

Going to Court



Leaflet 5:

Hearings, the trial and appeals



"I sprained my ankle and got badly bruised when I slipped over on a wet floor in my local supermarket recently. I fell heavily, knocked into some shelves and a stack of tins fell on top of me. I was badly shaken, ached all over and had to take a week off work to recover."

"My roof is leaking. I have told my landlord about the problem but she has done nothing. My bedroom ceiling has large damp patches on it and I am worried it may collapse if the leak is not mended soon. I think she is hoping that I will give up and just move somewhere else."

Going to court is enough to make anyone nervous or stressed – or both! You may be uncertain about what is going to happen or worried about what to do when. This leaflet is here to help if you:

- have a court hearing coming up
- are going to represent yourself; or
- want to appeal against a court decision.

Forget everything you see on the telly. Most court hearings in TV programmes are about crime – and that is not what we are talking about here and anyway they focus on the drama of the story rather than reality!

We try to explain any legal language as we go along, but there is also a jargon buster at the end for quick reference.

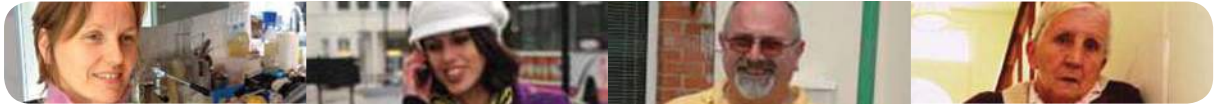
There are four earlier leaflets in this series. You might want to have a look at them too.

- The first is about ways of dealing with a legal problem without going to court.
- The second describes some of the important things you need to do if you think you want to start court proceedings.
- The third explains the first steps that you need to take.
- The fourth explains what you have to do at each of the main stages involved in the court process.



RCJ Advice Bureau

Helping you find your way through court



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The basics – rules, forms, fees and more

Civil procedure rules

These are the court rules you have to follow. They explain what you need to do when. You may hear lawyers talk about the 'CPR'. What they are referring to are these rules. You need to follow the ones that apply to your case. If you don't follow the court's rules it could cost you money or cause you to lose your case.

You can find the rules here:

<https://www.justice.gov.uk/courts/procedure-rules/civil/rules>. A quick look will probably just confirm your worst fears; there are loads of them! And an individual rule often comes with one or more additional bits of guidance, called 'practice directions'. The good news is that only a few rules and practice directions are likely to apply to your case, unless it is very complicated. So it is not like a book; you don't have to start at the beginning and read all the way through to the end. You need to pick out the rules that are relevant to your case. We will try and help you do this by listing those rules that are most relevant to the hearings we describe in this leaflet.

Forms

There is no getting away from it; courts use lots of forms. Sometimes the court will send you the form you need to fill in. Otherwise you may be able to find the form you need here: <http://hmctsfinder.justice.gov.uk/HMCTS/FormFinder.do>

We will try and help by including a link to those forms that are most relevant. Where the form is also available in the Welsh language, we include a second link.

Unfortunately, you cannot rely on court staff to provide you with forms or help you fill them in. But if you are polite, with luck a member of court staff might help you find the right form or give you the form number so that you can download it for yourself from the internet. Sometimes they might also give you an idea about what to put in a form. However if court staff hand you a particular court form, you can't assume this means it is necessarily the right step for you to take next. It may or may not be. You may need advice about your options. See **Where to go for further help**.

Most court forms can seem rather intimidating when you first look at them. A large part of most form filling involves giving factual information. Read through each form a couple of times to find out what information it asks for. Then get together the information you need before you start filling it in. Once you have done this, the job may turn out to be a bit easier than you first thought. But sometimes you have to write something more, for example, your grounds of appeal. You don't have to do this in long words and legal language. The best thing is to keep it short and simple. Ask yourself what you want to achieve and focus on that. Stick to what is relevant and try not to repeat yourself. Never say anything you don't know to be true and if you are unsure about something, say so.

Court fees

You usually have to pay a court fee shortly before a trial starts. You can get this fully or partly refunded if the case settles or is discontinued and you



notify the court within certain time limits. For information about refunding hearing fees, see: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex050-eng.pdf>

You also usually have to pay a fee when you start (issue) an appeal.

For information about civil court fees, when to pay them and how much they are, see: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex050-eng.pdf>

For information about the court fees payable in the Court of Appeal, see: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/form-200-eng.pdf>

In some circumstances you may not have to pay a fee at all or only a reduced fee. The system for deciding whether you are eligible to pay a reduced court fee or none is called

the 'fee remission' system. For example, you will not pay anything if you can prove that you get Income Support, income-based Jobseeker's Allowance, State Pension Credit guarantee credit, Universal Credit with gross annual earnings of less than £6,000 or income-related Employment and Support Allowance, as long as your savings or other capital don't exceed certain limits. You apply for 'fee remission' by completing form EX160A. You can find this form at the back of the leaflet *Court and Tribunal fees – Do I have to pay them?* See: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex160a-from-07-october-eng.pdf>

If you have to pay more than one court fee during your case you must complete a separate application for each fee you want reduced or cancelled.

Hearings

A 'hearing' is the name given to any face to face meeting with a Judge that take place before the trial. The trial is the final hearing; the one when a Judge decides who wins and who loses the case.

Hearings are shorter and less formal events than the trial. They are a bit like a business meeting. They can happen at any point in the case up until the trial. Some cases have very few of them, others have lots.

The number of hearings that take place before the trial will partly depend on:

- the complexity of the case;
- whether the parties can agree how the case will be run; and
- whether everyone does the tasks either they agree to do or the court tells them to do on time.

You will hear lots of different hearings mentioned. The clue about what happens at each of these hearings is usually in the name. Here are some of them:

- **Directions hearing** – a hearing where the Judge gives instructions about what needs to be done to get the case ready for trial. Often everyone is able to agree what this list of instructions should be. (For more information about Directions see **page 26** in **Leaflet 4**.)
- **Case management conference** – a hearing to talk about how to run the case. What needs to be done and who will do it? You can find a short film about Case management conferences on the Ministry of Justice YouTube channel: www.youtube.com/user/MinistryofJusticeUK

- **Listing hearing** – a hearing to discuss when to put a case in the list of cases to be heard by a Judge. You may also discuss where the trial will take place and how much time it will take.

In the past, most hearings took place in person with everybody turning up at court to talk to the Judge face to face. These days it is very common for some types of hearing to take place over the phone.

You can find the guidelines for telephone hearings here: www.justice.gov.uk/courts/telephone-hearings. These explain which hearings are normally held by telephone and how to make arrangements for a conference call.

Forms and rules



Relevant rule: Practice Direction 23A – Applications www.justice.gov.uk/courts/procedure-rules/civil/rules/part23/pd_part23a

The trial

The trial is the final hearing where a Judge hears the evidence and makes a decision. But this only happens if the parties cannot reach an agreement on how to sort out their dispute themselves.

People often think that the Judge will run the hearing; that the Judge will ask the other party questions, give them a hard time or unpick the evidence to get at the truth. This is not what happens. If it is your claim, you have to take the lead. Judges vary in how they start a trial. The Judge may invite you to speak, or not. They may just expect you to stand up and start. If you are not sure what to do, just stand up and say something like, 'Would you like me to start now?'. If you don't know the Judge's name or how senior they are, it is best to call a man 'Sir' and a woman 'Ma'am'.

In the courtroom where the trial is taking place you sit in the front row. You stand up when you want to speak and sit down when someone else speaks.

If you don't turn up to the trial, perhaps because you are feeling sick with nerves, the trial will still go ahead. To avoid this, try and get a friend to go with you. If you don't go, it is highly likely that you will lose and have to pay the other party's costs as well as your own.

What do I have to do to get ready for the trial?

You may think that what you want to say on the day will just occur to you at the time. You cannot rely on this. You need to prepare. You need to think about what you are going to say, plan the questions you want to ask the witnesses and make written notes to take with you into court. You also need to get your papers organised and be familiar with where everything is.

Preparation is also a way of focusing on what it is you have to prove and being ready to do that. You also need to understand those bits of the law that affect your case.

Opening submission

This is how you start or open your case. It is just a brief statement by you (or your representative if you have one) summarising your claim and what you intend to prove. You stand up and say this out loud before you explain what evidence you have got to support your claim.

Top tips!

- Don't make it too long otherwise people may stop listening.
- Get a friend or family member to listen to you practise what you are going to say. Say it out loud in front of them. Ask them for their constructive opinion. Did they understand it? Did you speak simply and clearly?
- Practise it again!
- If you feel self conscious or silly, just remember that lawyers practise too.

Who speaks when: the usual order

- The Claimant (the person who started the court proceedings) makes their opening submission.
- The Claimant calls their witnesses. The witnesses give their evidence by reading out their witness statements or by answering the Claimant's questions.
- The Defendant (the person who has had the court proceedings brought against them) cross examines the Claimant's witnesses.
- The Claimant can re-examine their own witnesses about matters that came up in cross-examination and which they did not ask questions about the first time.
- The Defendant calls their witnesses.
- The Claimant cross examines the Defendant's witnesses.
- The Defendant can re-examine their own witnesses about matters that came up in cross-examination and which they did not ask questions about the first time.
- The Defendant makes their closing submission.
- The Claimant makes their closing submission.
- The Judge decides the case and tells both parties their decision.
- Both parties can put forward their view about what order the Judge should make about who should pay the legal costs of the case.

Sometimes it is not clear when each of these things should happen. If in doubt, you can always stand up and say something like 'Would you like me to call my witness now?' When someone else speaks, you sit down. When it is your turn to speak again, you stand up.

Direct examination or examination in chief

You may hear both these legal terms used. They mean the same thing. It is the process of asking your own witnesses questions so their evidence can be heard by the Judge. Both the claimant and the defendant get a chance to do this.

You can only ask your witnesses about what is in their witness statement or report and about points in the other party's witness statements. If you and your witness are happy with their statement then you just need to ask them to confirm that the content is true. If there are any mistakes or problems with what one of your witnesses has said then it is a good time to deal with this. Get the witness to explain, for example, what the mistake is and why it was made and what the correct position is. It is much better to get this out in the open as soon as possible rather than leave it to the other party to expose it and make it look as though you were hiding something.



- Make sure you and your witnesses are familiar with what you have said in your statements.
- Make sure you are also familiar with what the other party's witnesses have said in their statements too.
- Give them another read through just before the hearing.
- Make sure you ask questions in a way that your witness understands.
- Take notes or ask a friend to come along to the hearing to do this for you so you can concentrate on what you are going to say.

Cross examination

Cross examination is the legal term used to describe the process of asking the other party's witnesses questions. The claimant, the defendant and any other witnesses must all expect to be cross-examined.

You need to think about:

- The questions you are going to ask other people.
- The questions you and your witnesses are likely to be asked by the other party. Put yourself in their shoes. What would you ask yourself if you were them?

The questions you are going to ask other people

Your aim is to bring out the facts that support your own case and weaken the other party's case. You usually suggest that something happened differently or not at all. You may be able to do this, for example, by comparing what the witness says with contrary evidence, for example, in a document or photograph.

You need to read through the other party's witness statements carefully and pick out any problems with what they say. The kind of things you are looking for are points that undermine their case or support your own. Cross examination is your only chance to do this – so don't miss it and do some advance preparation! Resist the temptation to comment on what the other party's witnesses say in reply to your questions. Leave this for when you make your closing submission (see **page 10**.)

The questions you and your witnesses are asked by the other party

You also need to prepare yourself and your witnesses for cross examination by explaining the questions you think it is likely they will get asked. This does not mean you can tell them what to say – you can't! They have to come up with their own answers. They need to be truthful and answer the questions they are asked and no more.

Cross examining others



- Ask only one question at a time.
- Don't be rude to a witness or call them a liar. The Judge is quite capable of deciding that what a witness is saying is probably wrong without you spelling it out for them.

Being cross-examined

- Practise! Get a friend to ask you questions that challenge your version of events.
- Ask for honest feedback from your friend. How did your answers sound?
- Try not to get angry when the other party or their representative challenges your version of events. It is their job!
- Listen to the question; take time to reply.
- Say what you want to say – calmly! There is a real temptation to speak too much when you are stressed.
- Silence often makes people feel awkward. If there is a gap between the questions you are asked or things just go quiet, don't feel you have to say something.
- If you genuinely cannot remember something you are asked about, say so. Don't make stuff up because you feel under pressure.

Re-examination

Re-examination is the legal word used to describe the process of asking your own witnesses some more questions after they have been cross examined by the other party. The purpose is to give them a chance to explain things that came up when they were questioned by the other party to make sure that the Judge is not left with the wrong impression about something.

However, what you don't want to do is make a bad situation worse. So unless you know that what your witness will say in answer to your question is going to improve the situation, it may be better to leave things as they are and ask no further questions.

Top tips!

- Listen to what your witnesses say when they are cross-examined.
- Make a note of the points that you might want to pick up in re-examination.
- Keep calm. It is a deliberate part of the process to imply that, for example, your witness is unreliable in some way.

Closing submission

This is how you end your case. Both the claimant and the defendant get a chance to make a closing statement to the court. The defendant speaks first and the claimant last.

You should be able to work out most of what you want to say before the trial starts. You have some idea of what the evidence is going to be from the witness statements and documents that have been filed. You also know what your strongest points are. But you will need to take into account what actually happens in the trial. So you need to be adaptable and leave room for any changes you want to make on the day.

Focus on the Particulars of Claim (if you are the claimant) and the Defence (if you are the defendant), the evidence given, and the legal arguments that support your case and why you think the Judge should prefer your evidence more than the other party's. Highlight any inconsistencies in the other party's evidence. You may want to summarise briefly how and why their evidence is less believable than your own and how you have proved your case.

Top tips!

- Make some outline notes in advance of the trial.
- Use your notes as a reminder list for what you want to say.
- Practise saying what you want to say.
- Get a friend or family member to listen to you practising. Ask them for their honest opinion. Do they understand it? Did you speak clearly and simply?
- Remember to add in any points that support your case that have come out as the trial has happened.

The Judge's order

The Judge decides who wins and who loses based on whose version of events they prefer and think more believable. The Judge then makes an order about what happens as a result of their decision. This may be that:

- something is replaced, for example, new central heating is installed within a reasonable length of time;
- something is repaired, for example, your roof;
- something stops happening, for example, a landlord stops trying to illegally evict you;
- you get an explanation for what happened to you;
- a mistake is corrected;
- a person or an organisation won't do something;
- something changes in the way a person or an organisation behaves; or
- you get compensation.

The court will send both parties a copy of the court order in the post.

Costs

As soon as the Judge has made their decision and if you have won, you should stand up and say 'I would like my costs'. You need to be assertive and not lose the opportunity to get paid for the time you have spent on your case. For further information about costs, see **page 50** in **Leaflet 4**.

Enforcing the Judge's order

If the other party does not pay or do what the court orders, then there are things you can do to make this happen. This process is called 'enforcement'. There are lots of different methods of forcing the other party to obey the court's order. You can find out more about enforcement in this court leaflet:

I have a judgment but the defendant hasn't paid – What do I do? <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex321-eng.pdf>

Here's the same leaflet in Welsh:

<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex321-bil.pdf>

Rules

Relevant rule: The general rules about enforcement of judgments and orders www.justice.gov.uk/courts/procedure-rules/civil/rules/part70

Relevant guidance: www.justice.gov.uk/courts/procedure-rules/civil/rules/pd_part70

Going to a court hearing

If you are going to a court hearing, we suggest you read this court leaflet: *Coming to a court hearing? Some things you should know*
<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex342-eng.pdf>

It answers lots of the questions people commonly ask such as:

- What extra help is available for court users with a disability?
- Will I need my witness at the hearing?
- What can I do if a witness is unwilling to come to a hearing?
- What should I do to get ready for the hearing?
- What do I do on the day of the hearing?
- Where will my hearing take place?
- What do I call the Judge?
- What happens at the hearing?
- Will I be able to take someone to the hearing with me?
- When will the Judge make a decision?
- Can I object to the Judge's order?

If you need a break at any point in a hearing, perhaps to find something or to calm down you can always ask for a short break and explain why you want it. Judges are usually sympathetic to a reasonable request.

You can find the short film **When you arrive for your county court hearing** on the Ministry of Justice You Tube channel: www.youtube.com/watch?v=ZZyb4HYC5A8



It gives you an idea of what to expect when you arrive at court for your hearing.

Interpreters

If English is not your first language, you may need an interpreter so that you can take part in the court proceedings. The courts sometimes pay for this if you cannot afford to pay for an interpreter yourself. You can find guidelines explaining when the courts will arrange and pay for an interpreter here: www.justice.gov.uk/courts/interpreter-guidance

Sometimes the courts will allow you to take a friend or relative to explain what you want to say. If the court will not allow this, it is still a good idea to take a friend to support you and to talk to court staff on your behalf before and after the hearing.

Representing yourself

You are entitled to represent yourself in court. This means that you will speak for yourself and not have a lawyer to speak for you. But think hard before you decide to do this as it is a lot of work. You need to be willing to spend time researching the law and procedure so you know what you are doing. If you decide to represent yourself, try and get help to prepare your case. See **Where to go for further help**. And you might find sections 3 and 4.4 of this guide useful: www.barcouncil.org.uk/media/203109/srl_guide_final_for_online_use.pdf

If the other party is represented by a lawyer, try not to be intimidated by this. They may be helpful and explain things you are not sure about. The Law Society has published some guidance for solicitors explaining how they should deal with litigants in person. This gives you an idea of what you can expect: www.lawsociety.org.uk/advice/practice-notes/litigants-in-person

Top tips!

- You don't have to speak in legal language or long words – use plain English.
- Ask questions if you feel unsure about what is going on.
- The Judge is not 'for' or 'against' you; that is not their job. They will usually help or prompt you when necessary.
- Take notes of what the other party and their witnesses say. You may find a weakness in their argument and having notes will help you to argue your case more convincingly.
- Take someone else with you to take notes for you when you are speaking. There will be times when you cannot do both!
- In some courts a volunteer from the Personal Support Unit may be able to come with you.
- Take notes of the Judge's order at the end. You may not get the written order very quickly after the end of the trial.
- Ask the Judge what the order means if you don't understand it.



Appeals

Appealing (objecting to the Judge's decision in your case) is a big step. You may have got the decision you were hoping for at the trial. But if you didn't, you may be angry or upset at what you feel is the injustice of the result. You may have come to dislike the person on the other side in your case. Maybe they could not contain their pleasure at winning and that really rubbed you up the wrong way? Whatever you feel, rushing into an appeal can have serious consequences. If you lose, you will end up having to pay the other party's legal costs. So, stop, think and get advice.

Can I appeal the court's decision?

There is no automatic right of appeal (to object to the Judge's decision and try and get it changed). In most cases, you need permission to appeal.

There are special rules about appeals. You can find these in the box on this page.

Even if you can appeal, this does not necessarily make it the right thing to do or mean that you will be successful. Many appeals fail. Others don't get as far as an appeal hearing because the person who wants to appeal fails in their attempt to get permission to appeal. So, consider getting legal advice on whether you have grounds to appeal and the strength of those grounds before spending more time and risking more of your money. See **Where to go for further help**.

Relevant rules and court leaflets

1
2
3

Relevant rule and practice directions: Appeals www.justice.gov.uk/courts/procedure-rules/civil/rules/part52

I want to appeal – what should I do?: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex340-eng.pdf>

Routes of Appeal: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/form-201-eng.pdf>

How to appeal to the Court of Appeal: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/form-202-eng.pdf>

Applying for permission to appeal to the Court of Appeal: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/form-206-eng.pdf>

Time limits

Time limits vary and it is really important you understand which one is the correct one for your case and that you don't miss it. You need to act quickly!

You can find the different time limits explained in the guidance notes explaining how to complete the Appellant's notice at <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/n161a-eng.pdf>

Here's the same leaflet in Welsh and English: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/n161a-bil.pdf>

In most cases you have 21 days from the date of the decision that you want to appeal to file your request for permission to appeal. Don't wait for the actual order that you want to appeal to arrive otherwise you will miss the deadline.

If you miss the deadline, you can still file your request but you have to ask the court for an extension. The problem is that you might not get it so the best thing is to make sure you get your paperwork in on time.

Name changes

You may have got used to being called the 'claimant' or the 'defendant' but if you appeal, the formal name the court uses to describe you will change. If you are the person who wants to appeal, you are called the 'appellant' now. If you are the other party, you are called the 'respondent'.

The justice game!

Have a look at our game board. It is designed to give you an overall picture of what is involved in a typical appeal case. It will not help you decide what to do in your appeal because your case will be different. But it may make the process seem a bit less daunting.

One of the problems of going to court is that you will come across lots of new technical words and ideas. This is the jargon that lawyers and court staff use. There is no getting around it; you have to learn what it means too!

Some words that may seem familiar, for example, party or service, have different and very specific meanings

in courts. So be prepared for some surprises.

In the justice game, we have put all the jargon in **green**. We then explain these words the first time they appear. Follow the arrow to find out what they mean. You can also find them in the **Jargon buster** starting on **page 27**.

There are points when we describe the court as 'doing' things, for example, sending out a form or making a decision. It sounds a bit odd because a court is really a place. But 'the court' is often used as shorthand to refer to the people working in the court.

The story so far...

Jim, a builder, installed a new bathroom and kitchen in Mo's house. Mo says the work has not been finished and what has been done has been done badly. Mo tried to resolve the dispute, but without success. Mo took Jim to the county court and lost. Her case was a fast track case and was heard by a Circuit Judge. Mo has legal grounds to appeal but has not got permission to appeal (authorisation allowing you to ask for a change to a court order) yet. From now on Mo is called the Appellant (the person who wants to appeal) and Jim is called the Respondent (the name given to the party who doesn't want to appeal).

This is how the appeal proceedings go in this case, step by step. The whole process will take at least six months and could take a year or more.



Jim



Mo

START

1 Mo thinks that the High Court is the right court to appeal to. To make sure, she checks by looking at the court leaflet: Routes of Appeal <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/form-201-eng.pdf>



She also looks at Practice Direction 52A – Appeals www.justice.gov.uk/courts/procedure-rules/civil/rules/part52/pd_part52



And Practice Direction 52B – appeals in the county courts and high court www.justice.gov.uk/courts/procedure-rules/civil/rules/part52/practice-direction-52b-appeals-in-the-county-courts-and-high-court

the form you complete to start your appeal

2 Mo fills in the **Appellant's notice** including the section that asks for **permission to appeal**.



the reasons and concise arguments that support your appeal

authority allowing you to ask for a change to a court order

3 Mo drafts the **Grounds of Appeal** and attaches these to the Appellant's notice.



documents that back up your case

4 Mo sorts out the **supporting documents** to send in with the Appellant's notice.



5 Mo applies for a **transcript** of the **judgment**.



the official version of what was said at the trial

the Judge's reasons for their decision

to put a legal form or document in the court records

6 Mo **files** the original **Appellant's notice** plus copies (she checks how many copies she needs by looking at the requirements in the Appellant's notice) together with the **supporting documents** (including a copy of the order she is appealing) and the correct fee or **fee remission** application form within the relevant **time limit** by posting the documents to the relevant court office.



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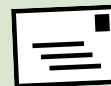
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the name given to the system for deciding whether you are eligible to pay a reduced court fee or none at all

period of time within which a task has to be done

7 As soon as she gets the **Appellant's notice** back from the court, Mo serves a **sealed copy** on Jim by posting it to him.



a pack of documents that back up your case. It should include the transcript

a copy of a document with an original court seal on it showing that it is authentic

8 Mo prepares an **appeal bundle** and sends it to Jim within 35 days of issuing the **Appellant's notice**.



9 A judge reads the **Appellant's notice** and the **appeal bundle**.

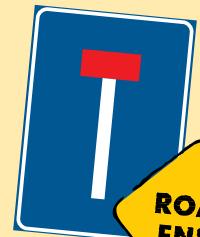


chance of winning

10 The judge decides to give Mo **permission to appeal**. This is because, in this case, the judge thinks the appeal has a real **prospect of success**.



[If you are refused permission then you cannot appeal. You can ask a judge to reconsider your application for **permission to appeal** at an **oral hearing**. If you still don't get permission, then this is the end of the road for your appeal.]



a hearing where you have to turn up in person

11 The court sends Mo and Jim a **court order** setting out the judge's decision.



the Judge's written decision

12 The court sends Mo and Jim a notice telling them when the appeal will be heard or the **listing window** during which it is likely to be dealt with.



the period of time in which a trial date will be fixed

13 The court also sends Mo and Jim an **order for directions** telling them what to do to get ready for the hearing.



a list of instructions telling you what to do and when

14 A High Court Judge hears Mo's appeal and reserves judgment.



the Judge does not come to an immediate decision, usually because the case is complex

15 The court sends a draft judgment to Mo and Jim.



the charges for legal work

16 The draft judgment tells Mo she has lost the appeal and orders her to pay Jim's costs.

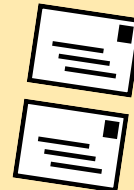


17 Mo makes a written submission to the judge about the draft judgment.



a document in which you explain the arguments that support your case

18 The court sends Mo and Jim the final court order.



19 Mo pays Jim's legal costs as well as her own.



FINISH

How do I start an appeal?

By completing and filing an Appellant's notice. If your case was allocated to the fast or multi track, then you use Form N161. If your case was a small claim, then you use Form N164. Both forms are called the Appellant's Notice.

Both these forms include a list of the supporting documents that you have to include. We explain a bit more about some of these supporting documents on **pages 22–25**.

Forms and rules

You can find Form 161 here:
<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/n161-eng.pdf>

There are guidance notes to help you complete it here:
<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/n161a-eng.pdf>

Here are the same guidance notes in Welsh and English: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/n161a-bil.pdf>

You can find Form 164 here:
<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/n164-eng.pdf>

Relevant rule and practice directions: Appeals www.justice.gov.uk/courts/procedure-rules/civil/rules/part52

Appellant's notice – checklist

Have you:

- ☒ Answered all the questions that apply to you
- ☒ Filled in all your contact details
- ☒ Firmly attached your grounds of appeal
- ☒ Put together the supporting documents for the court
- ☒ Enclosed your fee
- ☒ Sent or taken the notice and copies of all other documents to the correct office

Where do I file an appeal?

This depends on the type of case you were involved in (small claims track, fast track or multi track), the level of Judge who made the decision (District Judge, Circuit Judge, Master or High Court Judge) and the type of decision being appealed (interim decision or final decision). For information to help you file your appeal in the right court see: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/form-201-eng.pdf>

Serving an appeal

If you are the appellant, you should send a copy of your Appellant's notice and any supporting documents to the respondent within 7 days from the date you started (issued) your appeal. The respondent does not have to respond, unless you already have permission to appeal.

You then need to complete and file a certificate of service as soon as possible confirming when and how you served the appeal.

Forms and rules

You can find a certificate of service here: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/n215-eng.pdf>

Responding to an appeal

If you have received an Appellant's notice and are named as the respondent, you will need to get advice. You may need to complete and file a Respondent's notice within a tight time limit. So act quickly! See **Where to go for further help**.

Forms and guidance for the respondent

Respondent's notice: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/n162-eng.pdf>

This is the same form in Welsh and English: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/n162-bil.pdf>

You can find guidance for the respondent including about how to complete the Respondent's notice here: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/n162a-eng.pdf>

This is the same guidance in Welsh and English: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/n162a-bil.pdf>

Top tips!

- Just because you believe that the Judge got it wrong is not sufficient reason to appeal.
- You may disagree with the Judge's decision, but on its own that is not enough to be a ground of appeal.
- If all you are saying is 'I want you to agree with me and do what I want' then your appeal will not succeed.
- The Judge who made the decision you are appealing is not sitting an exam which you mark! You may find lots of mistakes in the transcript, for example, with dates or names or want to point out that something is missing. But this is very rarely relevant.
- The fact you think the Judge believed the 'wrong' person and should have preferred your version of events is not a ground of appeal.
- Evidence you forgot to produce at the trial or which you did not think would be necessary is not 'fresh' or 'new' evidence. You are too late!
- 'New' evidence could be evidence of fraud committed since the trial, for example, where one party's representative overhears the other party boasting about how they had lied to the court and won.
- Perjury (swearing in a court that something is true when it is not) is something that can be reported to the Police.

Grounds of Appeal

Your grounds of appeal must show that the decision was wrong or unjust because of a serious procedural error (mistake) or an error in applying or interpreting the law. You must attach your grounds of appeal to the Appellant's notice before you can start (issue) your appeal at court.

Skeleton argument

What is a skeleton argument?

It is a written summary of the main legal arguments that you think support your case and which you hope will persuade the court to decide that you should win. In it, you are commenting on the facts and the law from your point of view. Lawyers usually also list the 'authorities' for what they say. But you don't have to do this. Authorities are an accepted source of what the law says – which supports the point they are making. This could be part of an Act of Parliament or something said by a Judge in a previous case.

A skeleton argument provides a structure for what you are going to say and the order in which you say it. You may find it a useful way to focus your mind, to identify the key arguments you want to present to the Judge and generally prepare for the trial. And the Judge may be pleased you have done one, particularly in a more complicated case.

Do I have to prepare a skeleton argument?

You don't have to provide a skeleton argument for appeals in the County Court or High Court. However you must do one for appeals to the Court of Appeal. If you are in this position, have a look at the rule above and get advice. See **Where to go for further help**.

Forms and rules



This is the form you can use to set out your skeleton argument:

<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/n163-eng.pdf>

Relevant rules: Para 5.1 of Practice Direction 52A www.justice.gov.uk/courts/procedure-rules/civil/rules/part52/pd_part52#V

and Para 31 of Practice Direction 52C www.justice.gov.uk/courts/procedure-rules/civil/rules/part52/practice-direction-52c-appeals-to-the-court-of-appeal#31.1



- As a litigant in person, it is probably better not to do a skeleton argument if you are not sure what you are doing (unless you are appealing to the Court of Appeal when you must do one).
- Only include compelling or persuasive legal arguments.
- Don't include any weak points for the sake of adding to the number of arguments.
- Keep it short and simple – it cannot be 20 or 30 pages long.



Appeal bundle

An appeal bundle is a collection of papers. They can be tied together or put in a file. Essentially it is a pack of documents relevant to your appeal with a list at the front showing what is in it. (For detailed information about preparing a bundle and index see **page 45 in Going to Court: Leaflet 4.**)

It is the appellant's job to prepare an appeal bundle. You should try and file your bundle as quickly as possible and certainly within any deadline set by the court. The time limit for filing your bundle will depend on which court you are appealing to. For appeals to the County Court or High Court you must file your bundle within 35 days of issuing your appeal. For appeals to the Court of Appeal, you must file your bundle within the deadline given you by the Civil Appeals Office.

The Appellant's notice lists the sort of documents you need to include in

your bundle. If you are appealing to the Court of Appeal, then what you need to include is set out in the court leaflet, How to Prepare an Appeal Bundle for the Court of Appeal, see: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/form-204-eng.pdf>

If you are appealing to the County Court or High Court, then what you need to include is set out in Section VI of Practice Direction 52B www.justice.gov.uk/courts/procedure-rules/civil/rules/part52/practice-direction-52b-appeals-in-the-county-courts-and-high-court#VI

The Royal Courts of Justice Advice Bureau can help litigants in person to prepare an appeal bundle for the Court of Appeal. See **Where to go for further help.**

You don't need to serve the respondent with the bundle until you have got permission to appeal.

Transcript

A transcript is the official version, typed from the tape recording, of what was said at the trial. If you are the person who wants to appeal, you must get a transcript and put it in the appeal bundle (unless your case was a small claim, in which case it is not necessary to get a transcript). In most appeals you will only need a transcript of the judgment (the Judge's reasons for their decision).

The court will not just give you a transcript; you have to arrange to get one done. You usually have to pay for it and they are expensive. Transcripts cost roughly £175–£200 per hour of typing time and each hour of recorded time takes about two hours to type up. You will usually get your completed transcript about 2–3 weeks after you ask for it. It may take longer to get a transcript of the judgment as these have to be approved by the trial Judge.

Forms



You can find the form you need to fill in to ask for a transcript when you are paying for it yourself here:

In English – <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex107-eng.pdf>

In Welsh – <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex107-bil.pdf>

You send this to the court where your case was heard.

Here are the guidance notes to help you fill in this form:

In English – <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex107-info-eng.pdf>

In Welsh – <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex107-info-bil.pdf>

Transcripts at public expense

If you cannot afford to pay for the transcript, the court may authorise the taxpayer to pay for it if you can satisfy the court that you have reasonable grounds for appeal. But you need to ask the right court using one of the forms below:

What happens next?

A Judge will consider your application. Permission to appeal will only be granted if the appeal has a real chance of success or if there is some other good reason why it should be heard. If your application is rejected, then you can usually ask to have it re-considered at an oral hearing. An oral hearing is one where you meet the Judge face to face and get to speak to each other. You must ask for an oral hearing in writing within 7 days of the date when your application for permission to appeal was first refused. If you are refused permission at this hearing, that is the end of the road. It is not possible to go to another court in England or Wales, for example, the Supreme Court. A permission hearing stops appeals that have no chance of success from going any further.

The Judge may decide whether or not to give you permission just by looking at the papers you file. But it is possible they will want to hear what you have got to say. This kind of hearing is called a 'permission hearing'. The respondent will be told about this hearing but they don't have to come to it unless the court asks them to. If they are asked to come then, as the appellant, you must give them a copy of the appeal bundle.

Court which will be dealing with your permission to appeal application	Form to complete in order to apply for the transcript to be provided free of charge
County Court	Form EX105: http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex105-eng.pdf
High Court	Section 9 Part C of the Appellant's notice or an application notice: http://hmctsformfinder.justice.gov.uk/courtfinder/forms/n244-eng.pdf
Court of Appeal	Form 62 (you get this form from the Civil Appeals Office)

Top tips!

- At a permission hearing, you will probably only get about 30 minutes with the Judge. So, get your papers organised and work out what you want to say in advance.
- This hearing is just about whether you should get permission to appeal. It is not a rehearsal for your appeal hearing (if you get one). So don't waste time quoting authorities (accepted sources of what the law says on a particular point) or taking the Judge through detailed arguments.
- If you get permission, don't assume this means you are going to win or even that you are likely to win your appeal. It doesn't!

Appeal costs

Usually there is no risk of you having to pay anyone any money when you ask for permission to appeal (except for the court fee and the expense of getting a transcript and photocopying documents for your bundle), unless the respondent gets involved in the process in some way. The court may, for example, ask the respondent to come to a hearing or put their response to the appeal in writing. In these circumstances the respondent will normally get their costs paid by you if you don't get permission to appeal.

Sometimes people who get permission to appeal wish they had never got it if they then lose their appeal and end up having to pay the other party's legal costs. Telling the court that you are a litigant in person or that you have no money will make no

difference. An order that you pay the winner's legal costs can still be made against you. For further information about costs, see **page 50** in **Leaflet 4**.

Other information

HM Courts & Tribunals Service publishes guidance notes about appeals. For information about appeals to the County Court or High Court read court leaflet EX340: <http://hmctsformfinder.justice.gov.uk/courtfinder/forms/ex340-eng.pdf>

For more information about how to appeal to the Court of Appeal contact the Civil Appeals Office. You can find information about the Civil Appeals Office and how to contact them at: www.justice.gov.uk/courts/rcj-rolls-building/court-of-appeal/civil-division

Here are some questions and answers about appealing to the Court of Appeal: www.justice.gov.uk/courts/rcj-rolls-building/court-of-appeal/civil-division/questions-and-answers

Getting advice!

Are you sure you know what the law says and means? Do you understand how it applies to your case?
Are you certain you know what legal procedure to follow?

If not, you are not alone! Most people need advice – usually more than once in their case. So, get advice!

See **Where to go for further help**.

Jargon buster

Appeal – object to the Judge’s decision.

Appeal bundle – a pack of relevant documents with a list at the front showing what is in it.

Appellant – the person who wants to appeal.

Appellant’s notice – the form you complete to start your appeal.

Civil Appeals Office – the office that organises the civil work of the Court of Appeal.

Costs – what solicitors charge for the legal work they do. They are also known as ‘legal costs’.

Court order – the Judge’s written decision.

Fee remission – the name given to the system for deciding whether you are eligible to pay a reduced court fee or none at all.

File – to put a legal form or document in the court records. You can do this by post or in person.

Grounds of Appeal – the reasons and concise arguments that support your appeal.

Issue – to officially start a claim or application at court.

Judgment – the court’s decision.

Listing window – the period of time in which a trial date will be fixed.

Litigant in person – the name given to someone who represents themselves in court proceedings or at a court hearing without the help of a solicitor or barrister.

Oral hearing – a hearing where you have to turn up in person.

Order for directions – a list of instructions telling you what to do and when.

Permission to appeal – authorisation allowing you to ask for a change to a court order.

Prospects of success – the chances of winning a case.

Reserve judgment – where the Judge does not come to an immediate decision, usually because the case is complex.

Respondent – the name given to the party who does not want to appeal.

Jargon buster – continued

Royal Courts of Justice – a court building in London that house the High Court and the Court of Appeal.

Sealed copy – a copy of a document with an original court seal on it showing that it is authentic.

Serves – formal delivery of court documents, for example, to a claimant or a defendant. You can serve court documents in various ways, for example, by hand, post or email.

Skeleton argument – a written summary of the main legal arguments that you think support your case and which you hope will persuade the court to decide that you win. In it, you comment on the facts and the law from your point of view.

Supporting documents – documents that help prove or back up a case.

Time limit – a period of time within which a task has to be done.

Trial – the final hearing which takes place in front of a Judge who decides who wins and who loses the case.

Transcript – the official version, typed from the tape recording, of what was said at the trial.

Written submission – a written document, explaining the arguments that support your case, given to a Judge for them to think about.

Where to go for further help

How to find a legal advisor

The Royal Courts of Justice Advice Bureau can help you if:

- you have a case in the County Court, High Court, Administrative Court or Court of Appeal in civil or family cases

and

- you are not already represented by a solicitor or barrister.

The Royal Courts of Justice Advice Bureau has qualified solicitors who can give you free, confidential legal advice including help with:

- Court procedure
- Applications to the court
- Referral to free representation
- Referral to a free mediation service
- Free advice from a costs draftsman about orders for costs against you.

The Royal Courts of Justice Advice Bureau is independent of the courts and can help wherever you live in England or Wales.

To book an appointment to see a solicitor please see www.rcjadvise.org.uk for latest appointment details.

You can also ask friends and family for a recommendation. To find a local solicitor who can help you, search here:

- find-legal-advice.justice.gov.uk
- www.lawsociety.org.uk/find-a-solicitor
- www.lawcentres.org.uk/i-am-looking-for-advice

Help finding court forms

Court staff may be able to explain court procedures and help you find a court form. They are not able to give you legal advice.

You can search for court forms here:

<http://hmctsformfinder.justice.gov.uk/HMCTS/FormFinder.do>

(continued overleaf)

Where to go for further help – continued

Help when at court

The Personal Support Unit (PSU) supports people going through the court process without a lawyer. Volunteers offer a free and confidential service. PSU aims to help you manage your own case yourself. PSU does not give legal advice or act on your behalf, but can offer practical help such as going to your hearing with you and help completing and filing your forms.

For more information as well as the location and contact information for your nearest PSU, please visit www.thepsu.org or call **020 7947 7701/7703**.

Sources of information about the law and your rights

Advicenow www.advicenow.org.uk

Adviceguide from Citizens Advice www.adviceguide.org.uk

Feedback

Whether you have read one or all of the Going to court leaflets, we would love to hear from you. Please tell us what you think of them by completing our survey (www.surveymonkey.com/s/FGZ3G2B). We will use your feedback to improve the leaflets and make sure they are as helpful as possible. Thank you!

Photos:

Cover: (top) Gail Lyle (Bolton CAB), Aaron Marsden (Bolton CAB) posing as customer. © Citizens Advice/ABCUL 2008. (bottom) Mario and Joaquina. © Justin Piperger. Page 2: (left to right) 1: Isabel posing as a client. © Justin Piperger/Citizens Advice. 2: © Justin Piperger/Citizens Advice. 3: Dennis Ridgewell posing as a client. © Justin Piperger/Citizens Advice. 4: © Citizens Advice 2004. Page 4: © Citizens Advice. Page 13: © Citizens Advice/ABCUL 2008. Page 24: © Citizens Advice 2003.

Disclaimer: The law is complicated. It is always best to get advice. This leaflet is not meant as a substitute for legal advice.

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RCJ Advice Bureau
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