

Respondent's notice

For office use only

Date received

Date issued

Appeal case no.

Full name of person to whom the proceedings relate
(this is the person who lacks, or is alleged to lack, capacity)

SEAL

Please read first

- You must file this respondent's notice if you are served with a COP35 appellant's notice and you wish to:
 - appeal on different grounds against the same order; or
 - ask the court to uphold the order of the first instance judge for reasons different from, or additional to, those given by the first instance judge.
- You do not need to file a respondent's notice if you:
 - agree with the original order and reasons given by the first instance judge; or
 - agree with the appellant and support the appeal.
- The first person to appeal against any decision of the court is called the appellant. Any other party to the appeal is a respondent.
- You must file your respondent's notice:
 - within the time limit set by the first instance judge; or
 - where the first instance judge has set no time limit, within 21 days beginning with the date you were served with:
 - the appellant's notice, where permission to appeal has been given or is not required; or
 - notification that permission has been granted; or
 - notification that the application for permission and the appeal are to be heard together.
- You may need to pay for any costs you incur during proceedings. If the court considers that you have acted unreasonably you can be ordered to pay the costs incurred by other parties.
- Please continue on a separate sheet of paper if you need more space to answer a question. Write the appeal case number, your name, the name of the person to whom the application relates, and the number of the question you are answering on each separate sheet.
- There are additional guidance notes at the end of this form.
- If you need help completing this form please check the website, www.justice.gov.uk or www.direct.gov.uk, for further guidance or information, or contact Court Enquiry Service on 0300 456 4600 or email courtprotectionenquiries@hmcts.gsi.gov.uk
- Court of Protection staff cannot give legal advice. If you need legal advice please contact a solicitor.

Section 1 – Details of the case being appealed

1.1 Case number

Section 2 – Your details (the respondent)

2.1 Mr. Mrs. Miss Ms. Other _____

First name

Middle name

Last name

2.2 Address
(including
postcode)

Telephone no.

Daytime	
Evening	
Mobile	

E-mail address

2.3 Is a solicitor representing you? Yes No

If Yes, please give the solicitor's details.

Name

Address
(including
postcode)

Telephone no.

Fax no.

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DX no.

E-mail address

2.4 To which address should all official documentation be sent?

- Your address
- Solicitor's address
- Other address (please provide details)

Section 3 – Application for permission to make a different appeal

If you wish only to ask that the appeal judge upholds the judgment or order of the first instance judge you do not require permission - please go to section 4.

3.1 Do you need permission from the court to appeal? **(see note 1)**

- Yes
- No, I am appealing an order for committal to prison

3.2 If Yes, has permission to appeal been granted?

- Yes
- No, I now seek permission to appeal

Section 4 – Details of response to appeal

4.1 Nature of decision you wish to appeal **(see note 2)**

- Case management decision
- Grant or refusal of an interim application
- Final decision
- Other (please give details)

4.2 What are you asking the appeal judge to do? (see note 3)

4.3 If you are asking the appeal judge to affirm, set aside or vary part of the order please specify which part.

4.4 If you are asking the appeal judge to uphold an order on different or additional grounds please specify those grounds.

Section 5 – Grounds for response to an appeal and skeleton argument

5.1 Please set out your grounds for appeal. (see note 4)

5.2 Please use the COP37 skeleton argument form for your arguments in support of your grounds for appeal.

A skeleton argument: (tick only one box)

is filed with this notice; or

will follow within 21 days of filing this notice.

Section 6 – Other applications

Please complete this section if you are asking for orders in addition to the order asked for in section 4.2. If you make other applications with your respondent's notice the court can either deal with these at any hearing which deals with your application for permission to appeal, or at another separate hearing before the hearing of your appeal.

6.1 Are you applying for a stay of execution of any order against you? Yes No

If Yes, please state why you are applying for a stay of execution.

6.2 Are you applying for an extension of time for filing the respondent's notice? Yes No
(see note 5)

If Yes, please state the reasons for the delay.

6.3 Are you making any other applications to the court? (see note 6) Yes No

If Yes, please state what order you are asking the court to make and state the reasons for your application.

Evidence in support

6.4 Any evidence in support of other applications must be filed with this respondent's notice. If you are attaching any written evidence please use the COP24 witness statement form. Evidence attached

Section 7 – Supporting documents

7.1 To support your appeal you should file all relevant documents listed below with this notice. To show which documents you are filing, please tick the appropriate boxes.

- Two copies of your respondent's notice for the court (i.e. the original and one copy);
- One copy of your skeleton argument;
- A sealed copy of the order being appealed;
- A copy of any order giving or refusing permission to appeal, together with a copy of the judge's reasons for allowing or refusing permission to appeal;
- Any witness statements or affidavits in support of any other applications included in your respondent's notice;
- Any other documents which you reasonably consider necessary to enable the court to reach its decision on the hearing of your application or appeal; and
- Such other documents as the court may direct.

7.2 If you have not been able to obtain any of the documents listed in 7.1 within the time allowed to file the respondent's notice please list the documents in the table and explain why you cannot provide them. You will still need to file the documents with the court. Please give the date you expect to be able to do so.

Title of document	Reason not supplied	Date when it will be supplied

Section 8 – Statement of truth

The statement of truth is to be signed by you, your solicitor or your litigation friend.

*(I believe) (The respondent believes) that the facts stated in this respondent's notice are true.

Signed

*Respondent('s solicitor)('s litigation friend)

Name

Date

**Name
of firm**

**Position or
office held**

* Please delete the options in brackets that do not apply.

Now read note 7 about what you need to do next.

Guidance notes

Note 1

Application for permission to make a different appeal

You do not need permission from the court to appeal if the order you are appealing against is an order for committal to prison.

You do need permission to appeal against any other order. Permission to appeal will be granted only where:

- the court considers that the appeal would have a real prospect of success; or
- there is some other compelling reason why the appeal should be heard.

Note 2

Nature of the decision you want to appeal

Case management decisions include orders relating to:

- the timetable for hearing;
- the filing and exchange of information (of witnesses and experts);
- disclosure of documents; or
- adding a party to proceedings.

A grant or refusal of an interim application might include an injunction to prevent you from doing something or a declaration confirming an action is lawful.

Note 3

What are you asking the appeal judge to do?

You need to explain in section 4.2 what order you are asking the court to make. Please be specific about what you are asking the appeal judge to do. The appeal judge has the power to:

- affirm, set aside or vary any order made by the first instance judge;
- refer any claim or issue to that judge for determination;
- order a new hearing; or
- make a costs order.

Note 4

Grounds for response to appeal

Your response to an appeal must be based on relevant grounds. This applies if you wish to appeal the order, or if you wish the appeal judge to uphold the order on different or additional grounds. An appeal judge will only allow an appeal against a decision that is either wrong or unjust because of a serious procedural or other irregularity in the proceedings before the first instance judge.

Please set out briefly your grounds for appeal or for seeking to uphold the order. Remember that you must not include any grounds for appeal or for upholding the order that rely on new evidence (that is evidence that has become available since the order was made). You may not produce new evidence in your appeal unless the court allows you to do so (see section 6).

Note 5

Extension of time for filing the respondent's notice

Where the time for filing your respondent's notice has expired, you need to file this notice and include an application for an extension of time. You need to state the reason(s) for the delay and the steps you have taken in attempting to avoid the delay.

Note 6

Other applications

If you wish to produce new evidence in your appeal you need to apply to the court to do so. You need to tell the court why the evidence was not available to the first instance judge and explain why you think it is necessary for the appeal.

Note 7**What you need to do next**

Please return the respondent's notice and supporting documents to:

Court of Protection
PO Box 70185
First Avenue House
42-49 High Holborn
London WC1A 9JA

DX 160013 Kingsway 7

If your skeleton argument will follow your respondent's notice, it must be filed within 21 days of the respondent's notice.

Any supporting documents that you cannot obtain in time to file with your respondent's notice must be filed with the court in such time as the court may direct, and in any case as soon as possible.

Note 8**What happens next?****If you need permission to appeal**

The court will tell you if permission is granted, refused or if a date has been fixed for a hearing of the application for permission.

If permission is granted, the court will issue your respondent's notice and will return a sealed copy. You will need to serve a copy on the appellant and any other respondents.

If you already have permission, or do not need permission to appeal

The court will issue your respondent's notice and will return a sealed copy. You will need to serve a copy on the appellant and any other respondents.