



## How to Appeal to the Court of Appeal

This Leaflet explains what you need to do in order to comply with Part 52 of the Civil Procedure Rules and the Practice Direction which supplements that Part.

### Things to consider before appealing

**In most cases you will need a judge's permission to appeal** – permission to appeal will only be given if your appeal has a real prospect of succeeding.

**If you decide you want to appeal you must act quickly** – the time within which you must issue your appeal is limited (see page 2).

**You must include with your appellant's notice a separate document marked 'grounds of appeal'.**

This is not the same as submitting a skeleton argument. The grounds of appeal consist of a list of reasons why the lower court decision is wrong or unjust. The skeleton argument is essentially an elaboration on your grounds of appeal in which you explain why your grounds of appeal have merit.

Each ground of appeal must show why the decision of the lower court was wrong or unjust because of a serious procedural or other irregularity in the proceedings in the lower court (CPR 52.11(3)).

Without grounds of appeal, there can be no appellant's notice in any meaningful sense and any papers are likely to be returned.

**You will usually have to pay a fee when you appeal** – there are circumstances in which you may not have to pay a fee, or part of it, for example, if you are receiving certain State benefits. The section headed 'Filing of Appeal Notice' below explains what you should do. The court fee cannot be refunded if you are unsuccessful.

**If you lose your appeal, you may be ordered to pay the other party's costs**, including the costs of their solicitor, if they have one and such costs may be a considerable sum. It may therefore be wise to seek legal advice about the chances of succeeding on an appeal to the Court of Appeal before you proceed with your proposed appeal.

**You will not normally be able to appeal a second time.** Only exceptionally will second appeals be allowed, and only then if the Court of Appeal gives permission. Permission to appeal will only be given if the appeal raises an important point of principle or practice or if there is some other compelling reason for the Court of Appeal to hear it. You may have to pay further substantial fees and costs. Consider carefully whether you wish to pursue your application. You will want to be sure that you will be able to satisfy the tough test which the Court has to apply.

## **When do I need permission to appeal?**

In all civil cases and in family cases in the Court of Appeal, permission to appeal is required for all appeals except:

Appeals against:

- a committal order
- a refusal of habeas corpus
- a secure accommodation order under s.25 Children Act 1989.

If permission to appeal was granted by the lower court, or is not required, an appeal must be made in an appellant's notice.

Where permission to appeal is required and permission was refused or not applied for at the end of the hearing in the lower court, any application for permission to appeal should be made in an appellant's notice.

## **Time limit**

Generally you must file your appellant's notice:

- within the time limit directed by the lower court, or
- if no direction has been given, within 21 days of the date of the decision (not the seal date of the order).

There are, however, different time limits which apply in specific cases. Please see Form 207 (Time limits for appealing to the Court of Appeal) for details.

## Completion of appeal notice

Complete the appellant's notice following the notes in the separate leaflet (N161A).

## Bundle of documents

You will need to start preparing your appeal bundle and ordering any transcripts immediately. The leaflet called How to Prepare an Appeal Bundle for the Court of Appeal will tell you how to do this.

## Filing of appeal notice

Make sure you file your appellant's notice at the correct appeal court. The leaflet called **Routes of Appeal** will tell you where to file your appellant's notice. The receipt of your documents by the Civil Appeals Office does not necessarily mean that (a) the court accepts jurisdiction or (b) that they are in order. **It remains your responsibility, and not that of the Civil Appeals Office, to ensure that you file your appellant's notice at the correct appeal court.**

When completed, the appellant's notice and all the documents listed below must be filed within the relevant time limit.

- Two additional copies of the appellant's notice.
- One further copy of the appellant's notice for each of the respondents.
- Two copies of the skeleton argument.
- A sealed copy of the order or tribunal determination being appealed.
- Any order giving or refusing permission to appeal (if applicable), together with a copy of the reasons for that decision.
- Any witness statements or affidavits in support of any application included in the appellant's notice.
- In cases where the decision of the lower court was itself made an appeal, the first order, the reasons given by the judge who made it, and the appellant's notice of appeal against that order.
- In a claim for judicial review or a statutory appeal, the original decision which was the subject of the application to the lower court.
- The approved transcript of judgement (if available).

If the appeal court is the Court of Appeal, you may file your appellant's notice by bringing it with all the documents listed above to the Civil Appeals Office Registry, or by sending it with all the documents listed above.

The address for filing documents with the Civil Appeals Office is:  
Civil Appeals Office Registry Room E307  
3rd Floor East Block Royal Courts of Justice Strand  
London  
WC2A 2LL

The Office is open Monday to Friday, 10.00am to 4.30pm Telephone: 020 7947 7121  
RNID Typetalk: 18001 (text) 18002 (voice)

### **Filing by Post**

If you file your appellant's notice by post, the fee must be in the form of a crossed cheque or Postal Order(s). You are advised not to send cash by post.

### **Filing in Person**

If you come personally to the Royal Courts of Justice to file your appellant's notice the fee must be paid in the Fees Room, Room E01, Ground Floor, East Block, Royal Courts of Justice **before** you file your appellant's notice. Fees can be paid in cash, by bankers' draft, cheque or Postal Order(s). Post-dated cheques will not be accepted. Postal Orders, drafts and/or cheques, as appropriate above, must be made payable to 'HMCTS' and be crossed 'Account Payee' with your name and address and title of the case on the back.

After you have paid the fee you should come to the Civil Appeals Office Registry (Room E307) to file your appellant's notice. The Civil Appeals Office closes at 4.30pm so you should allow time to pay the fee at room, E01, and walk to the Civil Appeals Office on the 3rd floor before it closes, as customers cannot be seen after 4.30pm. If you have any particular needs please contact the office as soon as possible so that arrangements can be made.

### **Help with Court Fees:**

If you are in receipt of benefits and **are not** legally aided, or you can demonstrate severe financial hardship, you may be entitled to remission of the court fees. If you believe that you may be entitled to remission of the court fees please download form EX160A from the website or contact the Civil Appeals Office and you will be sent an application form.

## What will happen when I file my appellant's notice?

The staff in the Civil Appeals Office will check that you are filing your appellant's notice in the correct appeal court. Provided that the appeal court appears to be the Court of Appeal you will be given a reference number and a receipt for the documents you have filed. The additional copies of the appellant's notice for the respondents will be sealed and returned for you to serve on them. See the section headed 'Service' below.

The fact that your notice is accepted does not necessarily signify that (a) the court accepts jurisdiction or (b) that it is in order. **It remains your responsibility, and not that of the Civil Appeals Office, to ensure that any documents comply with the Court's requirements.**

Once your appellants notice has been accepted, you will receive a letter asking for details of all the parties' names and addresses together with their representatives' details where appropriate.

### Service

Unless the court directs otherwise:

- You must serve a sealed copy of your appellant's notice on all respondents as soon as possible and no later than 7 days after filing the appellant's notice.
- The court will send you a certificate of service which you must complete and return to the Civil Appeals Office confirming that you have served the appellant's notice on all the respondents.
- If your appellant's notice includes an application for permission to appeal you should not send copies of your bundle to the respondent. The respondent need not take any action when served with your appellant's notice until notification is given to him that permission to appeal has been given.

### Transcripts at public expense

Where the lower court or the appeal court is satisfied that an unrepresented appellant is in such poor financial circumstances that the cost of a transcript would be an excessive burden and it is necessary in the interests of justice for such a transcript to be obtained, the court may certify that the cost of obtaining the official transcript should be borne at public expense. Whenever possible a request for a transcript at public expense should be made to the lower court when asking for permission to appeal.

Transcripts of evidence or proceedings are not generally needed for an application for permission to appeal. Therefore, transcripts of evidence at public expense are very rarely granted at the permission stage.

If you wish to ask the court for transcripts at public expense and you did not ask the lower court or your request was refused, you should contact the Civil Appeals Office immediately.

## **Dealing with any application for permission to appeal**

If your appellant's notice contains an application for permission to appeal, the bundle and supporting documents will be passed to a judge. Generally, the judge will determine the application on the papers without an oral hearing and if so, you will be sent an order setting out the judge's decision. The judge may, however, direct that the application be determined at an oral hearing. If so, you will be given notice of a hearing date. The judge may direct the respondent to file written submissions or to attend the oral hearing too.

If your application is heard in court you will usually only be allowed 20 minutes to explain to the court why you think permission to appeal should be given.

### **Video Conferencing**

The Court has equipment to enable it to conduct hearings with parties at remote centres such as regional courts. Video conferencing is intended to be used for applications for permission to appeal and other short applications. It is necessary to get the Court's permission to hear a case by video conferencing and parties wishing to do so should contact the Civil Appeals Listing Office at Room E306, Royal Courts of Justice, telephone 020 7947 6195. A full video conferencing protocol setting out the procedures and requirements is available from this address.

### **Permission granted in part**

You should note that a judge may sometimes only give permission to appeal on some issues. You will be told what these are. You cannot raise any issue at the appeal hearing for which permission was expressly refused.

### **Permission refused**

If the judge refuses permission to appeal on the papers or if permission to appeal is refused at an oral hearing, there is no further right of appeal from that decision to any court. The decision is final.

### **Permission granted or not required**

If you have been granted permission to appeal, or permission is not needed, the court will send you notice of the date for the hearing of your appeal or the time period (the 'listing window') during which the appeal is likely to be heard which will tell you what you need to do next.

## Dealing with any other applications you have made

If you made another application in your appellant's notice, for example for an order preventing the other party enforcing the order of the lower court, the court will usually deal with this application at the same time as your application for permission to appeal. If it is dealt with separately, you will be sent a separate order setting out the judge's decision.

## What can the respondent do?

The respondent is usually not required to do anything at the permission stage but is encouraged to file and serve a respondent's statement setting out any reasons why permission should be refused. Exceptionally, the respondent may be directed to file written submissions or attend an oral hearing listed to determine the application for permission to appeal.

**If permission to appeal is granted to the appellant:** A respondent who wishes to ask the appeal court to vary the order of the lower court in any way must appeal, and will require permission to appeal in the same way as an appellant. The respondent does this by filing a **respondent's notice** (N162). A respondent's notice is also required where a respondent wishes the appeal court to uphold (confirm) the decision of the lower court, but for reasons which are different, or additional, to those given by the lower court.

The respondent's notice is almost identical in content to the appellant's notice; similar sorts of documents are required to support the notice. If a respondent's notice is filed, a copy of it and any supporting documents must be served on the appellant within 7 days of the respondent's notice being filed.

The court will normally deal with the respondent's appeal and any other applications at the same time as it considers the appellant's appeal.