

## **Women in Refugee Law (WiRL) submission**

### **The new Independent Appeals Body: Call for evidence**

Women in Refugee Law (WiRL)<sup>1</sup> is a global network of more than 350 members established in 2021 to re-centre the experiences and rights of women within refugee law, policy and practice. In the UK, we have approximately 150 members who include refugee and asylum claiming women, legal practitioners and scholars, former judges, NGO workers, activists and service providers.

This response was drafted by Women in Refugee Law (WiRL) founders and conveners, Dr Moira Dustin (University of Sussex) and Dr Christel Querton (University of the West of England). It draws on previous research carried out by WiRL co-convenor Christel Querton with partners.<sup>2</sup>

We are grateful to UK-based WiRL members for sharing their expertise which helped inform this response. Thanks in particular to: Zoe Bantleman, former Director of the Immigration Law Practitioners' Association; Catriona Jarvis, former Upper Tribunal judge; Kama Petruczenko, Refugee Council; Maria Stephens, Women for Refugee Women; and Dr Jo Wilding, University of Sussex.

We welcome the opportunity to respond to this call. We are aware that a number of WiRL members will also be responding as individuals or on an organisational basis. Our submission addresses those questions that bear on the rights and concerns of asylum claiming women in the UK, specifically ones where our members have expertise and experience. We have not, therefore, responded to all the consultation questions.

Below are the questions we have responded to, with our answers, in the online consultation form.

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<sup>1</sup> [wirl.org.uk](http://wirl.org.uk)

<sup>2</sup> In particular Querton, C. & Wilbourn, E. 2026. [‘The Impact of “Safe Country” Concepts on Women Seeking Asylum in the UK’](#), WiRL/Asylos; Asylum Aid. 2017. [‘Through Her Eyes: Enabling Women’s Best Evidence in UK Asylum Appeals’](#). Asylum Aid; Querton, C. 2012. [“I feel like as a woman I’m not welcome”: A Gender Analysis of UK Asylum Law, Policy and Practice’](#), Asylum Aid; Asylum Aid. 2011. [‘Unsustainable: the quality of initial decision-making in women’s asylum claims’](#)

## Access to justice, fairness and procedural safeguards

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

Research – which we summarise here – has identified the key factors for providing a fair appeal process in which women seeking asylum can participate as:

- Good information and support: women going through the appeals process need to know what to expect in order to be fully prepared.
- Having well-prepared, qualified and resourced legal representatives.
- Open-mindedness and consideration of evidence in the round on the part of decision-makers.
- Access to expert evidence through sufficient resourcing and realistic appeal preparation timeframes.
- Rigorous and up-to-date training for Home Office Presenting Officers.
- Interpreters who have the linguistic ability, trauma-awareness and sensitivity to interpret in gender-based cases.
- Childcare provision where appropriate.
- Judges showing an awareness of women's circumstances and their cultures, and a concern for their wellbeing.

(Asylum Aid. 2017. 'Through Her Eyes: Enabling Women's Best Evidence in UK Asylum Appeals', Asylum Aid)

Recommendations in the same research remain valid:

- The importance of judges making appellants feel comfortable in unfamiliar surroundings, for instance by explaining procedures, introducing all involved and stating that cross-examination should be conducted sensitively.
- The importance of judges using a balanced and objective approach in assessing credibility.
- The need to make active use of the pre-hearing review to manage the case, including identifying vulnerable appellants and witnesses.
- A broad approach to what evidence is deemed sufficient to determine vulnerability, to enable appellants to be identified as such at the pre-hearing review (e.g. a GP or social worker's letter).
- Recording the decision as to whether the appellant was vulnerable.
- The requirement that an all-female tribunal must be provided if requested, recognising that this might create delay in listing for hearing. This should be a clearer option on the pre-hearing review form.
- Prioritising vulnerable appellants' cases and those with children to prevent unnecessary waiting.
- Identifying before the hearing which issues are not disputed by the Home Office Presenting Officer / Home Secretary's counsel, thus avoiding unnecessary cross-examination on distressing issues.

(Asylum Aid. 2017: 69-71).

Regarding the final point above, the agreeing of key issues in dispute before a hearing is of key importance and an area for improvement, as we understand that currently this does not always happen. At the outset of the hearing, the adjudicator

should be required to confirm precisely what are the points at issue that the Home Office Presenting Officer (HOPO) or Home Secretary's counsel is putting forward.

Any reduction in the level of legal expertise of adjudicators, as proposed, makes it imperative that the Home Office is represented by well-trained and fully briefed representatives (whether HOPO or counsel). Consideration should be given as to whether HOPOs should be legally qualified. Equally important will be for appellants to have good, qualified legal representatives funded through a functioning legal aid system (see Q6. below). An unqualified adjudicator faced with an appellant-in-person and an absent or underprepared Home Office representative will result in unfair outcomes and an increase in further/onward appeals, thereby creating a more costly appeals system.

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

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Regarding legal advice and representation, evidence shows that women claiming asylum who are legally represented feel better informed, better prepared and better able to present the facts in their case (Asylum Aid, 'Unsustainable: the quality of initial decision-making in women's asylum claims', Asylum Aid, 2011: 43). We are therefore particularly concerned about the impact for women of the deficit in legal aid provision that has been found to exist across England and Wales:

'For asylum cases, which remain in scope for legal aid, there was at least a 57% deficit in England and Wales in 2023-24 between the number of new claims or appeals for asylum by a main applicant (excluding dependents) and the number of new legal aid matters opened. This is an increase on a 51% deficit in the previous year and 40% in 2021-22. There is a clearly evidenced deficit in provision in every region of England and Wales. ...The deficit is particularly severe at appeal stage. Very few providers will now take on asylum appeals because the funding is too low and they cannot afford to do the work. This results in an unknown number of people being 'dropped' by their representatives if they are refused asylum (or never having a representative in the first place), and either losing their right to appeal because they are unrepresented or going to appeal without representation and, very likely, without being able to present the evidence which they need.' (Wilding, J. (2025) Response to Justice Select Committee Inquiry: Access to Justice, September 2025).

Wilding finds that 'the market in legal aid is dysfunctional. It is failing to secure provision of legal aid in accordance with the LASPO Act (as per the Lord Chancellor's duty in s1) because the conditions of the market are too poor' (Wilding, 2025).

This corresponds to research showing that women claiming asylum find it difficult to access legal representation, and in particular to access high quality legal representation. One study found that, in all the cases studied, women had changed their legal representative at least once. Judges in this research noted a reduction in the availability of 'lawyers of the calibre needed'. The change was attributed to reductions in legal aid (Asylum Aid. 2017. 'Through Her Eyes: Enabling Women's Best Evidence in UK Asylum Appeals: 49).

The difficulties that many women claiming asylum experience in securing good legal advice and representation make it particularly important that judges or adjudicators and other actors in the appeal process are legally qualified and take a gender-sensitive and trauma-informed approach.

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

Women seeking asylum who have experienced sexual and gender-based violence require reasonable adjustments and tailored procedural support. Measures to ensure they feel comfortable and confident in presenting their asylum appeal include good quality interpreting, childcare provision, questioning that is not hostile and does not retraumatise women, breaks in the proceedings when appropriate, and spaces for women appealing to consult with their advocates. See also factors and recommendations in answer to Q5. Any new body will need to recognise the complexity of gender-based claims for asylum and related appeals. This includes factors that may have contributed to an initial refusal, such as difficulties in securing evidence or fear or disclosure, and that should be recognised for the purposes of a fair appeal.

Asylum adjudicators will need to be aware that appeals by women are likely to involve persecution by non-state actors and there is a related need to assess the availability and effectiveness of state protection. They will need to understand that there may be relatively little written or reported evidence in cases where women have been persecuted by members of their family or community. Tribunal judges have confirmed that 'in cases based on GBV [gender-based violence] there might be no evidence before them other than the woman's own testimony, and it was difficult to assess the claim simply from her evidence, especially if she was traumatised, unwell, or suffering psychologically' (Asylum Aid. 2017. 'Through Her Eyes: Enabling Women's Best Evidence in UK Asylum Appeals: 43; UNHCR. 2002. Guidelines on International Protection No. 1: Gender-Related Persecution: 10).

When assessing credibility, asylum adjudicators should be mindful that there are often reasons why women do not claim asylum at the earliest opportunity as well as barriers to disclosure, particularly for women that have experienced sexual and gender-based violence (SGBV). These include trauma, shame, cultural constraint, lack of familiarity with speaking about their experience, threats to themselves or their family, lack of trust in the system and fear of officials, and dominance by male relatives. (Asylum Aid. 2017: 42; Querton, C. 2012. "I feel like as a woman I'm not

welcome”: A Gender Analysis of UK Asylum Law, Policy and Practice’, Asylum Aid: 18; Baillot, H., Cowan, S., & Munro, V. E. 2012. “Hearing the Right Gaps”: Enabling and Responding to Disclosures of Sexual Violence within the UK Asylum Process. *Social & Legal Studies*, 21(3): 269-296).

Home Office guidance confirms that decision-makers will need to recognise the above factors when assessing credibility in first decisions (Home Office. 2018. *Gender Issues in the Asylum Claim*: 32). The same is true for decision-makers in appeals.

The issues we identify above – in particular women’s difficulties in disclosure, problems in securing evidence, and the lack of legal aid – are all factors contributing to unfair asylum decisions at first instance by the Home Office, making it imperative that there is a fair and gender-sensitive appeals process in place to reverse flawed first instance asylum decisions.

## **Expert evidence and country information**

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

Recently published research by WiRL and Asylos, based on contributions from refugee women, their advocates and legal practitioners, confirms the well-documented difficulties surrounding the collection and use of Country of Origin Information (COI) in gender-based violence asylum claims (Querton & Wilbourn. 2026. *The Impact of ‘Safe Country’ Concepts on Women Seeking Asylum in the UK*, Asylos/WiRL). These difficulties are of increasing concern in light of the expanding use of ‘Safe Country’ concepts in the UK as the basis for denying refugee protection.

The research identifies inadequacies in the production and assessment of COI on women and gender-related human rights issues including inadequate coverage of women’s issues in COI and a lack of high-quality COI on women. The research finds that ‘As gender-based violence often takes place in private spaces, it can be particularly difficult to collect COI relevant to a woman seeking international protection. Public information on gender-based violence may simply not be available or difficult to access. Accordingly, statistics may not accurately reflect the extent of gender-based violence and access to protection in the country of origin or third country. While absence of information should not be understood to mean that an issue does not exist, in practice, a lack of information raises the real risk that gender-specific harms will not be understood or accounted for in safe country assessments.’ (Querton & Wilbourn. 2026: 13).

The Independent Chief Inspector of Borders and Immigration noted similar concerns regarding the failure of the Country Policy and Information Note on the Rwandan asylum system to specifically consider issues affecting women, including LBTQ+, trafficked, disabled and other vulnerable women, seeking asylum in Rwanda, or explicitly identify information gaps concerning these groups (ICIBI. 2024. *‘Inspection report on Home Office country of origin information on Rwanda’*: 24 & 28).

The research also found a lack of transparency and selectivity in the evidentiary assessment of COI on women. Even when current, relevant and accurate COI covering women and gender-related human rights issues is considered, such information may still appear to have been given marginal weight in the assessment of a country's safety (Querton & Wilbourn. 2026: 16).

To address these deficiencies, there needs to be improvements in the production of gender-sensitive COI. Recommendations for the UK Home Office Country Policy and Information Team are:

- Ensure that Country of Origin Information is gender-sensitive, holistic and intersectional. This is especially important where country information is used to inform a safe state designation. This means considering overlapping and intersecting factors including, but not limited to, the position of women in society, cultural and societal norms and attitudes, religion, caste, geography, and accessibility and availability of healthcare
- Include the expertise of women with lived experience in the production of COI on women. This means equally valuing 'lived experience' testimony of women refugees or women seeking asylum as a form of knowledge, alongside other forms of information, such as statistics, or reports produced by international institutions. It also means treating refugee women, and women who are seeking asylum, as co-producers of knowledge, not research subjects [see also See also Asylos. 'Call to Action. Recognising Lived Experience as Expertise: Inclusion in Research on Movement and Exploitation', Asylos, 2025; Women for Refugee Women. 'Participatory Action Research: A How To Guide by Researchers With Lived Experience', WRW, 2026].
- Regularly review and update CPINs, especially those involving a safe state designation. Changing realities on the ground in those countries should also trigger rapid updates of the COI.
- Produce and regularly update CPINs on 'women fearing gender-based violence' for any country designated as safe.
- CPINs should include a note on the importance of consulting the most up-to-date COI in the process of making an asylum decision, especially where a safe country designation is in place.

(Querton & Wilbourn. 2026: 23).

Recommendations for asylum decision-making authorities (Home Office and judiciary) are:

- Home Office caseworkers should always be aware of the need to consult up-to-date information when making decisions, in particular where a state is designated as safe.
- Asylum decision-making authorities (both Home Office and Judiciary) should value knowledge that is produced by people with lived experience, moving toward an understanding that people with lived experience can present highly relevant information and perspectives based on their experience, which are not available in other sources.

(Querton & Wilbourn. 2026: 23).

In considering medical expertise, it is necessary to recognise that medical evidence to support a woman's asylum claim may be absent: 'GBV presented challenges to representatives in collecting evidence for an appeal, and to judges in assessing it. Firstly, as time had inevitably elapsed between any physical violence and the woman's asylum claim in the UK there might be no or few physical signs of harm. This was often the case for women who had experienced rape or other sexual violence, but could also be true when there had been other forms of domestic violence. Secondly, the causes of any scarring could be difficult to attribute, and there are few specialists in identifying these causes and they are not always available. Similarly, the cause of psychological harm could be difficult to evidence' (Asylum Aid. 2017. 'Through Her Eyes: Enabling Women's Best Evidence in UK Asylum Appeals: 43).

The difficulties in collecting publicly available evidence in support of women's asylum appeals, means that Legal Aid funding for expert reports, whether COI or medical, is particularly important in claims by women (Asylum Aid. 2017: 47). Similarly, it is crucial that women are enabled to put forward their best evidence, which means they must have legal aid representation available to assist them with preparation of a detailed Witness Statement for their appeal, which will equally help minimise examination-in-chief and cross-examination, saving important time during the appeal hearing.

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

It has long been recognised that a disproportionate number of refusals of applications from woman are overturned at appeal (Querton, C. 2012. "'I feel like as a woman I'm not welcome": A Gender Analysis of UK Asylum Law, Policy and Practice', Asylum Aid: 22). The pressures on Home Office and initial decision-making have only grown since the research cited here, making a fair hearing at the appeal stage even more critical. For these reasons there should be no reduction in the qualifications and experience required of adjudicators as compared to judges.

Women's appeals to the proposed new body will necessarily engage international refugee law (the Refugee Convention) and international human rights law and treaties to which the UK is a signatory, including but not limited to the European Convention on Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).

The Istanbul Convention (Art. 60) requires that the UK  
'... shall ensure that a gender-sensitive interpretation is given to each of the Convention grounds and that where it is established that the persecution feared is for one or more of these grounds, applicants shall be granted refugee status according to the applicable relevant instruments.'

And

‘Parties shall take the necessary legislative or other measures to develop gender-sensitive reception procedures and support services for asylum-seekers as well as gender guidelines and gender-sensitive asylum procedures, including refugee status determination and application for international protection.’

Similarly, an in-depth knowledge of UK law and case law is critical for women claiming asylum to have a fair hearing. Immigration and asylum law and guidance is complex and changes very quickly. Key cases dating back to *Shah and Islam (Islam v Secretary of State for the Home Department; R v Immigration Appeal Tribunal, ex parte Shah* (1999)) are also the basis for assessing claims. Non-legally qualified adjudicators will not have the legal training and expertise to bring this extensive body of law to bear to ensure fair decision-making for women; training and expertise that is particularly important in light of the difficulties women often have in providing direct evidence of persecution to make their case.

Women’s asylum claims are often based on being a member of a particular social group (PSG), which is less well-defined ground under the Refugee Convention, and requires legal expertise and gender sensitivity on the part of decision-makers at all stages of the process, including at appeal (Asylum Aid. 2011. ‘Unsustainable: the quality of initial decision-making in women’s asylum claims’, Asylum Aid: 66).

WiRL is concerned that failing to require legal qualifications for recruitment to the new appeals body will significantly undermine public trust and credibility in the new appellate system.

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

WiRL re-asserts that the standards for training of adjudicators should be no lower than for current judges of the First-tier Tribunal (Immigration and Asylum Chamber). ‘The Joint Presidential Guidance Note No 2 of 2010: Child, Vulnerable Adult and Sensitive Appellant’ may be useful as a starting point for training for adjudicators in ensuring a fair hearing for appellants recognised as ‘vulnerable’. However, adjudicators should also have regard to ‘The Equal Treatment Bench Book’, the overarching guidance it contains on good communication, fairness and diversity as well as the chapters on factors which will be relevant to women’s (and all) asylum appeals. These include the protected characteristics, as well as vulnerability, modern slavery, capacity and social exclusion.

A further important source will be ‘The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014’ (updated 8 August 2025). The rules set necessary standards and provide guidance aimed at ensuring fairness for and full participation by all participants (Part 1, Section 2).

Adjudicators' training will also need to cover UK equality law. As a public body, in recognising specific needs and vulnerabilities, any new body will need to comply with the Equality Act 2010 including consideration of how changes to immigration appeals affect people with different and/or multiple protected characteristics. It is important that Equality Impact and Children's Rights Impact Assessments assess the impact of these proposals on women in all their diversity, recognising how sex/gender intersects with other protected characteristics.

Training providers should be independent experts, and should include: refugee advocacy organisations, organisations supporting survivors of torture, NGOs supporting particular groups of refugees including women and LGBTQI+ people, legal bodies, psychologists and other clinicians, forensic scientists, social workers.

Adjudicators will need to have training that covers: international refugee and human rights law; UK immigration and asylum law and regulations; UK equality and human rights law; Home Office guidance on credibility, COI and CPINs; vulnerability, capacity, health and mental health considerations; cultural and religious factors; trauma and vicarious trauma (including the potential impact on decisionmakers of hearing traumatic accounts of women's persecution. See Asylum Aid. 2017: 66; see also Baillot, H., Cowan, S., and Munro, V. 2013. 'Second-hand Emotion? Exploring the Contagion and Impact of Trauma and Distress in the Asylum Law Context', JLS, 40(4): 509-540).

Training should include identifying the elements of a supportive appeals culture that adjudicators should promote, including:

- An open attitude in assessing credibility;
- A questioning approach and listening skills;
- An awareness of women's circumstances in their country of origin;
- Recognition of the extent of gender-based harm;
- Understanding of the nature of rape, its political use and the difficulties in disclosure;
- The impact of trauma on memory, recall and oral testimony;
- Understanding evidence of vulnerability;
- A willingness to curtail improper or aggressive cross-examination;
- Gender-sensitive credibility assessment in cases of gender-based violence;
- Understanding of the impact of hearing information about human rights abuses and how to deal with this.

(Asylum Aid. 2017: 69)

See also resources for WiRL's training workshop on 'Gender sensitivity in asylum interviews' (April 2025): <https://wirl.org.uk/event/gender-sensitivity-in-asylum-interviews/>

*Q29. How should the new Independent Appeals Body prioritise or accelerate cases, and should it adopt a more codified approach to case management than exists in the current FTT-IAC? You may wish to comment on whether certain categories of cases might be appropriately prioritised or accelerated, and what safeguards, fairness considerations, or operational factors should be taken into account, and on reasonable timeframes for doing so.*

While we are pleased to see that referral to the Upper Tribunal on points of law is to be retained, we are concerned about the risk in accelerating cases, particularly in conjunction with proposals for a single appeal and one that is heard by an adjudicator without the same level of experience, knowledge and legal expertise that current Immigration Tribunal judges have.

Asylum appeals involving gender-based violence require sufficient time for adequate preparation and ensure a fair hearing. Women who are victims of gender-based violence and/or who fear such treatment in the future require sufficient time to develop trust in their legal representatives, and in the appellate system to provide their best evidence. WiRL is concerned that an appellate system which prioritises resolving appeals quickly to the detriment of ensuring vulnerable appellants can provide their best evidence will fail to provide relevant safeguards and guarantee fair hearings.

The importance of building safeguards into accelerated procedures was shockingly evident in the case of PN, a woman who had experienced sexual abuse as a child in Uganda (*PN (Uganda) v The Secretary of State for the Home Department* [2020] EWCA Civ 1213). She was unlawfully detained and her claim was processed under the Detained Fast Track system in existence at the time (2013). In the space of 6 months her application was refused, her appeal dismissed, permission to appeal further was refused and she was returned to Uganda where she was gang-raped and became pregnant. In 2019, the UK government was ordered to facilitate her return after a judge ruled the decision to reject her claim was unlawful. It is because there are such potentially extremely high levels of harm in the balance that appeals should not be accelerated to the detriment of a thorough and fair hearing.

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

Whilst WiRL considers that fairness requires only legally qualified judges are able to determine complex asylum appeals, if the new appeals body is comprised of lay decision-makers, a quality review process should be instated. A random selection of determinations (having regards to the sex of the appellant) should be reviewed by former immigration judges for quality control. Where audits raise concerns regarding the quality of determinations, the Secretary of State for the Home Office should reconsider the existence of the new appeals body.

Decisions by any new body need to be recorded in a way that disaggregates appeals on the basis of factors that include sex/gender of applicant and also the grounds for their original claim. This will enable practitioners, researchers and other stakeholders to assess the impact of any changes not only overall but also for particular groups of

appellants, including women, but also children, LGBTQI+ appellants and other groups.

Data recorded should include whether a person was legally represented or not, with that data linked together with the Upper Tribunal data to show how many claims of a particular type are overturned on further appeal.

The same principles of open justice and transparency will apply as for current Tribunal hearings. Determinations should be recorded, and then published and freely available, with the necessary anonymisation to respect claimants' confidentiality.

To ensure confidence in any new system, particularly if there is a change in the qualifications and expertise required of adjudicators, it will be important to publish details of how they will be guided in law to make fair and lawful decisions, and whether there will be any change in this from the current legal bases, principles and published rules and guidance. Existing good practice should be identified and carried forward to any new body. It will also be important to regularly review guidance for adjudicators.

Effective oversight of this new body must include the right to a substantive onward appeal and to judicial review.

In the early period of any new appeals process, it will be necessary to have a rigorous monitoring and evaluation process in place, comparing decisions and outcomes with those of the previous Tribunal, and including a complaints mechanism for appellants and their advocates to raise concerns.

We would welcome the opportunity to provide any further information that would be useful to the Home Office.

20 April 2026