



How to Appeal to the Family Division of the High Court

This Leaflet explains what you need to do when filing an appeal to the Family Division of the High Court ('the High Court') in order to comply with Part 30 of the Family Procedure Rules and Practice Direction 30A which supplements that Part.

If you decide you want to appeal you must act quickly – the time within which you must issue your appeal is limited.

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 or there is some other compelling reason for the appeal to be heard. (FPR 30.3)

In considering whether to seek permission to appeal, and in completing the appellant's notice (**FP161**), please remember:

- you must ensure that your appeal lies to the Family Division of the High Court, rather than to another court. Please refer to the leaflet '**Routes of Appeal**' (**FP201**) for guidance. **The acceptance by the Family Division Appeals Office of an appellant's notice does not mean that the High Court accepts jurisdiction in the case.**
- the Family Division Appeals Office staff are unable to offer any assistance in the preparation of your case. If you do not have your own legal representative, assistance may be available from Citizen's Advice or from other legal agencies.
- if you are granted permission to appeal, but your appeal fails, you may be ordered to pay the Respondent's costs. You will be at similar risk if the Court directs that any application is to be heard on notice to the Respondent.

- when submitting the appellant's notice, **you must also provide a copy of the order** you are seeking to appeal. Without this, the Family Division Appeals Office may not be able to accept your appeal.
- depending upon the type of order you seek to appeal against, you only have a limited number of days in which to file your appeal. If you are submitting your appeal beyond the time limit you must complete section 10 of the Appellant's Notice applying for an extension of time. You must explain the delay in section 11 and sign the statement of truth.
- the required bundle of documents should be lodged with the appellant's notice. **DO NOT SUPPLY ADDITIONAL DOCUMENTS UNLESS DIRECTED BY THE COURT.** All documents should be submitted to the Family Division Appeals Office at the address below within the time limits set by the court. The Court will also give directions for how the bundle should be prepared which should be followed.
- **the fee is £215 to commence an appeal or to seek permission to appeal or £50 when making an application within the appeal.** Remember: there are only limited circumstances in which an application to re-open a final determination of an appeal will be granted (see leaflet 'Routes of Appeal' (**FP201**)). Consider before you pay the court fee whether you will be able to satisfy this strict test for the grant of permission.
- For a full list of fees please see leaflets **FP200 – 'Family Proceedings Fees'** and **EX50 – 'Court Fees for the High Court, county court and family court'**.
- If you are returning your appeal by post the fee must be paid in the form of cheque or postal orders made payable to HMCTS which must be endorsed with your name and address and title of the case on the back and be crossed 'Account Payee'.
- If you have little or no savings, are on certain benefits or have a low income, you might be able to get help with your court fee (also known as fee remission). For further information, or to apply for help with fees, you can visit gov.uk/get-help-with-court-fees. If you do not have access to the internet, you will be able to get a paper form (**EX160 – Apply for help with fees**) from court staff at any family court office.

When do I need permission to appeal?

In family cases in the High Court permission to appeal is required for all appeals except appeals against:

- a committal order
- 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 (**FP161**) follow the guidance notes (**FP161A**) to help you complete this form.

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 must be made in an appellant's notice (**FP161**) as above.

Re-Opening a final determination of any Appeals

The Family Division of the High Court will not re-open a final determination of any appeal unless:

- It is necessary to do so to avoid real injustice;
- The circumstances are exceptional and make it appropriate to re-open the appeal; and
- There is no alternative effective remedy. (Rule 30.14 FPR)

You may have to pay further substantial fees and costs. Consider carefully whether you wish your application to proceed. You will want to be sure that you will be able to satisfy the tough test which the Court has to apply.

Time limits

You must file your appellant's notice:

- within the time limit set by the judge whose decision or order you are appealing against; or
- Where that judge has set no time limit, but the appeal is against a case management decision within 7 days after the date of the decision you wish to appeal against was made, (not the seal date of the order); or
- In all other cases where that judge has set no time limit, within 21 days after the date of the decision or order you wish to appeal against was made, (not the seal date of the order).

Bundle of documents

You will need to start preparing your appeal bundle and ordering any transcripts and or judgment immediately.

The court will make directions to tell you how the bundle should be prepared and how it should be filed with the court so it can be used in the proceedings. The same bundle should also be served on each of the respondent(s) in the appeal. The judge will also make directions for when you should serve this on each of the respondent(s).

Failure to comply with directions of the court could lead to your appeal being delayed ('stayed') or dismissed ('struck out').

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, 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.

In the case of a request for an official transcript of evidence or proceedings to be paid for at public expense, the court must also be satisfied that there are reasonable grounds for appeal. Transcripts of evidence 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 need a request a court transcript at public expense there is a form to complete which should be sent to the Family Division Appeals Office with your appellant's notice (**EX105**) which should be filed at the same time to avoid a delay in the proceedings. Please note that if you have successfully applied for help with fees, this does not automatically mean you will be granted a court transcript and/or judgment at public expense.

Failure to provide a copy of the judgment and/or an official transcript of evidence of the proceedings could lead to your appeal being delayed ('stayed') or dismissed ('struck out').

Dealing with any application for permission to appeal

If your appellant's notice contains an application for permission to appeal, the papers will be passed to a judge. The judge may consider your application without you having to attend a hearing. You will be sent an order setting out the judge's decision, or the court may decide to hear your application in court in which case you will be given notice of any hearing.

If your application is heard in court you will usually only be allowed limited time 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 Family Division Appeals Office. 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, without the appeal court's permission. If you wish to ask for the appeal court's permission, you must do so as soon as possible after notification of its decision to give only limited permission. You must, at the same time, let the respondent know what you intend to do. Your application will normally be dealt with at the outset of the appeal hearing unless the court tells you otherwise.

Permission refused

If the judge refuses to grant you permission to appeal without a hearing, you can ask for that decision to be reconsidered at an oral hearing. The hearing may be before the same judge. Your request for an oral hearing must be made to the appeal court within 7 days after the date on which you receive notice of the refusal. You must, at the same time, send a copy of your request to any respondents.

If you do request an oral hearing, the court will send you notice of the date of the hearing. You will usually only be allowed 20 minutes to explain to the court why you think permission to appeal should be given.

If the judge refuses to grant you permission to appeal at an oral hearing there is no further right of appeal from that decision to any court.

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 other applications in your appellant's notice, for example for an order preventing the other party enforcing the order of the lower court, the court may either deal with these at the same time as your application for permission to appeal, or at another, separate, hearing before the hearing of your appeal. You will be told the time, date and place of any hearings.

The address to which all documents should be sent to is:

The Family Division Appeals Office
Floor 1M
Queen's Building
Royal Courts of Justice
Strand
London
WC2A 2LL

DX 44450 Strand

Email: appeals.familydivision@hmcts.gsi.gov.uk

Phone: 020 7947 7192