Immigration and Asylum Bill Joint Briefing
Commons Report Stage & Third Reading – 17 November 2026

16 November 2026

This briefing sets out amendments that have been tabled for Report Stage for Part 1 of the Immigration and Asylum Bill – The Independent Immigration Appeals Authority (IIAA) – which are supported by the following legal and immigration organisations: the Law Society, JUSTICE, Immigration Law Practitioners' Association, Public Law Project, Freedom from Torture, Detention Action, Bail for Immigration Detainees, Helen Bamber Foundation, Asylum Aid, Refugee Council, Anti-Trafficking and Labour Exploitation Unit, and Medical Justice.

Whilst we all have other significant concerns about the Bill, our support for these amendments reflect the shared priorities of civil society organisations in the immigration and legal sector in respect of Part 1.

Part 1 – The Independent Immigration Appeals Body

Independence of the IIAA

We oppose the introduction of a new appeals body. An effective appeals system must not only be structurally independent but command confidence that it is independent in practice. With the Home Office itself a party to the appeal, if the new appeals body is introduced, safeguards are needed to maintain a clear separation between the department making the original decision and the body reviewing it.

It is therefore difficult to see how the Government can reconcile the independence of the new appeals body with the Secretary of State appointing its senior leadership team. Further concerns arise from provisions enabling the Secretary of State to influence the operation of appeals by setting appeal timeframes and requesting that particular cases be expedited.

Processes which seek to deal with cases at speed risk undermining the ability of people, and particularly those who are detained or have experienced torture, modern slavery or other trauma, to effectively assert their rights. Bringing the IIAA under the Constitutional Reform Act 2005 would strengthen the protection of its independence, including a duty on Ministers to uphold its independence and by ensuring the appointment process is overseen by the Judicial Appointments Commission and Senior President of Tribunals.

Supported amendment NC58 – in the name of Max Wilkinson MP

To move the following clause –

IIAA Appointments

In Part 3 of Schedule 14 to the Constitutional Reform Act 2005, at the end of table 2 (Appointments by the Senior President of Tribunals insert–

Non-executive member of the IIAA	Section 2 of the Immigration and Asylum Act 2026
Executive member of the IIAA	Section 2 of the Immigration and Asylum Act 2026

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Consequential amendments 44, 46, 47, 51, 52, 53 and 54 in the name of Max Wilkinson MP

Member's explanatory statement:
This new clause is consequential on Amendments 44 to 50 and would include the executive and non-executive members of the IIAA in the list of appointments made by the Senior President of Tribunals in the Constitutional Reform Act 2005.

Entrenching an overriding objective for the IIAA

The IIAA Procedure Rules Board, which is to establish the detail of IIAA procedure rules, need only have "regard to the *desirability* of securing the objectives set out", not ensure these are secured. The objectives listed include only an aim to be fair and independent, but the IIAA must have regard to the public interest.

By contrast, the current First tier Tribunal (Immigration and Asylum Chamber) overriding objective is that it "***must*** *deal with cases fairly and justly"* (emphasis added). The below amendments would maintain this much stronger overriding objective for the new appeal body.

Supported amendments – 48 and 49 in the name of Max Wilkinson MP

New overriding objective for the IIAA

Clause 1, page 2, line 1, leave out from "must" to the end of line 5 and insert "deal with cases fairly and justly, including by - (a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties and of the Tribunal,

(b) avoiding unnecessary formality and seeking flexibility in the proceedings,

(c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings,

(d) using any special expertise of the IIAA effectively, and

(e) avoiding delay, so far as compatible with proper consideration of the issues."

Member's explanatory statement:

This amendment would apply the overriding objective of the Immigration and Asylum Tribunal to the IIAA

Clause 4, page 4, line 25, leave out "have regard to the desirability of" with "exercise its power with a view to"

Member's explanatory statement:

This amendment would make the requirements relating to the IIAA Procedure Board equivalent to those of the Tribunal Procedure Committee when exercising its power to make rules.

Ensuring all adjudicators are legally qualified

IIAA adjudicators will not be required, save for senior adjudicators, to be legally qualified. Immigration case law and policy is complex. Appeals are not straightforward reviews. They regularly require adjudicators to interpret complex and fast-changing legislation and case law, apply refugee and human rights law, assess whether volumes of Home Office policy and guidance has been applied correctly, identify procedural unfairness and evaluate complex medical, country and expert evidence. These are inherently legal judgments.

Adjudicators may also need to judge difficult findings about credibility, the treatment of vulnerable witnesses, the best interests of children and the proportionality of interfering with family and private life.

If adjudicators are not legally qualified, and neither Home Office decisionmakers nor Home Office representatives are required to be legally qualified, combined with the lack of legal representation for appellants, there is a serious risk that errors of law will not be identified or corrected, undermining the legality, consistency, efficiency and fairness of outcomes.

The below amendment requires adjudicators to have at least five years' qualifying legal experience to ensure they are equipped to analyse the highly sensitive and legal nature of immigration appeals. This matches the minimum number of years' experience needed to become a judge in the First-tier Tribunal.

Supported amendments – 55 and 66 in the name of John McDonnell MP

Legal qualification of adjudicators

- Clause 2, page 3, line 11 leave out subsection (9) and insert -

"(9) A person may not be appointed as an IIAA adjudicator unless the person satisfies the judicial-appointment eligibility condition on a five-year basis within the meaning of section 50 of the Tribunals, Courts and Enforcement Act 2007."

Member's explanatory statement:

This amendment would require every IIAA adjudicator to hold a relevant legal qualification and have at least five years of qualifying legal experience.

- Clause 2, page 3, line 20, leave out paragraph (b)

Member's explanatory statement

This amendment would require all adjudicators and senior adjudicators deciding appeals for the IIAA to have the necessary legal qualifications or experience.

Removing the ouster clause

Ouster clauses risk undermining the rule of law by removing an important check on state power. Judicial review (JR) is a remedy of last resort only available where there is no alternative. It is not a hindrance to efficiency and ensures that public bodies can be held accountable when they act unlawfully.

Clause 1(8) operates as an ouster clause, preventing external judicial scrutiny of certain IIAA decisions. Clause 7(3) retains the Cart JR ouster, meaning that an applicant cannot challenge, by way of judicial review, a decision made by the Upper Tribunal to refuse permission to appeal, except on very limited grounds. This is of particular concern given permission to appeal will now only be able to be sought once (likely on paper) to the Upper Tribunal.

Although the Government have now conceded that some IIAA decisions will be able to be challenged by judicial review (see Government amendment 3), those decisions (including preliminary decisions and IIAA review decisions) will not be able to be appealed to the Upper Tribunal (Government amendment 7). Careful consideration should be given to how this will work in practice, to ensure that challenges to IIAA decisions can be made through the appropriate route and an appellant need not pursue both an appeal and a judicial review simultaneously.

Supported amendment 59 – in the name of John McDonnell MP

Removal of ouster clause

Clause 1, page 2, line 12 leave out "only" and insert "including"

Member's explanatory statement:

This amendment ensures that judicial review proceedings can be pursued against decisions of the IIAA.

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