Public Law Project

Cultural, linguistic and procedural barriers to access to justice in immigration and asylum tribunals

Report 2 – Identity, relationships and vulnerability



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Executive summary

While the existing legal and policy framework contain important safeguards for procedural fairness, its practical application is particularly challenging in cases that require an assessment of family and relational dynamics, LGBTQ+ cases, and trauma and mental health issues, as these can vary, be unique to each individual, and be influenced by someone's socio-cultural context and experiences of persecution.

This report examines how applicants experience the system and whether it is possible to translate family and/or private life, LGBTQ+ identity and belonging, and mental health and trauma into 'objective' evidence, given the inherently heterogeneous ways in which people experience sexual identity, relationships and mental health. The report's central argument is that cultural understanding lies at the heart of asylum and immigration tribunals, thereby making cultural competence a procedural fairness matter.

Drawing on an analysis of 271 Upper Tribunal (UT) decisions promulgated in the past two years, hearing observations, and interviews with legal representatives and interpreters, the report identified recurring procedural and structural issues that could affect the quality, consistency, and fairness of decision-making in asylum appeals at the First-tier Tribunal.

Although the existing tribunal practice increasingly recognises different forms of relationships, such as extended families and cultural marriage, expectations remain largely shaped by Western-centric frameworks. In cases relating to family and/or private life, the following issues were observed: a rigid or prescriptive approach to what constitutes 'family ties', hierarchical categorisation of family life, assumptions about what constitutes 'normal', 'natural' or more deserving relationships, and a rigid or unrealistic approach to evidencing relationships.

The examined decisions also highlight a frequent lack of understanding or a narrow, rigid, or homogenising approach to LGBTQ+ identity. This was evident in some First-tier Tribunal decisions, where judges treated sexuality as limited to relationships; expected a clear, cohesive, and linear account of 'coming out' as an 'emotional journey'; expected uniform openness about sexuality from the applicants; adopted a one-size-fits-all approach to evidence; and at times resorted to stereotypical language or observations. Some of the decisions demonstrated not only a lack of cultural awareness and sensitivity but also a general lack of understanding of what constitutes LGBTQ+ identity. Both the Home Office (HO) and the judiciary would benefit from training by organisations specialising in LGBTQ+ rights.

Another prevalent issue concerns assumptions and expectations regarding mental health and trauma, with judges and HO expecting clinical/medicalised evidence and expression; a linear and coherent account of mental health issues that largely does not consider relapses; a lack of consideration for how people in different cultures talk (or avoid talking) about mental health and trauma; a lack of support for those involved in the process who might experience trauma and vicarious trauma; and a failure to give appropriate account of how participation is affected by trauma.

The report provides practical recommendations to address the issues on systemic and structural levels and is aimed at a broad range of stakeholders, including the Judicial College, the Home Office, the Ministry of Justice (MoJ), His Majesty's Courts and Tribunals Service (HMCTS), interpreters, and legal representatives.

The recommendations focus on strengthening and reaffirming existing safeguards and regulations and on conducting training and regular briefings to enhance or introduce a more up-to-date and comprehensive approach to understanding private and family life, LGBTQ+ identity, and mental health. The task is not to create more rules and regulations but to consistently embed the existing ones in practice, highlighting the classic disjuncture between law and rules on paper and in practice.

A mindset shift is also needed to recognise the importance of culturally sensitive and trauma-informed approaches to evidence, credibility assessment and tribunal procedure. Greater support is needed for those involved in the process, given the highly traumatic nature of the interaction and the prevalence of trauma and vulnerability which affect applicants' capacity to recall and to engage effectively in the process. Decision-makers need to explicitly recognise and pay attention to the variety of human experiences related to family and/or private life and LGBTQ+ identity, and adopt an approach that is grounded in listening and openness to the varied ways people self-identify and relate, rather than relying on pre-made assumptions. This change in procedural culture would help reduce avoidable appeals, improve consistency, ensure fairer outcomes for applicants, and enhance confidence in the fairness and integrity of the asylum tribunal system.

This is the second of two reports that present the findings from this research, which examines cultural, linguistic and procedural barriers to access to justice in immigration and asylum tribunals in the UK. The first report focuses on translation and interpretation, context and evidence, and procedural culture. It is available to read now via Public Law Project's website.

Summary of recommendations[1]

I. Family and private life

1. Recognise varied forms and iterations of family and private life [HO, Judicial College].
2. Apply a culturally sensitive approach to evidence [HO, Judicial College].
3. In cases concerning 'precarious family life,' an assessment of whether it is possible to sustain the relationship should be conducted regardless of a person's status [HO, Judicial College].
4. Refrain from assumptions that the system of documentation of relationships is uniform. Consider a more flexible approach when obtaining documentation is impossible in certain contexts [HO].

II. LGBTQ+

1. Reinforce/improve understanding of what constitutes sexual identity for procedural fairness and credibility assessment (fluidity, sexual activity vs sexuality, expectations around relationships and emotionality, expectations around 'coming out,' stereotypes) [Judicial College, HO, HMCTS, MoJ].
2. Ensure that, for interpretation, culturally sensitive communication about sexual identity is adopted [HO, MoJ, HMCTS, interpreters' accreditation authority].
3. Do not use outdated or prejudiced language [HO, Judicial College, MoJ, HMCTS].

III. Mental health, trauma and vulnerability

1. Recognise the importance of context and social factors, including culture, in shaping mental state and well-being and the way people perceive it and talk about it [HO, MoJ, Judicial College, HMCTS].
2. Recognise that trauma can be experienced in ways that are not acknowledged by a person; it doesn't work in a linear way [HO, MoJ, Judicial College, HMCTS].
3. Judges should consult Presidential Guidance when dealing with children, vulnerable adults and sensitive witnesses and reference it in decisions [HO, MoJ, Judicial College, HMCTS].
4. Reaffirm that it should not be expected that children will understand or explain adults' actions and intentions [HO, MoJ, Judicial College, HMCTS].
5. Raise awareness among lawyers and LIPs (litigants in person) about intermediary services [HO, MoJ, Judicial College, HMCTS].
6. Provide support and training for vicarious trauma, including training on trauma-informed and neuro-informed approaches for those working in the system [HO, MoJ, Judicial College, HMCTS].

1. More detailed recommendations, including practical mechanisms of implementation, are included after each section.

7. Raise awareness and understanding of mental health and trauma [HO, MoJ, Judicial College, HMCTS].
8. Raise awareness and understanding regarding the social stigma around mental health and its effect on the deterioration of existing mental health conditions. Recognise that people who have experienced extreme trauma (for example, as victims/survivors of slavery) should be presumed to have experienced trauma and mental health issues if they claim to have done so, even in the absence of an official diagnosis [HO, MoJ, Judicial College, HMCTS].
9. A differentiation should be made between the availability of treatment for mental health issues and the possibility of engagement with it when assessing the conditions in the country of origin [HO, MoJ, Judicial College, HMCTS].

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Abbreviations and terminology

Abbreviations:

UT or UT IAC	Upper Tribunal (Immigration and Asylum)
FtT	First-tier Tribunal (Immigration and Asylum)
HMCTS	His Majesty's Courts & Tribunals Service
MoJ	Ministry of Justice
HO	Home Office
ETBB	The Equal Treatment Bench Book
Presidential Guidance	Joint Presidential Guidance Note No 2 of 2010: Child, vulnerable adult and sensitive appellant guidance.
LGBTQ+	Lesbian, Gay, Bisexual, Transgender, Queer/Questioning. In decisions examined, different abbreviations were used, such as LGBT or LGBTQI. LGBTQ+ is used uniformly in the report. A 'plus' sign signifies open and fluid identity, acknowledging that no one single universally used term for the LGBTQ community exists.

Terminology:

Applicant	Claimant in asylum or immigration cases - could be either an appellant or a respondent at the UT, as either side can bring the case to the UT. Although this term is reserved for judicial reviews, it is used uniformly throughout the report.
Country of origin	Home country/nationality/habitual residence
First-tier Tribunal (Immigration and Asylum Chamber)	Responsible for handling appeals against some of the HO's decision with respect to permission to stay in the UK; deportation from the UK; entry clearance to the UK; applications for immigration bail from people being held by the HO on immigration matters. One of the 7 Chambers which settles legal disputes and is structured around specific areas of law.
Upper Tribunal (Immigration and Asylum Chamber)	Responsible for handing appeals against the decisions made by the FtT (Immigration and Asylum) relating to visa applications, asylum applications and the right to enter and stay in the UK. Responsible for handling applications for judicial review of certain decisions made by the Home Office, with respect to immigration, asylum and human rights claims. One of the 4 Chambers of the UT which settles legal disputes and is structured around specific areas of law. A case is heard in the Upper Tribunal following permission to appeal the decision of the FtT (either refused or granted).

Material error of law	An error of the FtT that 'materially' alters the outcome of the case. Some of the examples include misunderstanding or misapplying Immigration Rules; using the wrong legal test; procedural unfairness; overlooking important evidence or not giving reasons for the decision; or a factual mistake that makes a decision unfair.
The outcomes of material error of law as found by Upper Tribunal	• Set aside the decision and remake it. • Remittal - the case is sent back to the First-tier Tribunal for a new hearing. • Preserving some findings and ordering the First-tier Tribunal to remake only a part of decision.
Culture	is understood broadly and may relate to tradition and religious culture; the country, context, or place of origin; culture based on belonging and identity; and tribunal culture.
Language	encompasses native and foreign languages and dialects; and legal, formal, and technical language.
Translation and interpretation	is defined as the process of translating and interpreting not only language but also contextual, legal, socio-cultural, procedural, and historical norms. Interpretation refers to the spoken word, while translation to the written text.

1. Introduction

The context for this research is a turbulent asylum and immigration policy environment, with the immigration and asylum tribunals facing a significant backlog of over 80,000 cases, which is expected to grow each year, and an average wait of 63 weeks.[2] This research draws on operational learning in light of challenges in the current policy environment about what it means to have a system that is consistent, efficient, and effective.

Twenty-five years after the Leggatt Report,[3] which reviewed how the tribunal system worked for users, we are, yet again, faced with the same questions Lord Leggatt asked about how a single system served by subject-matter legal experts could best accommodate access to justice and procedural fairness for users.

The central thread of this report is how cultural awareness and sensitivities affect access to justice and procedural fairness. The theme of culture is particularly relevant to the tribunals, which, by the very nature of their subject matter, undertake the complex task of understanding and translating across cultures. The immigration and asylum tribunals hear the cases of a high proportion of racialised people, many of whom have faced discrimination on intersectional grounds and are extremely vulnerable. Cases have ongoing complexities, and invariably, the stakes are high.

a. Aims and objectives

By engaging with decisions promulgated by the Upper Tribunal (Immigration and Asylum) Chamber (UT) over the past two years, this research aims to identify patterns and issues related to language and culture that those in the system face, alongside providing practical recommendations to advance culturally sensitive communication and understanding. Related changes would make the process more accessible to everyone while also identifying patterns of misunderstanding that lead to preventable errors, unfair outcomes, and appeals. This report also considers what cultural changes are needed in the asylum and immigration system at the systemic and structural levels.

This is relevant in light of the ongoing attack on judges, the Immigration and Asylum Bill,[4] and the Home Office's (HO) recent consultation on proposed changes to the tribunal system that would create an Independent Appeals Body within the HO.[5] The HO's proposal lacks detail and is unsupported by evidence; it risks undermining judicial independence and the rule of law; it proposes that adjudicators without legal training hear asylum appeals, risking a lowering of judicial standards;

2. Ministry of Justice, 'Official Statistics. Tribunal Statistics Quarterly: October to December 2025.' 15 May 2026. https://www.gov.uk/government/statistics/tribunals-statistics-quarterly-october-to-december-2025/tribunal-statistics-quarterly-october-to-december-2025--2.
3. Andrew Leggatt, *Report of the Review of Tribunals by Sir Andrew Leggatt: Tribunals for Users - One System, One Service* (16 August 2001).
4. Public Law Project, 'Unfair, unworkable and unsafe: Government's new Asylum Bill,' 1July 2026, https://publiclawproject.org.uk/latest/unfair-unworkable-and-unsafe-governments-new-asylum-bill/; Public Law Project, 'Immigration and Asylum Bill parliamentary briefing. PLP calls on Members of Parliament to oppose the Bill at second reading,' 9 July 2026, https://publiclawproject.org.uk/resources/immigration-and-asylum-bill-parliamentary-briefing/.
5. Home Office, 'The new Independent Appeals Body: Call for Evidence,' 20 April 2026. https://www.gov.uk/government/calls-for-evidence/asylum-new-independent-appeals-body/the-new-independent-appeals-body-call-for-evidence

and it will not achieve its aims of reducing delays, backlogs, and multiple appeals.[6] The government's new Asylum and Immigration Bill continues the regressive trend of recent immigration legislation by weakening human rights, undermining procedural fairness, and putting the UK's compliance with international law at risk.[7] This report demonstrates that some of the reasons for the delays are not the tribunals but rather deficiencies in the evidence provided by both parties, notably the HO itself, and a lack of appropriate legal representation. Reform should primarily address these issues rather than undermine all the progress achieved.

b. Methodology

Primary source of data – case analysis:

- 271 decisions of UT (Immigration and Asylum) Chamber promulgated within a two-year period - from 31 December 2023 to 31 December 2025.

Secondary sources of data:

- UT (Immigration and Asylum) Chamber hearing observations:
  - March 2026 (3 hearings)
  - April 2026 (3 hearings)

- Semi-structured interviews:
  - Legal representatives: 3
  - Intermediaries: 1
  - Registered interpreters: 3



i. Case analysis

The dataset consists of 271 randomly sampled cases out of 4,080 cases promulgated (put into effect) between 31 December 2025 and 31 December 2023. Qualitative analysis software was used to code the decisions and organise the codes around reappearing themes. Through iterative thematic analysis, I triangulated the data from decisions, interviews, and observations. The coding and thematic organising of codes were informed by interviews and observations. The decisions of the UT IAC are published on the His Majesty's Courts and Tribunals Service (HMCTS) website.[8]

6. Call for Evidence: The New Independent Appeals Body, Public Law Project's Response, 6 May 2026. https://publiclawproject.org.uk/resources/call-for-evidence-independent-appeals-body/
7. Public Law Project, 'Immigration and Asylum Bill parliamentary briefing. PLP calls on Members of Parliament to oppose the Bill at second reading,' 9 July 2026, https://publiclawproject.org.uk/resources/immigration-and-asylum-bill-parliamentary-briefing/.
8. Immigration and asylum chamber: decisions on appeals to the Upper Tribunal. https://tribunalsdecisions.service.gov.uk/utiac/

Qualitative analysis of this extensive dataset focused on language, discourse, and the story the published decisions tell (and don't tell). This enabled the identification of patterns and issues that statistics alone might not capture. It also brings to light cases that do not have precedent-setting value and are not discussed in the public domain.

Research using open-source data from HMCTS has added value and extends beyond what traditional ethnographic methods, such as observation alone, would allow with similar resourcing.

i. Observation and semi-structured interviews

The researcher observed appeal and judicial review hearings at the Upper Tribunal (Immigration and Asylum) Chamber at Field House in London in March-April 2026.

Semi-structured interviews with legal representatives, an intermediary, and interpreters who work in the FtT and/or UT were primarily conducted online via Microsoft Teams, with one conducted in person in March-April 2026. Interviewees were recruited both through existing professional contacts and direct outreach.

ii. Limitations

The analysis and findings from this research derive from a limited sample of cases from a two-year period. Applicants were not interviewed for this research; therefore, it does not reflect the first-hand experience of these participants, though they are primary stakeholders in this research. The interviews and observations are limited in number and scope and did not include members of the Judiciary or representatives from the Home Office. The case files of the decisions analysed were not sought, nor were post-appeal outcomes examined. Information about where the case was before is limited to what is provided in the decision itself, thereby limiting the analysis to an examination through the lens of the published decisions only, rather than the wider context or the process of claiming asylum.

iii. Positionality of the researcher

The researcher is of migrant and global majority background and has been residing in the UK for over nine years. The researcher's lived experience of migration influenced how she conducted some interviews, for instance, by using examples from her cultural background as prompts.

iv. Report's structure

The research consists of two reports – Report 1 focuses on how evidence is used and interpreted by considering procedural and evidential aspects of culture within the tribunal context. Report 2 focuses on how people experience the system, considering both identity and relationships, and mental health and trauma.

This report starts with a chapter on issues relating to family and private life determinations; how the determination of LGBTQ+ identity is treated; and perceptions of trauma and mental health, alongsidetheir effect on participation.

Each section identifies issues related to cultural competence, provides evidential support, and makes recommendations to relevant stakeholders and implementation mechanisms.

2. Family and private life

Decisions involving family and/or private life can be influenced by culturally driven assumptions about relationships, social norms, and stereotypical understandings of family configurations.

Such assumptions disadvantage and compartmentalise relationships and other social roles that do not correspond to Western or nuclear-family models embedded in existing rules and procedures, discounting the complexity of human relationships and the forms they can take.

At a practical level, the challenge often lies in providing evidence in a way that is accepted and fits the legal and cultural frames of those conducting the assessment, a translation that is not always easy to achieve.

Evidence of this is seen in:

i. Evidence required to prove 'family ties'

- In a judicial review, a UT judge reaffirmed that in an immigration and asylum context, 'love and affection' between family members on its own is not enough, nor are 'normal emotional ties' between adult relatives. The UT judge held that the adult relatives (for instance, siblings) are required to demonstrate 'further elements of emotional and/or financial dependency.' The UT judge further reaffirmed that it is up to the discretion of judges to weigh what constitutes exceptional dependence and emotional ties, highlighting that the 'substance' of relationships, rather than their form, matters. The UT judge identified such factors as cohabitation, 'effective, real or committed support,' and relevant 'cultural or social traditions,' which often constitute strong evidence of family life. The UT judge reaffirmed that for a parent of adult children, there needs to be dependency with 'more than the normal emotional ties.' The UT judge concluded that, for some cases, it means considering the ties between a widowed mother living with her son, which is in line with 'the cultural and social traditions prevalent in Bangladesh, where adult children would look after ageing parents.' (JR-2025-LON-000622).

ii. Recognition of customary forms of marriage

- Some of the cases reviewed for this report demonstrated that judges are generally open to traditional practices across different cultures and jurisdictions. For example, proxy marriage, a cultural practice in which neither the bride nor the groom is present in person, can be recognised under UK immigration rules if it is recognised under domestic law in the relevant country. Customary marriage by proxy is an established practice under Ghanaian law, as established in two reviewed cases (UI-2023-005368; UI-2023-001247). In one case, the judge noted that a marriage can be legally valid, but that doesn't mean, at the outset, that it was not a marriage of convenience (UI-2023-001247).

iii. Problematics of hierarchical categorisation of family life

- One requirement in Article 8 cases is that the applicant can show evidence of a sustained relationship. This was the case, for example, in a UT decision relating to a family reunification between a sponsor (now a UK citizen) and applicants (adult siblings, one of whom he had not seen for 17 years). The judge at UT highlighted that hierarchical categorisation of family life, i.e., treating one family relationship as showing stronger ties than another, is not an acceptable approach. Nor is it acceptable to use such determinations as 'normal and natural' when it comes to the progression of a relationship. The UT judge found that family relationships are varied, do not fall within the 'predetermined model,' and should not be treated as 'inherently less deserving.' (UI-2024-005295 & Ors).

- An issue of 'precarious family life' also raises concerns about cultural understanding; this is a situation in which relationships begin and are sustained even if an applicant does not have the status that would allow them to remain in the UK. Decision-makers give little weight to this kind of relationship in light of the public interest. However, in such cases, the assessment of whether the relationship can be maintained remotely if an applicant is to be returned still needs to be made. In one case before the UT, the judge held that 'physical contact and the ability to develop their family life together' were essential and were not properly considered by the FtT. This resulted in the finding of a material error of law in the FtT judge's assessment of whether there would be insurmountable obstacles to the family's continuing life outside the UK (UI-2023-002392).

iv. Rigid approach to evidencing relationships when it is recognised that they exist de facto

- Cultural awareness and understanding also means accepting that, in some countries, documentation is handled differently than in the UK. For example, in Somalia, as was raised in one case before the UT, it is uncommon for death or adoption certificates to be issued. This creates an issue when dealing with who is considered an 'adopted child' under Appendix EU (Family Permit), which requires a 'relevant adoption decision' (i.e., an adoption certificate). In a case where an uncle was a 'de facto parent' because he had significantly supported the child all his life but had not formally adopted the child after the child's father's death, both the UT and FtT judges acknowledged that, in Somalia, no functional system of adoption exists, which made the situation difficult. The UT judge, nevertheless, had to proceed with the narrow definition of who constitutes a 'child' under the family permit rules. The UT judge argued that, while they were constrained by the Appendix EU (Family Permit), other immigration rules could still apply. The judge suggested that the applicant and the sponsor could make another application after obtaining 'proper legal advice under the Immigration Rules for the child to join the family in the United Kingdom' (UI-2023-005241).

v. Expectations regarding evidence that is impossible to produce due to cultural or practical reasons

- When requesting evidence, it should also be recognised that people in certain cultures may not openly express antagonism towards in-laws or other family members, and that family dynamics vary. In one case, the FtT judge asked for documentary evidence that the applicant 'fell out' with her family in India, including records of conversations and calls to prove this. The UT argued that, given the applicant's age and cultural background, records of conversations would be unlikely, as she is unlikely to communicate via text messages. If she had phone call records, they would likely show an amicable rather than a hostile tone. Moreover, the UT judge held that the fact that the applicant did not speak to her in-laws after her husband's death would make it impossible to produce evidence that would support her claim (UI-2024-001328).

Recommendations:

1. **Recognise varied forms and iterations of family and private life**
   [HO, Judicial College]

   Update the Equal Treatment Bench Book (ETBB) and provide training for judges to:

   - reaffirm and acknowledge that family relations are varied, with no one single framework of what constitutes a 'normal and natural' family;
   - reaffirm that assumptions should not be made that some form of relationship is more deserving than others.

2. **Apply a culturally sensitive approach to evidence**
   [HO, Judicial College]

   Update ETBB and provide training for judges to:

   - ensure that the individual circumstances of a case are considered when evidence is requested or taken into account. For example, it might be difficult to produce evidence of family antagonism, for cultural or other reasons.

3. **In cases concerning 'precarious family life,' an assessment of whether it is possible to sustain the relationship should be conducted regardless of a person's status.**
   [HO, Judicial College]

   Update ETBB and provide training for judges:

   - in cases where an applicant entered a relationship while residing without immigration status, 'precarious family life' should not be assumed, and an assessment of whether the relationship can be sustained if the applicant returns to the country of origin remains necessary.

4. **Refrain from assuming that the system for documenting relationships is uniform. Consider a more flexible approach when obtaining documentation is impossible in certain contexts.**
   [HO]

   Update the policy to incorporate the cases:

   - when it is widely recognised that, in some contexts, the system of formally documenting adoption or death is either different or doesn't exist, and when it is proven that family relationships exist in practice but not on paper, family permit rules should allow flexibility in documentation.

3. LGBTQ+

When assessing whether someone belongs to the LGBTQ+ identity and whether their LGBTQ+ identity puts them at risk of harm or persecution in their country of origin, decision-makers sometimes resort to narrow, homogenised or rigid assumptions about what it means to belong to the LGBTQ+ identity. Decision-makers often disregard the complex and varied experiences of LGBTQ+ individuals and communities and expect evidence that does not account for diversity and cultural sensitivity.

Evidence of this is seen in:

i. Considerable weight given to the delay in claiming asylum when assessing credibility

- In cases involving LGBTQ+ people, the Home Office and tribunal judges regarded delays in claiming asylum as damaging to credibility,[9] even when the delay was due to a lack of legal representation and fear that the authorities in the country of origin would learn of the grounds for the asylum claim (UI-2022-005697; UI-2024-003100; UI-2023-005119).

ii. Expectations around coming out, emotionality, and openness

- Negative inferences were drawn even from the fact that, with time, an applicant spoke more openly about his sexuality and produced better evidence.

  In one case, the UT judge emphasised that, given the context in which an applicant grew up, including the stigma and taboo around LGBTQ+ identity and his knowledge that his family would disapprove, it was difficult for the applicant to be open about his sexual orientation and to accept it. The UT judge also acknowledged that, over time, as the person might gradually 'come to terms with their sexual orientation', they would be more comfortable expressing themselves, and no adverse inference should be drawn from this, despite the HO's claims. The UT judge found that this also enabled better witness evidence to be adduced later than before the FtT.

  The UT judge also noted that the applicant didn't feel he needed to be more 'demonstrably affectionate' towards his boyfriend, which is a positive indicator of 'a genuine relationship as "boyfriends".'

  The UT judge accepted that a relative who found 'gay pornographic material' in the applicant's room 'didn't confront the Appellant because it is against their tradition to confront someone older, particularly about such a delicate topic of being gay, and that he felt very embarrassed' (UI-2024-003100).

9. This is despite the Home Office's own guidance stating: "Consideration must be given to any possible reasons for not disclosing the issue of sexuality at the first available opportunity during screening. Feelings of shame, cultural implications, or painful memories, particularly those of a sexual nature, may have led some claimants to feel reluctant about speaking openly about such issues and may therefore not be uncommon. [...] Any late disclosure must be fully investigated and the overall credibility of a claim considered 'in the round'." Home Office, *Asylum Policy instruction Sexual orientation in asylum claims Version 6.0*, 3 August 2016, p. 34-5, https://assets.publishing.service.gov.uk/media/5a804b17ed915d74e622d9dc/Sexual-orientation-in-asylum-claims-v6.pdf.

- In another case, in addition to the adverse inference arising from the delay in claiming asylum on the basis of persecution due to LGBTQ+ identity, the HO claimed that:
    - the applicant was 'inconsistent' and 'vague' in his account of when he learnt about his sexuality and of his parents' response;
    - the account of his relationship with S was vague, given that they had been together for 3 years;
    - the applicant's photographs from LGBTQ+-related events were not persuasive, with HO arguing that anyone could attend such events (UI-2022-005697).

- The interviewed legal representative reaffirmed the prevalence of expectations regarding people's behaviour and the level of openness they expect to see: 'The Home Office expects people to turn up, come off the plane wearing gold lamé hotpants and waving a pride flag.'

- The interviewed legal representative also noted that HO wants a specific, detailed, and cohesive narrative of the 'emotional journey of realising that someone is gay', saying that you fancied someone or were attracted to someone starting at a certain age will not be considered 'emotional enough.'

iii. Lack of general understanding of what constitutes sexuality

- Some of the pitfalls in reasoning are noteworthy not only for cultural reasons but also for the general understanding of LGBTQ+ applicants' perspectives.
    - For example, a judge of the Upper Tribunal overruled a case in which a FtT judge confused 'sexuality with sexual activity,' concluding that a person's sexuality should not be inferred from whether they were sexually active. The judge noted that the applicant didn't pursue same-sex relationships in Pakistan because such relationships are not tolerated there (UI-2025-000550).
    - Similarly, in another case, it was argued that the FtT judge conflated the question of whether the applicant was lesbian with the question of whether the applicant was in a lesbian relationship. The UT judge found that the FtT judge failed to consider the cultural impediments that prevented the applicant from 'coming out' at an earlier stage. The FtT judge also placed considerable weight on the applicant's relationships with men, without considering that the applicant might be bisexual (UI-2023-000932).
    - There was also an issue with a judge at FtT who drew conclusions about the applicant's sexuality based on the 'mannerisms' and 'body language' observed in the video submitted as evidence by the applicant's representatives. The UT judge found a material error of law because it was inappropriate for a judge to draw inferences about someone's sexuality from body language (UI-2024-003100).
    - While it is generally accepted that a person can be in a heterosexual marriage, have children, and still be gay, misconceptions persist. In one case, the FtT judge held that although the applicant could have been forced to marry a woman in his country of origin, 'it was unlikely that, as a man, he had been forced to have the children against his will.' The FtT judge also argued that the applicant didn't divorce his wife while in the UK, where there are no repercussions for being gay (UI-2023-005119).

iv. Procedural aspects

- In a different case, the FtT judge accepted that the applicant was gay but found that he could relocate from the place where he had suffered past persecution. The suggested town for relocation was a 3.5-hour drive away, where Pride events take place. The UT judge ruled that there was no error of law because the FtT judge consulted country evidence, concluding that there is no widespread persecution of gay people in Namibia and that there is growing tolerance for Pride events in certain cities. The applicant was unrepresented and requested an adjournment to secure legal representation, yet the appeal proceeded (UI-2022-006683).

- Some comments or observations by judges, even if arguably not materially altering the outcome of the case, might create the impression that the finding on credibility was based on prejudice. For example, in one case, the FtT judge remarked that it is 'surprising' that the applicant's partner and witnesses are 'all from Bangladesh and all have asylum based on their sexuality, and all appear to have attended the same college in Derby, which is a small city.' The applicant's legal representative argued that it is natural for people from the same community to seek each other's company and that such a remark is not empirically founded. The issue of delay in claiming asylum also recurred due to a lack of legal representation. The UT judge found that the words of the FtT judge were cherry-picked from otherwise sound conclusions about inconsistencies (UI-2022-003439).

v. Expectations that a person must be in relationships

- A legal representative interviewed stressed the narrow, compartmentalising approach to evidence and LGBTQ+ identity centred on relationships, arguing that 'the majority of my LGBTQI clients who have gone to appeal, haven't had a partner.' There is preferential treatment for those in relationships: 'if you have evidence that you have a partner, particularly as an LGB person, and a same sex partner, when it comes to bisexual appellants, you potentially are less likely to be in the position where you're going to appeal.' The expectation of emotionality and relationality is problematic, as argued by the legal representative interviewed, because 'people seeking asylum, should be granted refugee status purely because they say, if they are a man, they fancy men, and they like having sex with men, and there's nothing emotional about it. But that, that's going to put them at risk of persecution.' It is not even about 'cultural mismatch'; it is about understanding the basics of what constitutes sexuality and identity.

vi. Culturally sensitive interpretation

- Special consideration should be given to interpretation when LGBTQ+ issues are involved. Interpreters are not usually briefed on the cases they will interpret, though one interpreter interviewed noted that she is usually asked whether she is comfortable interpreting an LGBTQ+ case. The interpreter also noted that, on one occasion, an applicant was distressed during the HO interview and she asked the HO representative if she could pause to tell the applicant that he should not be ashamed, recognising the cultural stigma and the applicant's likely discomfort in sharing intimate details about his sexuality with someone who speaks the same language and may come from his culture or community.

vii. Outdated or prejudiced language

- In some decisions, outdated or pejorative language was still used, such as 'homosexual'[10] (UI-2022-005697; as referenced in country guidance cited in: UI-2024-001049; UI-2022-003439; UI-2023-005119).

Recommendations:

1. **Reinforce/improve understanding of what constitutes sexual identity for procedural fairness and credibility assessment (fluidity, sexual activity vs sexuality, expectations around relationships and emotionality, expectations around 'coming out', and stereotypes)**
   [Judicial College, HO, HMCTS, MoJ]

   Update ETBB, provide regular training (preferably delivered by LGBTQ+ organisations) and regular briefings for judges and HO staff on:

   - Fluidity: the way people experience or talk about sexuality may change over time. Negative credibility should not be assumed if a person spoke more confidently about their sexuality or presented stronger evidence over time.
   - Sexual activity vs sexuality: sexual activity is not the same as sexuality. The fact that someone is not or was not sexually active does not necessarily mean they are not LGBTQ+.
   - Relationships: it should not be assumed that LGBTQ+ individuals are or were in strong, emotional relationships; people can be single, in open relationships, or not in any relationships, and may not seek relationships at all. Sexuality and sexual identity are not conditional on being in romantic or any other relationships.
   - It is inappropriate to make observations or remarks about someone's body language or mannerisms as constitutive of their sexual identity.
   - Cultural differences and difficulties around 'coming out' should be considered.
   - It should not be expected that the narrative around 'coming out' is uniformly emotional, consistent, and linear.
   - Adverse credibility findings should not be drawn in cases where the delay in claiming asylum was due to a justifiable reason, such as the lack of legal representation.
   - A person can be in a heterosexual marriage, have children, and still be gay, regardless of their gender.

10. The ETBB recommends using the word 'gay' instead of 'homosexual' because it is old-fashioned, yet also states that 'Although, some gay men prefer to self-identify as homosexual.' p. 182.
Communities and organisations run by/for LGBTQ+, as MindOut, e.g., provide the following guidance: 'Homosexual - This is an outdated term that is now generally seen as derogatory and offensive by many gay and lesbian people. This is because of the pathologised history of the word "homosexual," and it is often aggressively used by anti-gay individuals and groups to suggest that gay people are psychologically/emotionally disordered. Gay or lesbian are the preferable terms to describe people attracted to members of the same sex.'
https://mindout.org.uk/resources-on-mental-health/lgbtq-glossary/

2. **Ensure that, for interpretation, culturally sensitive communication regarding sexual identity is adopted.**
[HO, MoJ, HMCTS, interpreters' accreditation authority]

   Ensure that briefings are consistently in place when booking an interpreter, covering the following:

   - Understanding that some applicants might not feel comfortable sharing in the presence of someone who might be from their community.
   - Ensuring that interpreters do not use pejorative language, even unintentionally.

3. **Do not use outdated or prejudiced language.**
[HO, Judicial College, MoJ, HMCTS]

   Update directives and country guidance that still use this language and need revision; update ETBB; and conduct regular training by LGBTQ+ organisations on appropriate and empowering communication.

4. Mental health, trauma and vulnerability

Being considerate of the variability of trauma is important, as the distinctive feature of the immigration and asylum system is that most applicants have experienced extremely traumatic events in their country of origin, during their departure, en route, and while seeking asylum or the right to stay.

Translating trauma, mental health, and vulnerability into language that is comprehensible to the system is challenging, as individual experiences and the ways in which trauma, mental health, and vulnerability manifest can vary. Across cultures and contexts, the way people speak (or do not speak) about mental health or trauma also varies.

Questions about mental health, trauma, and vulnerability are important in cases where they adversely affect someone's capacity to recall, engage in the process, and tell a coherent story, all of which are essential to credibility assessment. They are also important for participation in the process.

Evidence of this is seen in:

a. Challenges relating to evidencing trauma and its effect on participation

i. Linear understanding of trauma and mental health

Former cases demonstrate that the HO often adopts a linear understanding of trauma and mental health. It is often assumed that if someone shows signs of improvement they will not relapse, even though medical evidence and individual circumstances might point to the opposite.

- For example, in a case before UT, where someone showed signs of improvement with fewer observable psychotic episodes despite limited mental health support or intervention, HO assumed their condition would improve further, despite a demonstrated history of relapses and a complex post-traumatic stress disorder with an associated severe psychotic disorder diagnosis. The FtT judge also remarked that the Consultant Psychiatrist had noted that the psychotic symptoms deteriorated during the consultation while the applicant was in detention, with the applicant requiring urgent psychiatric review as she was giving details of hallucinations. The evidence put forward by the applicant's legal representatives emphasised that understanding such psychiatric disorders is important in the immigration and asylum context, as conditions often exacerbate in cases of 'the immediate and social and emotional context-removal from the current stable context.' Moreover, the Consultant Psychiatrist noted that **removal to the context where a person suffered severe physical and sexual abuse will result in 'unmanageable traumatic memories and thoughts'**. The Consultant Psychiatrist further noted that they do not know enough about the extent to which mental health issues expose people to social stigma in other contexts. But they acknowledged that **social stigma around mental health might deteriorate existing mental health conditions** (UI-2022-004295).

- Similarly, in another case, the applicant was initially assessed by a clinical psychologist, who diagnosed him with severe depression, anxiety, and PTSD, with an unpredictable risk of suicide. Over two years, his symptoms improved with the support he received while in detention. The diagnoses of depression and anxiety were revised to moderate, and improvement in his PTSD was noted. He had no suicidal thoughts when reassessed by the same specialist, despite previous instances of self-harm. He then experienced a dramatic deterioration, with psychosis, relapse, and reoffending. Another health professional also noted significant improvements, particularly in stopping substance abuse (UI-2022-005964).

ii. Requiring an official diagnosis

- People who have experienced extreme trauma (such as slavery) should be presumed to have experienced trauma and mental health issues if they claim to have done so, even in the absence of an official diagnosis. In a case concerning a recognised victim of modern slavery, the SSHD claimed that the person 'has not been formally diagnosed with mental health issues and does not take any medication.' The UT judge ultimately dismissed the applicant's appeal on asylum, humanitarian and protection grounds (UI-2024-005546).

iii. Availability of treatment vs possibility of engagement with it

- In another case, the UT judge commendably distinguished between the availability of treatment and the likelihood of engaging with it upon deportation. A broad range of issues are linked to the inability to access mental health treatment, even when it is available only in a limited form, including homelessness, vulnerability, exploitation, and substance abuse (UI-2022-004295).

- In another case, the applicant's family feared she was at risk of suicide on her return to her home country, having suffered shock and mental health issues following the sudden loss of her husband in a foreign country. Although the FtT argued that 'the evidence did not demonstrate that the appellant is in fact suicidal', the applicant maintained that her mental health would impede integration upon return. The UT judge held that, as confirmed in medical notes, her return to her home country would result in further withdrawal, to the extent that she would not be able 'to participate in society' (UI-2024-001328).

- In another case assessing healthcare in certain contexts, the UT judge took into account individual factors and concluded that, despite the presence of a functioning healthcare system and the financial means to access it, other factors affect access to support, namely family support and the ability to seek medication (as a country expert report demonstrated, medication was in short supply). This was in light of the applicant's paranoid schizophrenia, the real risk of suicide, which would be intensified by deportation, and the applicant's lack of fitness, to the extent that no airline would accept him. The judge requested further medical evidence, more recent than the report provided, and safeguarding assurances on behalf of the Sri Lankan government, which ought to be sought by SSHD (UI-2022-004812).

iv. Prioritisation of GP records over psychiatrists

- Psychiatrists are widely acknowledged as the professionals qualified to provide a more specialist assessment and diagnosis of mental health conditions and neurodivergence, which general practitioners ('GPs') are not in a position to make. In one case, the UT judge acknowledged this but still prioritised the GP's records. The UT judge reaffirmed the guidance of the Presidential panel decision of HA that it would be 'naïve to discount a possibility' that an applicant could exaggerate or even fabricate symptoms when facing removal. The UT judge further reaffirmed that a GP can paint 'a broader picture' than a psychiatrist because of the interaction with an applicant over a period of time, including the time when a person might not have considered themselves to be at risk of removal. Little weight was given to the psychiatric evaluation by the FtT judge because the psychiatrist took the applicant's information at 'face value.' The FtT judge noted, based on the CPIN Nigeria: Medical Treatment and Health Care (December 2021), that relevant mental health medication was available in Nigeria. The FtT judge also noted that, in Nigerian society, there is **stigma associated with mental health illness and that mental health issues are believed to be caused by evil spirits**, which often results in Nigerians seeking treatment from faith-based healers, 'rather than mental health professionals.' The FtT judge, however, noted that the applicant's cousin is a mental health nurse, which would allow him access to 'modern treatment', and that he has a network of support in Nigeria (UI-2024-000149).

b. Engagement with vulnerable participants

i. Reference to Presidential Guidance[11]

- It is generally accepted that the absence of an explicit reference to the Presidential Guidance or ETBB does not, a priori, constitute a material error of law, provided it does not result in an unfair decision (UI-2023-005645 & UI-2023-005646). In a case where the FtT judge did not refer to the Presidential Guidance or ETBB when assessing an applicant who was a victim of sexual violence, this omission was one of the grounds of appeal. The UT judge found that the grounds raised 'a challenge of form over substance' that the use of guidance could be implicit, and that rehearing would not change the material outcome of the case (UI-2025-001163).

- In other cases, the failure to consult and take into account the Presidential Guidance was held to be a material error of law, and the case was remitted to the FtT, with no findings of fact preserved, for a full rehearing. For example, in one case, the UT judge found that the FtT judge failed to take into account that the applicant was a child when the alleged events in Iraq took place and during the early stages of the asylum process they placed too much weight on, for example, the applicant's inability to recall an officer's rank. The judge at UT noted that negative credibility was inferred by the FtT judge from matters such as the vagueness of the initial account and the applicant's inability to understand adults' actions and intentions. The UT judge noted that children might not know as many details as adults and would not be able to set those details out in interviews. The UT judge ruled that the failure to consider the Presidential Guidance often leads to a material error of law, as in that instance (UI-2025-000293).

- In a different decision, the UT judge found it 'tolerably clear' from the evidence that the applicant was a vulnerable individual, based on evidence of 'significant physical disabilities' and severe mental health concerns, yet the judge at FtT failed to follow the Presidential Guidance. The UT judge found that neither were 'the best practicable conditions' in place for giving evidence, nor was vulnerability taken into account when assessing the credibility of the evidence. This resulted in an error of law finding and a remittal to the FtT (UI-2023-004334).

11. Joint Presidential Guidance Note No 2 of 2010: Child, vulnerable adult and sensitive appellant guidance, https://www.judiciary.uk/guidance-and-resources/joint-fttiac-utiac-presidential-guidance/.

ii. The inconsiderate language used when referring to vulnerable applicants

- In some decisions, outdated or pejorative language was still used by judges, such as:
    - 'prostitution' (UI-2024-005546; UI-2025-001674).
    - 'illegitimate children' when referring to children born outside wedlock or to a single parent, in cases involving nationals of Albania, as referenced in country guidance (UI-2025-001674; UI-2024-001857; UI-2025-003839).

iii. Language interpretation involving children and vulnerable adults

- Interpreters play an important role when working with children, vulnerable adults, and sensitive witnesses. One interpreter recalled being asked to translate for a 13-year-old unaccompanied girl, an asylum seeker and victim-survivor of sexual violence, who asked the interpreter to hold her hand, which is against professional rules for interpreters. The interpreter stayed beyond her paid hours because the girl asked her to, despite the social worker's disapproval. For vulnerable people, interpreters play a role beyond interpretation, as they are sometimes perceived by applicants as closer than social workers because of cultural and linguistic proximity.
- Another interpreter remarked that she had seen people faint during hearings, once due to stress after the applicant had dealt with an unprofessional and fraudulent legal representative.

c. The role of intermediaries and legal representatives when dealing with trauma, vulnerability, and mental health issues

One way to mitigate the complexities of trauma is to involve trained intermediaries, who often have a clinical background in speech therapy or psychotherapy, to support communication and participation. Intermediaries are communication specialists who provide impartial recommendations to HMCTS on an applicant's communication needs.

HMCTS clarifies that intermediaries can be helpful during hearings by advising the parties, notably the judges and HO, on the types of questions that are likely to elicit a good response; the types of questions that should not be asked; when a person might need a break; how long it might take for a person to respond; rephrasing a question so a person understands; and explaining what is happening at a hearing. HMCTS provides guidance on requesting intermediary support for both unrepresented and legally represented applicants.[12]

Intermediaries act as interpreters, not of foreign languages or dialects, but of the process, trauma, and vulnerability. They are crucial for enabling participation and access to justice, especially in immigration and asylum, as argued by the interviewed intermediary:

> "The level of trauma is so high, either because of what people have come from, or the journey through, or the waiting and the living here in poor conditions.'

12. HMCTS, Guidance: HMCTS intermediary services, 1 April 2022. https://www.gov.uk/guidance/hmcts-intermediary-services.

Intermediaries' role is to help regulate so people can participate, maintaining calm through the clinical skills they possess and through various practices (for example, using visual materials to draw a timeline to help an applicant recollect the chronological course of events), to help them understand what is happening and to anchor them. As the interviewed intermediary contended, there are **many issues that prevent people from talking about mental health and accessing support, including masking and hyper-masking, and some people also think that the host country might not want them if they believe an applicant is mentally ill.**

The interviewed intermediary described asking the HO to provide questions for interviews and cross-examination in advance, sometimes involving 'ping-ponging' back and forth (at times, as often as 6 times) to avoid triggering questions and to structure them appropriately. For vulnerable people, continuity is important, and intermediaries sometimes request, where possible, that the same HO presenting officer remain throughout the duration of their case. Some of the good practices recently included taking an assistance dog to Taylor House where FtT is located, allowing time for an intermediary and interpreter to get acquainted and learn about ways of working before a hearing, avoiding cognitive overload for vulnerable participants (with a preference for direct and concise communication), and asking judges to simplify the language. On a few occasions, judges asked the intermediaries what would be appropriate to say during the opening. The interviewed intermediary responded that the judge could tell a person that they are 'safe in that room and nothing bad is going to happen to them,' as safety and trust are key to effective participation.

The intermediaries often have to navigate complex situations, given HO's reluctance to engage with them. The intermediary argued that **'exploiting someone's vulnerability is against any code of ethics'**. On one occasion, the interviewed intermediary had to step in when the HO presenting officer cried during a hearing, which made the intermediary realise that HO presenting officers are also 'under strain' and lack training on vulnerability. The interviewed intermediary offered to conduct training for HO, but this did not lead anywhere. The intermediary argued that HO is 'paper-led' and untrained in working with vulnerability, and that they get lost when asked, for example, not to cross-reference bundles because an applicant might lack the capacity to engage. The intermediary argued that many HO presenting officers suffer from vicarious trauma, and some acknowledge that their job is stressful, with no proper support provided. Lack of knowledge and supervision when dealing with trauma is one of the major issues for HO.

Like intermediaries, though in a different capacity, experienced and attentive legal representatives have observed that recurring phrases may point to mental health concerns, even when they do not neatly fit established medical categories. As noted by a legal representative interviewed, an applicant used phrases such as 'tired and exhausted' or 'my head is getting hot,' which, after sustained engagement, indicated that the applicant experienced anxiety, depression, and complex trauma, without using any clinical terms to refer to a diagnosis. More experienced legal representatives are accustomed to asking applicants in a 'medicalised' way for tangible examples, such as how they sleep, eat, have nightmares, whether they ever faint or feel dizzy, or how the appointment went. Often applicants would respond that during the appointment they felt 'sad', 'had a headache', or 'couldn't concentrate', but when asked about their mental health directly, they would say that it is 'fine.' There is also the added consideration of **cultural stigma around mental health and prohibitions in many religions against suicide, which result in applicants never mentioning such ideation, attempts, or anything concerning self-harm, even though this is the evidence the system expects to see.**

A legal representative has remarked that the immigration and asylum system does not account for the **specificity of trauma**, with judges applying 'a prescriptive approach' to 'validity of trauma.' The experience for applicants is isolating, as argued by a legal representative, because they do not know 'how the system will relate to them until the day of the hearing, unless there is an option for a pre-hearing conference to ease it up, not enough or hardly any preparatory work is done.' Experiences of trauma are varied, as people can be 'flat in their affect', and a 'person might not necessarily be dysregulated, with their head down, and cry.' The non-uniform way in which people experience trauma is often not accounted for, with judges requesting medical reports and disregarding the fact that trauma affects capacity for memory recall. **The system has been unresponsive to trauma**, with the backlog forcing cases to be pushed through, and as argued by an interviewed legal representative, those who need special considerations are seen as 'slowing down' the process in the short term.

A separate issue that does not receive the consideration it deserves is the vicarious trauma experienced by those involved in the process. **Vicarious trauma is a condition suffered (but not always acknowledged) by those who witness or are bystanders to the recollection or occurrence of traumatic events, even when they do not happen directly to them**, and they are **not considered to be victims**. Interpreters perform a complex task of verbatim translation and processing, often repeatedly handling highly traumatic first-person content ('I went', 'I did', 'this happened to me'). Legal representatives are often mentally and physically exhausted and suffer from vicarious trauma because of the nature of the system, which often burdens under-resourced and overworked legal representatives. An interviewee argued that:

> "The system traumatises not only the client but their representatives; it chews people and spits them out, particularly those with an activist-lawyer mindset; it feels as if the system does so intentionally.'

The challenge is exacerbated for unrepresented appellants, who need to obtain evidence of their mental health issues or vulnerability; navigate the complex system, where mental health and vulnerability may affect their ability to engage effectively; and advocate for themselves (e.g. to be treated as a vulnerable witness) or obtain an intermediary (a practice that is still not widely known among legal representatives).

Recommendations:

1. **Recognise the importance of context and social factors, including culture, in shaping mental state and well-being, and the way people perceive and talk about them.**
   [HO, MoJ, Judicial College, HMCTS]

   Conduct training on socio-culturally sensitive approaches to trauma, mental health, and neuro-awareness that recognise that:

   - a person may be reluctant to make it explicit that they have experienced mental health issues;
   - a lack of cultural understanding and awareness among parties can result in a failure to safeguard against vulnerability arising from mental health issues.

2. **Recognise that trauma can be experienced in ways that are not acknowledged by a person; it doesn't work in a linear way.**
   [HO, MoJ, Judicial College, HMCTS]

   Conduct training on socio-culturally sensitive approaches to trauma, mental health, and neuro-awareness that recognise that:

   - the realisation and acknowledgement of trauma can be delayed, relapses are frequent, and trauma doesn't necessarily arise at the moment of recollection.

3. **Judges should consult Presidential Guidance when dealing with children, vulnerable adults and sensitive witnesses, and should reference it in the decision.**
   [HO, MoJ, Judicial College, HMCTS]

   Conduct refresher training for HO staff and judges on the following:

   - It has been reaffirmed by judges and in guidance that failing to consult Presidential Guidance would likely constitute a material error of law, particularly when it materially alters the outcome of the case (e.g., by shifting the balance in credibility findings).
   - Presidential Guidance also provides for procedural guarantees that enable more considerate conditions for participation.

4. **Reaffirm that it should not be expected that children will understand or explain adults' actions and intentions.**
   [HO, MoJ, Judicial College, HMCTS]

   Conduct training of judges and HO staff that reaffirms:

   - The Presidential Guidance states that children do not recall events in the same way as adults, particularly in the level of detail and the way they are questioned during interviews.

5. **Raise awareness among lawyers and litigants-in-person about intermediary services.**
   [HO, MoJ, Judicial College, HMCTS]

   Provide guidance for HO, judges, and HMCTS staff, and ensure accessible communication through existing channels, with clear links on the website that reaffirm that:

   - intermediary services could significantly help the applicant communicate and engage with the process.

6. **Provide support and training for vicarious trauma, including training in trauma-informed and neuro-informed approaches for those working in the system.**
   [HO, MoJ, Judicial College, HMCTS]

   Provide support services for HO staff and judges; provide training on vicarious trauma.

7. **Raise awareness and understanding of mental health and trauma.**
   [HO, MoJ, Judicial College, HMCTS]

   Provide regular training to HO staff and judges from mental health professionals on the following:

   - Recognising how trauma affects communication and participation and recognising that inconsistencies in recall and memory are not always a sign of dishonesty.

8. **Raise awareness and understanding of the social stigma surrounding mental health and its effect on the deterioration of existing mental health conditions. Recognise that people who have experienced extreme trauma (for example, being a victim/survivor of slavery) should be presumed to have experienced trauma and mental health issues if they claim to have done so, even in the absence of an official diagnosis.**
   [HO, MoJ, Judicial College, HMCTS]

   Provide regular training to HO staff and judges by mental health professionals. Provide a guidance note to HO staff with explicit recognition.

9. **A distinction should be made between the availability of treatment for mental health issues and the possibility of engaging with it when assessing the conditions in the country of origin.**
   [HO, MoJ, Judicial College, HMCTS]

   Provide a guidance note to HO staff and update ETBB.

5. Conclusion

This report examined how issues of family and private life, LGBTQ+, mental health, trauma, and vulnerability were addressed in Upper Tribunal decisions, hearing observations, and interviews with legal representatives, registered interpreters, and an intermediary.

For family and private life, the following issues were observed: rigid expectations about the evidence required to prove 'family ties' or private life; hierarchical categorisation of family life; and expectations regarding evidence that is impossible to produce due to cultural or practical reasons.

For LGBTQ+ cases, it was observed that decision-makers place considerable weight on delays in claiming asylum when assessing credibility, even when such delays were caused by a lack of legal representation; fear or stigma around disclosure; homogenising expectations around coming out, emotionality, and openness; a lack of general understanding of what constitutes sexuality; and outdated or prejudiced language.

For mental health, trauma and vulnerability, the decision-makers often resorted to a linear understanding of trauma that does not account for relapses; required an official diagnosis even in cases where an applicant was a recognised victim of grave abuse and mistreatment; failed to differentiate between the availability of treatment and the possibility of engaging with it; prioritised certain forms of diagnosis of mental health issues and were inflexible when it came to diverse ways of evidencing it; failed to engage with the Presidential Guidance Note No 2 of 2010: Child, vulnerable adult and sensitive appellant; used inconsiderate language when referring to vulnerable applicants; and failed to consider the varied nature of trauma and to provide support for vicarious trauma.

The findings showed that misunderstandings or Western-centric assumptions about what constitutes family and private life, LGBTQ+ identity, and mental health and trauma increase the likelihood of undermining the credibility of findings, can result in material errors of law, can increase the risk of failing to safeguard and provide procedural guarantees, and can increase the likelihood of avoidable appeals.

Building on existing good practice and the achievements of the modern tribunal system, which aims to centre the needs of users, is the way forward to consistently embed culturally and linguistically sensitive practices across decision-making and procedural support in tribunals. Measures such as training, operational guidance, and improved quality of evidence can support judges, applicants, and all those involved. This will increase the likelihood of consistent decision-making, make the process more efficient, reduce the number of appeals in the longer term, and strengthen procedural justice and access to justice for applicants.

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