



CONSULTATION BY THE CIVIL PROCEDURE RULE COMMITTEE (CPRC)

PROPOSED AMENDMENT TO CPR 52.12(3)

APPELLANT'S NOTICE

Background

The CPRC is responsible, under the provisions of the Civil Procedure Act 1997 for making rules of court governing the practice and procedure to be followed in the Civil Division of the Court of Appeal, the High Court and the County Court. It is to do so with a view to securing that the system of justice is accessible, fair, and efficient, and to try and make rules that are both simple and simply expressed.

Under section 3 of the 1997 Act, the CPRC is, before making rules, to consult with such persons as they consider appropriate.

The subject of this consultation was first discussed by the CPRC on 4th October 2024 and a public consultation was commissioned at the CPRC meeting on 6th December 2024 (the minutes of which can be read online here <https://www.gov.uk/government/organisations/civil-procedure-rules-committee/about#minutes>).

Overview

A party wishing to appeal against a lower court's decision is required to file an appellant's notice. Rule 52.12(3) provides that:

"Subject to paragraph (4) and unless the appeal court orders otherwise, an appellant's notice must be served on each respondent—
(a) as soon as practicable; and
(b) in any event not later than 7 days,
after it is filed."

Since Part 52 was revised in 2010, there has been no requirement in the rules for an appellant's notice to be sealed. However, it seems that appellants' notices are still routinely sealed before service. It is not clear whether the 2010 amendments were intended to alter that practice. The CPRC has considered two issues:

1. Whether an appellant's notice ought to be sealed before service.

It is important that the rules are clear on the need for a sealed copy to be served, not least because in some circumstances, the time for filing a respondent's notice will run from the date of service of the appellant's notice.

The CPRC's provisional view is that the notice ought to be sealed before service. This would reflect what the committee believe to be current practice and would eliminate the possibility of a respondent being put to cost if an appeal is not formally pursued following service of an unsealed notice.

The recent case of Rana -v- First Tier Tribunal [2024] EWCA Civ 1211 shows the importance of clarity and the potential for difficulties if the notice is not sealed.

2. Whether the time for service of the sealed appellant’s notice is sufficient

If the appellant’s notice is to be sealed before service, the effect of the existing rule 52.12(3)(b) is to place the court under an obligation either to serve it within 7 days of filing or to return it to the appellant in sufficient time for it to be served within 7 days.

Rana is an example of a case in which a delay in sealing an appellant’s notice had repercussions for a party’s attempts to prepare its case. The CPRC considers that the existing rule places unnecessary pressure on court resources.

This Consultation

The CPRC has recommended the approval of an **amendment to rule 52.12(3)**, such that it reads as follows (proposed changes shown in **red** text):

*“Subject to paragraph (4) and unless the appeal court orders otherwise, a **sealed copy of the** appellant’s notice must be served on each respondent—
(a) as soon as practicable; and
(b) in any event **where it is served by the appellant** not later than **14** days, after it is filed.”*

However, before any amendment is approved, the CPRC invites your comments on both the principle and the proposed wording of the amendment.

How to Respond

Please send your responses to CPRCconsultation@justice.gov.uk (in word or PDF format) with the subject heading “Part 52 Consultation”

Deadline for Responses

This consultation will close on 21 February 2025

Questions

If you have any questions regarding this consultation, please use the email address above or email the general enquiries inbox at CPRC@justice.gov.uk

Next Steps

The matter will be programmed in for CPRC consideration following the conclusion of this consultation. You can follow progress by reading the minutes of CPRC meetings here <https://www.gov.uk/government/organisations/civil-procedure-rules-committee/about#minutes>

Data

Data will be handled in line with the CPRC Personal Data Privacy Notice found at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/707892/cprc-privacy-notice-may-2018.pdf

Civil Procedure Rule Committee

January 2025