

Guidance notes on completing the appellant's notice

A free leaflet *I want to appeal* giving information about making an appeal in or to the High Court or a county court is available from any county court or the Clerk of the lists General Office/ Appeals Office at the Royal Courts of Justice, Strand, London WC2A 2LL. The leaflet will also explain the meaning of some of the terms and expressions used in this guidance.

Information is available about making an appeal to the Court of Appeal, from the Civil Appeals Office Registry, Room E307, Royal Courts of Justice, Strand, London WC2A 2LL

- Court staff can help you complete the appellant's notice and tell you about procedure. But they cannot give legal advice, for example, whether you should appeal or whether your appeal will be successful.
- If you need legal advice about bringing your appeal, you should contact a solicitor or a Citizens Advice Bureau immediately.
- If you are legally represented, your solicitor should complete this form on your behalf

Important - time limits for issuing (filing) your appeal.

You have only a limited time in which to file your appellant's notice at the appeal court, so you must act quickly.

The leaflet *I want to appeal* will tell you which is the appropriate appeal court in your case.

You must file your appellant's notice:-

- within the time limit set by the judge whose order you are appealing against; or
- where that judge set no time limit, within **14 days** after the date of the decision you wish to appeal against was made.

General notes on completing the notice

Set out below are notes to help you fill in the form. You should read the notes to each section carefully before you begin to complete that particular section.

Use a separate sheet if you need more space for your answers, marking clearly which section the information refers to. Write the claim or case number on it and attach it securely to the notice.

If you do not have all the documents or information you need for your appeal, you must **not** allow this to delay sending or taking the form to the appeal court within the correct time. Complete the form as fully as possible and provide what documents you have. The notes to Section 11 will explain more about what you have to do in these circumstances.

Section 1

Details of the claim or case

Give the name of the court or tribunal whose order you are appealing against, the number of the case or claim in that court or tribunal, and the full names of all parties. You can take these details from the order or decision you are appealing against.

Indicate, by ticking the appropriate box, which party you were in those proceedings.

Section 2

Your (appellant's) name and address

Give your full name and an address to which all documents relating to the appeal are to be sent. Include contact information, e.g. telephone, and any other reference numbers.

Section 3

Respondent's name and address

Give the respondent's full name, address and contact details. The court will need this information to be able to send correspondence and other papers to the respondent. If the respondent has a solicitor, give the solicitor's address and contact details.

If there is more than one respondent, list their names, addresses and contact details on a separate sheet of paper. Write the claim number on it and attach it securely to your notice.

Tick the appropriate box to let the court know if separate details are attached.

Section 4

Time estimate for the appeal hearing

You do not need to complete this section if your appeal is being made to the Court of Appeal in London.

Please give an estimate of how long you believe it will take you to present your case to the court at the appeal hearing. The court needs this information to assess how much of a judge's time to allow.

Section 5

Details of order you are seeking to appeal

If you have already appealed **unsuccessfully** against the order in a county court or the High Court and wish to appeal that decision (make a second appeal) you should enter details of the first appeal in this section. Your appellant's notice appealing the original order should be included in your bundle of documents (*see notes to section 11*).

If you are appealing only part of an order or tribunal decision, you must write out that part (or parts) of the order in the box provided.

You should give the full title and name of the judge, e.g. 'His Honour Judge Jones' or 'District Judge Smith', and the date of the order or decision being appealed.

If the order being appealed was made in the High Court or a county court, and did not relate to a family matter, it may have been allocated to the fast track or multi-track for the purpose of preparation of evidence and trial. If it was allocated to a track, you should tick the appropriate box to show which. (The notice of allocation or other order should give this information.)

You should also tick the appropriate box if the order you are appealing against was a case management decision. Case management decisions include orders relating to:

- the timetable for trial;
- the filing and exchange of information (of witnesses and experts);
- disclosure of documents (papers the court said you must make available to the other parties); or
- adding a party to a claim.

Permission to appeal

You will usually need permission to appeal the decision of a judge of the High Court or a county court. If you are appealing the decision of a tribunal, you should check with that tribunal whether you need permission to appeal and, if so, whether you need to ask for that permission from the tribunal, or from the appeal court.

If you wish to make a **second appeal** against the same order, you can only do so if the Court of Appeal in London gives you permission. You must make your application for permission to that court – permission for a second appeal will only be given exceptionally.

You should note that permission will only be given where the court considers that your appeal has a real prospect of success. Where your appeal is against a case management decision, the court will also consider :-

- whether the issue is significant enough to justify the costs of an appeal;
- the overall effect on the case management timetable, e.g. whether the loss of the trial date is more significant than the procedural point you wish to appeal; and
- whether it would be more convenient to deal with your point at the trial.

You **do not** need permission if the order you are appealing against is one of the following:

- a committal order;
- an order refusing the grant of habeus corpus;
- a secure accommodation order under Section 25 of the Children Act 1989.

You need only request permission in this notice if :-

- you did not ask for permission to appeal at the hearing at which the decision you are appealing against was made; or

- you asked for permission, but it was refused, and you wish the appeal court to reconsider your request.

The court when giving permission to appeal may, **exceptionally**, direct that your appeal be referred to the Court of Appeal if it considers that it raises an important point of principle or practice or there is some other important reason for the Court of Appeal to hear it. Where the court gives this direction, it will be shown on Form N460 *Reasons for allowing or refusing permission to appeal (including referral to the Court of Appeal)* which the court will send you.

If you need more time than is allowed for filing your appellant's notice, you must make an application in the notice itself. (*See the notes to Section 10*)

Section 7

Grounds for appeal

An appeal must be based on relevant 'grounds' (reasons for appealing). An appeal court will only allow an appeal against a decision that was either:-

- wrong; or
- unjust because of a serious procedural or other irregularity in the lower court proceedings.

The appeal court will be unlikely to overturn a decision where no real difference would be made to the outcome of the case; or the appeal would involve re-examining the factual investigation undertaken by the lower court.

Set out briefly your reasons why you think the judge's decision was wrong or unjust. If possible, list your reasons in short separately numbered paragraphs.

Remember that you **must not** include any grounds for appealing which 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 without first obtaining the permission of the appeal court. (*See the notes to Section 10*)

Section 8

Arguments in support of grounds

Your arguments (referred to as a ‘skeleton argument’) may be set out in this section of the notice, or in a separate document attached to the notice.

Any separate skeleton argument has to be filed and served on the respondent with your completed notice or, if you are unable to complete your skeleton argument in time, no later than 14 days after filing your notice.

Skeleton arguments should contain a numbered list of points that you intend to argue at the hearing. Each point should be stated in no more than a few sentences. Refer at each point to any documents you are filing with your appellant’s notice which supports that argument (*see Section 11 on documents*).

Other useful information

Try to consider what other information the appeal court might find useful. For example, the court may find it helpful to have a list of people who feature in the case, an explanation of technical terms used in the papers, or a list of events in date order (a chronology). If you are providing any of these, they should be on a separate piece of paper attached to your notice marked with the case or claim number and names of the parties.

Section 9

What decision are you asking the court to make

Set out the order or orders that you want the appeal court to make.

Section 10

Other applications

Any application for an extension of time for appealing must be made in the notice itself. You should state the reason for the delay and the steps taken up to the time of filing the notice.

You may wish to make additional applications to the appeal court in connection with your appeal. Any other applications may be made either in the notice, or in a separate application notice (Form N244). This form can be obtained from the court. You may have to pay additional fees if it is filed at a later date than your appellant's notice. The type of application you might want to make will include:-

- asking for permission to amend (make changes to) your appellant's notice after it has been filed at court. But note that you can amend your skeleton argument (even if it is set out in part 8 of your notice) without making an application;
- asking the appeal court to issue a stay on executing the order being appealed or suspend any action in the case pending the outcome of your appeal. (You do not need to do this if you have already obtained a stay from the lower court or your appeal is from the Immigration Appeal Tribunal.)
- producing new evidence in your appeal or asking for permission to produce oral evidence at the appeal hearing. You will need to give reasons why the new evidence was not before the original court and, where oral evidence is requested, the reasons why you think it is necessary.

Supporting documents

Do not delay filing your appellant's notice at the appeal court. If you have not been able to obtain any of the documents listed below within the time allowed, complete the notice as best you can and ensure the notice is filed on time. Set out the reasons why you have been unable to obtain any of the information or documents and give the date when you expect them to be available.

Whenever possible, the following documents **must** be filed with your appellant's notice:-

If your appeal relates to a claim in the small claims track, you **must** file the documents marked with an asterisk * below. You **may** file any of the other documents listed, if you wish, **except** the record of reasons for the judgment of the lower court. The appeal court will decide if a record of reasons is necessary. You will be told if one is needed.

- *1) a sealed copy of the order you are appealing against;
- *2) any order giving or refusing permission to appeal, together with a copy of the form giving the judge's reasons for giving or refusing permission (Form N460);
- 3) any witness statements or affidavits in support of any application included in Sections 6 or 10 of your notice or in a separate application notice (Form N244); and
- 4) your bundle of documents in support which should include copies of:
 - your appellant's notice and any skeleton argument (if separate);
 - a sealed copy of the order you are appealing;
 - the documents at 2 and 3 above (if appropriate);
 - any other affidavit or witness statement filed in support of the appeal;
 - a suitable record of the reasons for the judgment of the lower court (*see note on page 10*);

- any statements of case (that is, the particulars of claim, defence);
- any relevant transcript or note of evidence;
- any application notice or case management documentation relevant to the decision being appealed;
- if appropriate, any skeleton arguments relied on by the lower court; and
- relevant affidavits, witness statements, summaries, experts' reports and exhibits
- any other documents directed by the court to be filed in the appeal
- in a second appeal, the original order appealed, the reasons given for making that order and the appellant's notice appealing that original (first) order
- if the appeal is from a decision of a Tribunal, the Tribunal's reasons for that decision, the original decision reviewed by the Tribunal and the reasons for that original decision

A record of the judgment may be either

- an approved transcript of the judgment where the hearing was recorded; or
- a copy of the written judgment (endorsed with the judge's signature); or
- a note of the judgment. If you were not legally represented in the lower court but the respondent was, the respondent's advocate should make their note of the judgment available to you free of charge.

You should remember that if you file any of the documents at a later date, you must check whether or not the information you are providing alters any of the details already given in your appellant's notice. If it does, you will need to apply to the court for permission to amend the notice. The court can tell you how to do this.

What happens next?

Filing your completed notice and documents

Copy

- your completed notice;
- any separate skeleton argument;
- any supporting documents (*see the notes to Section 11*); and
- your bundle of documents (*the notes to Section 11 tell you what should be included in your bundle*).

so that you have one copy for yourself, one copy for the court, and one copy for each respondent. Send or take the notice and copies of all the other documents to the appeal court office with the appropriate fee. The court can tell you how much this is. The court will stamp the notice with the court seal.

Serving the respondent

The court will serve your appellant's notice, your skeleton argument and any other documents on the respondent unless you tell the court that you wish to serve them yourself.

The respondent must be served with -

- **a sealed copy of your appellant's notice** as soon as practicable but no later than 7 days after it is filed at the court
- **any separate skeleton argument** (*see the notes to Section 8*) at the same time as the notice. If you have been unable to complete your skeleton argument in time, it must be served no later than 14 days after filing your notice at the court
- **your bundle of documents**
 - if you have already obtained permission to appeal or do not need permission, the bundle must be served at the same time as your notice; **or**

- if you have asked for permission to appeal in your notice and permission has been granted without a hearing, the bundle must be served within 7 days of receiving notice that permission has been given; **or**
- if you have asked for permission to appeal in your notice which is to be considered at a hearing, the bundle must be served within 7 days of receiving notice of that hearing.