
- Awareness Local Authority support including Section 17 and 20 Children Act 1989
- Awareness of sections 18-21 Care Act 2014

Authorities

- Children Act 1989: Sections 17 & 20
- Care Act 2014: Sections 18-21

10.3 Senior Caseworker

Level of ability and area	
1. Legal Aid	<ul style="list-style-type: none"> • Competence in knowing when an out-of-scope area is relevant • Competence in making exceptional case funding scheme application • Competence in understanding the Immigration and Asylum Specification of the 2018 LAA civil contract • Competence in understanding Schedule 1, Part 1 (where relevant to this syllabus) and section 10 of LASPO 2012 • Competence in applying means and merits tests for Controlled Legal Representation (CLR) and completing forms CW2(IMM) and CW4 • Knowledge of how to apply to the Legal Aid Agency for certificates for Investigative and Full Representation • Competence in the requirements of the LAA immigration contract with respect to unaccompanied asylum-seeking children • Competence in Escape Fee Cases under the Standard Fee <p><u>Authorities</u></p> <ul style="list-style-type: none"> • The Civil Legal Aid (Merits Criteria) Regulations 2013 (as amended)
2. Professional Conduct	<ul style="list-style-type: none"> • Competence in advising on Immigration Offences <p><u>Authorities</u></p> <ul style="list-style-type: none"> • Section 91, 92, 105 – 107, Immigration & Asylum Act 1999 • Sections 2 and 35 Asylum and Immigration (Treatment of Claimants etc.) Act 2004.
3. Drafting and English	<ul style="list-style-type: none"> • Competence to draft all necessary documents to provide advice advance a claim, and or appeal.

4. Legal Practice

- Competence in drafting client care/terms of business letter
- Competence in drafting client closure letter
- Competence in finding case law, legal and statutory provisions, guidance, procedure, fees and evidential requirements relevant to subject areas
- Competence in undertaking legal research, and in identifying and applying relevant law to fact patterns
- Competence in taking instructions throughout a case and in drafting attendance notes
- Competence in advising a person (on law, procedure, evidence, timescales, strengths and weaknesses, potential outcomes and next steps) and in drafting a written advice letter
- Competence in delegating tasks to Trainee Casework Assistants and Casework Assistants, and in ensuring their work is of appropriate quality

5. Asylum Law and Practice

- Competence in how to develop effective working relationships with vulnerable clients
- Competence in law, policy, procedure and best practice in representing asylum seekers, and in preparing asylum claims and appeals
- Competence to make representations against inadmissibility decisions
- Knowledge of all Immigration Rules categories that might be relevant to an asylum seeker, with an ability to assess the merit of making applications under those categories
- Competence in law, policy, procedure and best practice in representing Unaccompanied Asylum Seeking Children
- Competence in age assessment and challenges
- Competence to advise on and prepare complex family reunion applications
- Competence in how and when to instruct experts, including finding an appropriate expert, working with the expert, legal aid funding provisions, and an expert's duties to the court
- Competence required to prepare and properly evidence further submissions

Authorities

- Asylum policy instruction: further submissions Procedure for making further submissions/fresh claim
- The 1951 Convention and 1967 Protocol relating to the Status of Refugees
- Nationality, Immigration and Asylum Act 2002: sections 77, 78, Part 4A
- Appendix A, MOJ and Others (Returns to Mogadishu) Somalia CG [2014] UKUT 00442 (IAC)

- HA (expert evidence, mental health) Sri Lanka [2022] UKUT 111 (IAC) (paragraphs 157-166): requirement of report writer to have regard to GP records
- Country Guidance cases: only those which are relevant to advance materials

6. Trafficking and modern slavery

- Competence in understanding who is a victim of slavery, including how to identify relevant indicators
- Competence in NRM procedures, including Competent Authority Reasonable and Conclusive Grounds decision making
- Competence in understanding the interplay between NRM decision making and asylum and human rights claims, and other immigration options
- Confidence in pursuing Discretionary leave for victims of slavery
- Competence in best practice in working with and representing victims of slavery
- Competence in understanding the UK government's duties to victims of slavery
- Knowledge of safeguarding issues relating to victims of slavery
- Competence in how to represent child victims of slavery
- Competence in how to draft statements, representations and provide supporting evidence in support of Conclusive Grounds decisions and for grants of Discretionary Leave
- Competence in how and when to commission expert evidence, including medico-legal and trafficking reports
- Competence in how to challenge negative Reasonable and Conclusive Grounds decisions by reconsideration and judicial review

Authorities

- ECHR: Article 4
- Helen Bamber Foundation's 'The Trauma-Informed Code of Conduct'
- Modern Slavery: Statutory Guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and Non-Statutory Guidance for Scotland and Northern Ireland (Sections 9, Annex G)
- Rantsev v Cyprus and Russia [2010] ECHR 25965/04: Article 4, ECHR duties
- PK(Ghana) v Secretary of State for the Home Department [2018] EWCA Civ 98: DL should be granted in line with Article 14(1)(a) ECAT
- EK (Article 4 ECHR: Anti-Trafficking Convention) Tanzania [2013] UKUT 313 (IAC): challenge to removal on Article 4 grounds
- MS (Pakistan) v Secretary of State for the Home Department [2020] UKSC 9: Tribunal can decide if a person has been trafficked

- R (TVN) v Secretary of State for the Home Department [2021] EWHC 3019 (Admin): an expertly drafted MLR can be determinative of credibility
- EOG & Anor v Secretary of State for the Home Department [2022] EWCA Civ 307: entitlement to DL whilst asylum claim is pending
- HD (Trafficked women) Nigeria (CG) [2016] UKUT 454 (IAC): characteristics of vulnerability leading to risk of re-trafficking

7. Domestic abuse and violence

- Competence to make applications for ILR for victims of domestic abuse
- Competence to make applications for a family member who has retained the right of residence as a victim of domestic violence or abuse under Appendix EU
- Competence to conduct applications for Administrative Review of Domestic Abuse refusals
- Competence to conduct Administrative Review and appeals of Domestic Violence or Abuse refusals under Appendix EU

Authorities

- Ishtiaq v Secretary of State for the Home Department [2007] EWCA Civ 386: evidence
- LA (para 289A: causes of breakdown) Pakistan [2009] UKAIT 00019: the relationship may have ended whilst victim remains in marital home

8. Appeals and Administrative review

- Competence in time-limits for lodging onward appeals in the First-tier and Upper Tribunals and in the Court of Appeal
- Competence required to assess and advise on prospects of success at appeal for purposes of grant of CLR
- Competence in law, evidence, procedure and best practice to prepare appeals in the Tribunal
- Competence required to take and draft witness statements and take instructions from and prepare witnesses
- Competence in deciding what evidence to gather or commission and how
- Competence required to instruct independent experts
- Competence in drafting appeal skeleton arguments
- Knowledge in identifying potential errors of law/grounds for onward appeals
- Knowledge to prepare for error of law hearings in the Upper Tribunal
- Competence in applying to the First Tier and to the Upper Tribunal for permission to appeal to the Upper Tribunal
- Competence in drafting applications for Administrative Review

- Competence in working with advocates

Authorities

- Immigration Rules: Appendix AR and Appendix AR(EU)
- First-tier Tribunal (Immigration and Asylum Chamber) Rules: consolidated version
- Presidential Guidance Note No 2 of 2022: Anonymity Orders and Directions regarding the use of documents and information in the First-tier Tribunal (Immigration and Asylum Chamber)
- Upper Tribunal Immigration and Asylum Chamber First-Tier Tribunal Immigration and Asylum Chamber – Joint Presidential Guidance 2019 No 1 – Permission to appeal to the UTIAC
- Upper Tribunal Procedure Rules
- Best Practice Guide to Asylum and Human Rights Appeals (EIN) - Chapters 1-32 and 41)
- Devaseelan [2002] UKIAT 00702: In second appeals, the first appeal determination forms the starting point for the second determination, facts occurring since should also be taken into account.
- ZT(Kosovo) v SSHD [2009] UKHL 6; Clearly unfounded test
- RS(Immigration and Family Court Proceedings) India [2015] UKUT 00218 (IAC)
- Nwaigwe (adjournment: fairness) [2014] UKUT 418 (IAC)
- Watson, R (on the application of) v Secretary of State for the Home Department (s. 94B process, s. 25 powers) [2022] UKUT 156 (IAC): application of principle in Kiarie and Byndloss
- MY (Pakistan) EWCA Civ 1615 – only the actual refusal of a human rights claim carries the right of appeal
- Mahmud [2017] UKUT 488 (IAC): new matters

9. Detention

- Competence required to advise clients on detention, and immigration bail (Home Office and Tribunal)
- Competence in applying to the Secretary of State for immigration bail
- Competence in gathering and commissioning evidence to support applications for bail
- Competence in applying for Tribunal bail
- Competence to prepare a bail application for hearing in the Tribunal (gathering evidence, preparing witnesses, serving and filing evidence, preparing client, instructing Advocate /drafting skeleton argument)
- Awareness that unlawful detention can be challenged by way of JR or habeas corpus

Authorities

- Immigration Act 2016: Section 61(1) and (2)
- First-tier Tribunal (Immigration and Asylum Chamber) Rules 2014 (consolidated version): Part 5
- Guidance on Immigration Bail for Judges of the First-tier Tribunal
- R (on the application of Singh) v Governor of Durham Prison [1084] 1 WLR 704 (QB): Hardial Singh principles in detention cases.

10. Deportation and removal

- Knowledge to represent clients subject to deportation

Authorities

- Nationality, Immigration and Asylum Act 2002: Section 76, 78, 117C
- UK Borders Act 2007: Sections 34-38
- Borders, Citizenship and Immigration Act 2009: Section 55
- Immigration Rules: Part 13
- Home Office Guidance: Criminality: Article 8 ECHR cases
- ZH(Tanzania) v SSHD [2011] UKSC4 – best interest of children
- Hesham Ali v SSHD [2016] UKSC 60 - 'very compelling circumstances'
- HA (Iraq) v Secretary of State for the Home Department [2022] UKSC 22 - unduly harsh test

11. Judicial review

- Competence required to identify decisions that are amenable to Judicial Review
- Knowledge of conduct of Judicial Review proceedings
- Competence required to draft a pre-action protocol letter
- Knowledge of Judicial Review funding and costs risks to claimants
- Knowledge to instruct an advocate to draft grounds of judicial review
- Knowledge in preparing an application for permission to apply for judicial review
- Knowledge of pre-certificate work under Legal Help funding (funding advice and applications, statement of case, letter before claim)
- Knowledge to apply for a public funding certificate.

Authorities

- R (Hamid) v Secretary of State for the Home Department [2012] EWHC 3070 (Admin)
- Civil Procedure Rules: Parts 54-54C
- Upper Tribunal Procedure Rules: Part 4

12. Human rights

- Competence in making Article 3 (medical grounds) applications

Authorities

- HO Guidance: Medical claims under Articles 3 and 8 of the European Convention on
- Human Rights (ECHR)
- AM (Article 3, health cases) ZIMBABWE [2022] UKUT 131 (IAC)

10.4 Supervising Senior Caseworker

Please note that Supervisors are required to be Competent in all areas of the syllabus. Read the below in conjunction with the syllabus set out above.

Level of ability and area	
1.	<p>Legal Aid</p> <ul style="list-style-type: none"> • Competence in the LAA contract requirements • Competence in conducting effective file reviews – reviewing case files and identifying any issues, corrective action or training needs that may arise. Selecting the files to be reviewed to ensure that they are representative and reflective of the skills, knowledge and experience of the individual. The Supervisor must be able to record the outcome of the file reviews, together with the details of any corrective action taken. • Competence in identifying professional error, and providing corrective measures, as well as guidance to those they supervise. • Competence in understanding the LAA peer review requirements • Competence in managing team/caseworker performance, including responding to poor performance • Competence in efficient use of resources • Competence in create effective working relationships • Competence in developing teams/caseworkers to enhance performance • Competence in leading the work of teams/caseworkers to achieve their objectives • Competence in supervising the work of a caseworker – conducting regular supervision meetings, dealing with queries on particular cases, discussing changes to be made as a result of file reviews • Competence in conducting team/caseworker training
2.	<p>Professional Conduct</p> <ul style="list-style-type: none"> • Competence in appropriate actions to be taken on discovery of a professional conduct issue

3. Drafting and English

- Be able to identify errors in drafting and English

4. Legal Practice

- Be capable of allocating roles to those supervised
- Be capable of managing time sufficiently to enable the proper prioritisation of work

5. Detention

- Demonstrate an ability to manage and properly supervise a practice conducting detained case work.