



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 to apply for 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.

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 PD 52C para. 5).

Without grounds of appeal, there can be no appellant's notice in any meaningful sense and your appellant's notice cannot be issued.

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 permission to appeal is granted but you lose the substantive 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. 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 being appealed (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 a transcript of judgment 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.

All the documents listed below should be filed within the relevant time limit.

- A fully completed appellant's notice.
- Grounds of appeal on a separate sheet.
- A skeleton argument.
- A sealed copy of the order or tribunal determination being appealed.
- Any order giving or refusing permission to appeal to the Court of 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 original order appealed, a transcript of judgment in relation to the original decision and the appellant's notice appealing the original order.
- In a claim for judicial review or a statutory appeal, a copy of the original decision which was the subject of the application to the lower court.
- The approved transcript of judgment in relation to the decision being appealed (if available).

If any of the above documents are unavailable, you should not delay filing your appellant's notice, but you should explain why a particular document is missing and when you expect to be able to provide it.

If you are unrepresented, you may file your appellant's notice by E-Filing, email or by posting it to the CivilAppeals Office (see Form 206).

Paying the Court Fee

You must pay the Court Fee before your appellant's notice can be issued. See Form 200 for fees and methods of payment.

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 EX160 at: [Apply for help with court and tribunal fees: Form EX160 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/forms/ex160) or email the Civil Appeals Office at civilappeals.registry@justice.gov.uk 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. A sealed copy of the appellant's notice (stamped by the Court) will be sent to you and you should serve a copy of the sealed appellant's notice on each respondent. 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 the appellant's notice and supporting documents are 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.**

Service

Unless the court directs otherwise:

- You must serve a sealed copy of your appellant's notice and grounds of appeal on all respondents (the other parties to the appeal) as soon as possible and no later than 7 days after filing the appellant's notice.
- If you have filed a skeleton argument with your appellant's notice, you should serve a copy of your skeleton argument on the respondents when you serve your appellant's notice.

- If you file your skeleton argument at a later date, you should serve it on the respondents at the same time as you file your skeleton argument in the Civil Appeals Office.
- 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 a copy of your bundle to the respondents. You should, however, serve a copy of your bundle index on the respondents at the same time as lodging the bundle with the court.

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 of Appeal for a transcript at public expense, and you did not ask the lower court or your request was refused, you should include an application in section 10, part C of the appellant's notice.

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.

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 the substantive appeal or the time period (the 'listing window') during which the appeal is likely to be heard. The letter 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 (a stay of execution), 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 judge.

The respondent's notice is almost identical in content to the appellant's notice and 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.