



CHIEF EXAMINER REPORT

JANUARY 2026

LEVEL 6 UNIT 8 – IMMIGRATION LAW

The purpose of the report is to provide candidates and training providers with guidance as to the key points candidates should have included in their answers to the January 2026 examinations.

The 'suggested points for responses' set out points that a good (merit/distinction) candidate would have made.

Candidates will have received credit, where applicable, for other points not addressed.

Chief Examiner Overview

Only 2 candidates sat the paper in this session. Data is too limited for trends and general observations.

Candidate Performance and Suggested Points for Responses

It is noted that the low numbers of candidates taking the Level 6 exams limits the scope for constructive feedback to be given and for firm conclusions to be reached. Therefore, feedback on candidate performance may be limited.

Section A

Question 1	25 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• Discussion of deprivation of citizenship under s.40(2) and s.40(3) BNA 1981. • Grounds: • Conducive to the public good and would not become stateless as a result of the deprivation (section 40(2)). • The person acquired citizenship as a result of registration or naturalisation that was obtained by means of fraud, false representation or the concealment of a material fact (section 40(3)). • The person acquired citizenship as a result of registration or naturalisation that was obtained by means of fraud, false representation or the concealment of a material fact before 1 January 1983 (section 40(6)) • Discussion of deprivation test in <i>Chaudhury</i> [2025] EWCA Civ 16: • Identify whether been fraud, false representation or concealment of a material fact. • Review on public law grounds whether citizenship obtained by impermissible means. • Review on public law grounds Secretary of State's exercise of discretion. • Consider whether Secretary of State breached other relevant legal obligations including human rights considerations. • Definition of material dishonesty and failure to disclose information in current/previous applications/dealings with immigration authorities. • Discussion of nullification of a grant of citizenship • Discussion of renouncement of citizenship under s.12 BNA 1981 • Discussion of changes to deprivation of nationality after implementation of Nationality and Borders Act 2022. • Discussion of remedies • Discussion of relevant caselaw including caselaw related to both deprivation on national security grounds and on the grounds of committing serious crimes.	

Question 2	25 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• Discussion of the Refugee Qualification Regulations, paragraph 339C immigration rules and other relevant legal provisions • Exclusion from HP under paragraph 339D immigration rules • Features of a grant of HP (including family reunion under paragraphs 352 FA and 352FG immigration rules) and international travel considerations (including circumstances in which a CoT will be issued by the SSHD) • Reference to relevant caselaw • Students may compare/contrast humanitarian protection to refugee status – very similar grant of leave now. • Refugee status more difficult to achieve as requires a Refugee Convention reason to be shown – humanitarian protection following breach of Article 3 ECHR requires serious harm for any reason – e.g detention in inhuman prison conditions despite detention for a criminal offence. • Relevant caselaw may include: <i>Elgafaji</i> [2009] EUECJ C-465/07, <i>QD (Iraq) v SSHD</i> [2009] EWCA Civ 620, <i>GS (Article 15(c): indiscriminate violence) Afghanistan CG</i> [2009] UKAIT 44, <i>HM and others (Article 15(c)) Iraq CG</i> [2010] UKUT 331 (IAC). <i>Elashmawy v Court of Brescia, Italy & Ors</i> [2015] EWHC 28	

Question 3	25 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• Critical evaluation of the provision of a minimum income requirement (MIR) for UK partners wishing to sponsor their non-UK national partner to settle in the UK. • Originally the MIR was introduced in 2012 at £18,600 for the partner in the UK, significantly rising from the previous requirement of income support level (around £6000 per annum at the time) and greater than the minimum wage at the time of circa £13 000 per annum. • MIR now £29,000 per annum (implemented in April 2024). • Consideration of significant amount of savings required as an alternative - based on a minimum savings of £16,000 plus 2.5 times the difference between the sponsor's wage and the MIR. • Similar controversies can be applied to current MIR as those originally levied at the implementation of an MIR. Some or all of the following criticisms of the MIR should be included: • The provisions have been criticised for various reasons including: ○ Causing hardship to a significant number of applicants deprived of their right to respect for family life with their partner in the UK. ○ Significantly raising the level of support expected where there was no evidence that the previous threshold led to any claim on public funds. ○ The MAC report at the original implementation of the MIR found no evidence to support a higher income requirement. ○ The MIR does not allow for potential earnings of the UK spouse to be accounted for. ○ The MIR does not allow for the use of third-party support to help young couples meet the increased requirement.	

- Regional variations in wages are not accounted for (easier to meet on a London wage for e.g.).
- Discriminatory impact on particular groups.
- No consideration of the best interests of the child in the assessment.
- Basing assessment on economic issues only not wider legal, social and moral issues.
- Reverse means test excluding the needy.
- Keeps families separated rather than encouraging integration – narrow economic focus taken to integration.
- Thus, arguments relating to the previous MIR and the new MIR will be relevant in critically evaluating the provision.

Question 4(a)	15 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• Appeal to First-tier Tribunal; Upper Tribunal; Court of Appeal; Supreme Court; ECtHR; also, the parallel processes relating to the European Court of Justice and judicial review, including the exercise of any right to administrative review. • The First-tier Tribunal hears decisions to refuse asylum, refusals of entry clearance and leave to enter the UK and decisions to deport a person from the UK. • Section 92 NIAA 2002 on avenues of appeal (as inserted by Immigration Act 2014). Rights and grounds of appeal under s82 and s84 NIAA 2002 (as amended by s15 Immigration Act 2014). • Rights of appeal in s82 NIAA 2002 limited to breach of Refugee Convention, breach of human rights obligations where entitled to humanitarian protection and where unlawful under s6 HRA. Revocation of protection status can also be appealed where the person is eligible to humanitarian protection. • Grounds of Appeal - s 84 NIAA 2002 (as amended by IA 2014): ○ Removal will breach the UK's obligations under the Refugee Convention (s84(1)(a); ○ Removal would breach the UK's obligations in relation to persons eligible for humanitarian protection (s84(1)(b)); ○ Removal would breach the UK's obligations under s6 Human Rights Act 1998 (s84 (1)(c)). • Other decisions are not appealable. • Time limits for appealing in country decisions – 14 calendar days from date of decision • Time limit for appealing out of country decisions – 28 calendar days from date of decision. • Appeal asylum decision on HMCT's website – new process.	

Question 4(b)	10 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• Upper Tribunal Procedure Rules 2008 Pre-action protocol for Judicial Review. • Online appeals procedure – Form IAF 4 requesting permission from FTT to appeal. • If do not succeed – request permission from Upper Tribunal to appeal on IAF 5. • This must be done within 14 days after the date on which the party making the application was provided with written reasons of the decision if the appellant is in the UK (will be in most asylum cases). • If applicant is outside the UK appeal must be received no later than 28 days after the date on which the party making the application was provided with written reasons of the decision. • Appeal must be on a point of law and the application must: ○ Identify the decision of the Tribunal to which it relates. ○ Identify the alleged error or errors of law in the decision; and ○ State the result being sought. ○ Include any application for an extension of time and the reasons why such an extension should be given. • If permission is refused by the First-tier Tribunal the appellant can make an application to the Upper Tribunal for leave to appeal on an IAF 1. The time limits are set out in rule 21 of the Upper Tribunal Procedural Rules 2008 (as amended): ○ 14 days after the date on which notice of the First-tier Tribunal’s refusal of permission was sent to the appellant; or ○ if the case is a fast-track case, four working days after the date on which notice of the First-tier Tribunal’s refusal of permission was sent to the appellant. • If leave is not granted an application can be made to the Court of Appeal for leave to appeal. • Alternatively, if both the IAC and the Upper Tribunal refuse permission to appeal, that decision can be judicially reviewed on limited grounds, namely: ○ The proposed appeal would raise some important points of principle or practice; <u>or</u> ○ There is some other compelling reason for the court to hear the appeal (<i>R (Cart) v The Upper Tribunal</i> [2011] UKSC 28) At each stage in an asylum claim, the Home Office has the same rights of appeal against the decision, i.e. they can appeal an allowed appeal where an asylum seeker can appeal a dismissed one.	

Section B

Question 1	25 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
Eva • Visitor defined in Appendix V - Visitor, as 'a person who is coming to the UK, usually for up to six months, for a temporary purpose.' - Will come under the standard visit category in V 1.5. • Needs to satisfy V 4.2 - 'genuine intention to visit'. • Prove: • Will leave UK at the end of visit/ not live in UK for extended periods through frequent or successive visits, or make UK main home – on facts temporary period – three months only. • Is genuinely seeking entry for a purpose that is permitted by the visitor routes – includes: • Applicant must satisfy the decision maker that they are a genuine visitor, namely leave after visit, not use extended visits to make UK main home, genuine purpose. • Must have sufficient funds to cover all reasonable costs in relation to their visit without working or accessing public funds. Includes: ○ cost of the return or onward journey, ○ any costs relating to dependants, and ○ the cost of planned activities such as private medical treatment. • Eva - PA 14.1 rules – an artist, entertainer or musician can enter as an artist, entertainer, or musician who may: ○ (a) give performances as an individual or as part of a group; ○ (b) take part in competitions or auditions; ○ (c) make personal appearances and take part in promotional activities; ○ (d) take part in one or more cultural events or festivals on the list of permit free festivals in Appendix 5 (where payment is permitted). • Will not undertake any prohibited activities set out in V 4.5 – V 4.10; – No intention to work/study/marry/ access medical treatment. • Has sufficient funds to cover all reasonable costs in relation to his visit without working or accessing public funds. This includes the cost of the return journey. – has £3500 in savings • If successful will be granted a maximum of 6 months leave to enter and must return at the end of the visit. Rose • Must satisfy the decision maker that they are a genuine visitor, namely: • (a) will leave the UK at the end of visit; and • (b) will not live in the UK for extended periods through frequent or successive visits, or make the UK their main home; and • (c) is genuinely seeking entry for a purpose that is permitted by the visitor routes (these are listed in Appendices 3, 4 and 5); and • (d) will not undertake any prohibited activities set out in V 4.5 – V 4.10; (work, study, medical, marriage etc. not permitted on this route). • (e) has sufficient funds to cover all reasonable costs in relation to their visit without working or accessing public funds. Includes: ○ cost of the return or onward journey, ○ any costs relating to dependants, and ○ the cost of planned activities such as private medical treatment.	

Question 2(a)	13 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• Discussion of Global Business Mobility route – senior or specialist worker for the employees from abroad. • Staff need to be established employees of a multi- national company – have worked there for 12 months or more - therefore need to ascertain from Ravi which employees would fulfil this requirement. • Discussion of points required and distribution: • 60 points for attributes - ○ 20 sponsorship – valid certificate of sponsorship. ○ Genuineness test will be applied to check reasonable grounds job exists, is not a sham, has not been created so applicant can stay in UK. ○ 20 points – Job at appropriate Skill Level. ○ Meet skill level in skilled occupation Codes (SOC codes). ○ Will depend on level of workers and titles. ○ Need ATAS certificate if ATAS requirement applies. ○ Genuineness test also applied to skill level - SNR 6.2. Applicant will not meet the job skill level requirement if reasonable grounds to believe the sponsor has chosen a less appropriate occupation code for any of the following reasons: (a) the most appropriate occupation code is not eligible under the Global business mobility routes; or (b) the most appropriate occupation code has a higher going rate than the proposed salary. • <u>20 points – salary level</u> - Would also need to establish how much the staff are to be paid – senior and specialist workers require £52,500 minimum salary. • Also need to meet maintenance requirement of £1270 in bank for 28 days before application.	

Question 2(b)	12 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• Discussion of entry under skilled worker route. • Needs to be sponsored for this route so hospital will need sponsor licence and to comply with requirements for skilled worker sponsors. • Allocation of points for sponsorship (SW 5.1-5.7) -20 points. • Appropriate skill level (SW 6.1-6.5) - 20 points. • English language skills (SW 7.1-7.3) 10 points. • 20 tradeable points also required. • Achieved by salary at appropriate level – is above minimum (£41,700) and SOC code so satisfies. • Granted leave until to 14 days after end date of his certificate of sponsorship (which may be up to a maximum of 5 years after the start date of their certificate of sponsorship) with conditions not to have recourse to public funds, working in the proposed job etc. • After continuous period of 5 years in UK Imran can apply for settlement (ILR) on a SET (O) form.	

Question 3(a)	20 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
- Burden and standard of proof in asylum cases noting the changes under the Nationality and Borders Act to introduce two stages with different standards of proof in assessing whether can qualify as a refugee. Balance of probabilities/real risk – s.32 NABA. - Discussion of the definition of a refugee at Article 1A of the Refugee Convention and application to the facts with reference to relevant caselaw and sections of NABA: - Well-founded fear (s.32) - Persecution (s.31) - Convention reason (s.33) - Unable/unwilling to avail themselves of protection - Internal relocation (s.35) - Discussion of credibility with reference to statutory provisions and caselaw. - Discussion of evidence that will assist to establish risk on return (including objective evidence). - Reference to relevant statutory provisions, immigration rules and cases including NBA 2022 and provisions in sections 31-35. - Discussion of past treatment amounting to persecution and application of s31 NBA and <i>Shah v Islam</i>. - Particular reference to cases dealing with sexual violence. - Discussion of Taliban acting as state agents in persecution and lack of state protection in country – apply s 34 NBA 2022 and <i>Svasas</i>. - Discussion of political opinion convention reasons and application to facts, - Discussion of women as a particular social group and how this may be applied to the current circumstances due to the social inferior position of women in the society – apply <i>Shah and Islam</i> [1999]. - Internal relocation raised – discussion of viability and unduly harsh test.	

Question 3(b)	5 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
- Discussion of Article 3 ECHR past and future breaches - inhuman/degrading treatment/ torture – rape beatings etc. - Definitions of torture, inhuman treatment and degrading treatment and application to the facts. - Prison conditions on return inhuman and degrading as detailed in country reports. - Lower standard of proof – real risk of treatment contrary to Article 3 applies to whole human rights claim.	

Question 4	25 marks
Data too limited for valid feedback.	
Suggested Points for Response:	
• Discussion of sch. 2 and sch. 3 Immigration Act 1971. • Possible illegal entrant under s33 Immigration Act 1971. • Easier to show breach of conditions of leave and overstayer. • Facts indicated overstayed spouse leave and claimed benefits contrary to no recourse to public funds condition of leave. • Administrative removal under s.10 Immigration and Asylum Act 1999 and no right of appeal against decision to remove. • Application of section 117B Nationality Immigration and Asylum Act 2002 – public interest does not require removal where: • (a) the person has a genuine and subsisting parental relationship with a qualifying child, and • (b) it would not be reasonable to expect the child to leave the United Kingdom. Qualifying child in section 117 D (1): • (a) is a British citizen, <u>or</u> • (b) has lived in the United Kingdom for a continuous period of seven years or more • Charlotte a qualifying child as a British citizen. • Section 55 Borders and Immigration Act – best interests of the child in immigration decision making. • Need to determine reasonableness and whether child could live elsewhere – in this case would sever relationship between parent and child. • Need to balance the best interests of the child with the breaches of immigration law and determine whether removal is a proportionate response – see <i>Zoumbas</i> [2013] UKSC 74.	