



# HOW TO APPEAL

A guide to the  
criminal appeal system



The  
Royal  
Courts  
of  
Justice

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*We regret that JUSTICE cannot give legal advice or assist with individual cases, so please do not write to us about your case.*



**JUSTICE**

59 Carter Lane  
London EC4V 5AQ  
[admin@justice.org.uk](mailto:admin@justice.org.uk)  
020 7329 5100

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# Contents

Each stage is covered in detail in this guide

<b>Stage 1: Get yourself organised</b> .....	<b>5</b>
Get advice immediately from your lawyers and decide if you want to appeal	
<b>Stage 2: Apply for leave to appeal</b> .....	<b>7</b>
Fill out the correct Form NG; send application to the Criminal Appeal Office	
<b>Stage 3: The ‘Single Judge’ stage</b> .....	<b>11</b>
A single High Court judge looks at your application and decides whether you should have leave to appeal	
<b>If the Single Judge refuses leave</b>	
<b>Stage 4: Renewal to the Full Court</b> .....	<b>15</b>
You decide if you want three judges to consider your application and, if you do, you send a form to the court to say so	
<b>Stage 5: Application for leave - the ‘Full Court renewal hearing’</b> .....	<b>18</b>
Your application is considered by three judges to decide if you should have leave to appeal	
<b>If you get leave to appeal</b>	
<b>Stage 6: The appeal</b> .....	<b>20</b>
If you have leave to appeal, your appeal is argued in front of three judges who decide whether you are successful	
<b>Stage 7: After the appeal</b> .....	<b>24</b>
Either you have won, or you need to consider your options now you have lost	
<b>Grounds of appeal</b> .....	<b>25</b>
<b>Information about legal aid</b> .....	<b>31</b>
<b>Words we explain</b> .....	<b>33</b>
<b>Forms</b> .....	<b>36</b>

**This booklet explains what you need to do to start your appeal. Any technical words are listed in the bottom right-hand corner and explained in the section Words we explain at page 33.**

It relates to appeals from the Crown Court in England or Wales. Appeals from the magistrates' court, and appeals in Scotland, have different rules and the information in this booklet does not apply to them.

- **If you were convicted** – that is, you were found guilty – in a Crown Court and you pleaded not guilty to the charge(s), you have the right to apply for leave to appeal against conviction and against sentence.
- **If you pleaded guilty** you have the right to apply for leave to appeal against conviction and against sentence but you are very unlikely to be given leave to appeal against conviction.
  - ▶ See what we say in the **Grounds of appeal** section on **page 25**.

### ***Court forms***

When you appeal you or your solicitor will need to fill in a number of forms. We explain in this booklet which forms are needed at each stage. All the forms are available at <https://www.gov.uk/appeal-against-sentence-conviction> or <https://www.justice.gov.uk/courts/procedure-rules/criminal/forms>, under the heading “Part 39 Appeal to the Court of Appeal about conviction or sentence”, or you can

ring the Criminal Appeal Office on 020 7947 6011/6014 or write and request them from:

Criminal Appeal Office  
The Royal Courts of Justice  
Strand  
London WC2A 2LL

### ***How long will it take to appeal?***

There is no set time limit for how long an appeal can take. It can depend on how quickly you get leave to appeal, whether your barrister supports your appeal and how long your sentence is.

### ***Can I apply for bail?***

You can apply, but you are unlikely to get bail pending appeal. It is extremely unlikely that you will get bail while waiting for your appeal but you can ask the court to consider it by ticking a box on Form NG and completing a Form B. Details of how

#### **WORDS WE EXPLAIN**

Apply for Leave  
Court of Appeal  
Criminal Appeal Office (CAO)  
Form B  
Form NG  
Grounds of appeal

to do this are in the section **What does the Form NG checklist mean?** below and there is a sample form at **page 36**.

The stronger the reasons for arguing that your conviction should be quashed, the more likely you are to get bail. Sometimes, although your bail application is refused, the appeal may be expedited – that is, speeded up.

### ***Can I give up my appeal or part of my appeal if I change my mind once I have started?***

Yes. You can abandon your whole appeal or part of your appeal at any time. This is called abandonment and it means that you cannot restart your appeal or grounds of appeal. It is a final decision. You do this by completing Form A. See previous page for contact details or go to <https://www.gov.uk/appeal-against-sentence-conviction> or <https://www.justice.gov.uk/courts/procedure-rules/criminal/forms> under the heading “Part 36 Appeal to the Court of Appeal: general rules” and return the form to the Registrars at the Criminal Appeal Office. It must be done on the correct form. If you try to abandon your appeal in another way, for example by writing a letter or telephoning the court, they will not stop the appeal.

## **Disadvantages of appealing**

### ***Can I be made to start my sentence again if I appeal?***

Yes, if the Court of Appeal decides that you do not have good grounds of appeal and have wasted their time. If that happens, the Court of Appeal has the power to order that some or all of the time you have served in custody while waiting for leave to appeal does not count towards your sentence. This is known as a ‘loss of time order’.

A loss of time order cannot be made if you are granted leave to appeal.

If the Single Judge refuses your application to appeal, they can put their initials in the box on the Form SJ to say that they think the Full Court should make this order. If you decide to renew your application to appeal to the Full Court and they refuse the application, they can make this order. They can make the order whether or not the

#### **WORDS WE EXPLAIN**

Abandonment  
Conviction quashed  
Form NG  
Form SJ  
Full Court  
Loss of Time Order  
Single Judge



Single Judge has recommended it and even if your barrister had advised you to appeal.

Guidance for judges says they should consider making a loss of time order in every case where they do not give permission to appeal. You must therefore think carefully about appealing.

### *Can I be made to pay any money?*

You can be ordered to pay some or all of the costs of the prosecution in responding to your appeal, and also the costs of any transcripts obtained for the court, if your application for leave to appeal, or your appeal, is refused. However, the court will look at your ability to pay in deciding this.

There is a box in Part 3A of the final page of the Form SJ where you can say why the court should not make a 'loss of time' or a costs order against you. See **page 46** below.

### *What is involved in an appeal?*

The diagram on **page 17** sets out the steps you need to take to appeal.

#### WORDS WE EXPLAIN

Leave to Appeal  
Loss of Time Order  
Form SJ  
Transcripts

# Stage 1

## Get yourself organised

### *When do I need to start an appeal?*

If you want to appeal against your conviction – you should start your appeal within **28 days** of conviction. Time runs from the date of conviction, even if you were sentenced at a later hearing.

If you want to appeal against your sentence – you still have **28 days** to start your appeal, but time runs from the date of sentence.

If you want to appeal against your conviction and your sentence – you need to make two separate appeals. Unless you were sentenced on the same day you were convicted there will be different deadlines. Do not wait until the date of your sentencing hearing to appeal your conviction. You will also need to complete different forms for each appeal.

► See **page 8**.

The appeal is started when your appeal form is received by the Court of Appeal (see **page 36** below on the forms to use). If you are sending it by post, you need to allow time for the post office to deliver it before the 28 days runs out. If you are sending it by email, your appeal form is

only counted as arriving the same day that you send the email if you send it before 2.30pm. See “**What do I do with the forms once they are filled in?**” on **page 10** for more information.

The Single Judge or the Full Court can give you an extension of time. They can extend the time limit if, for instance, you have been waiting for your barrister’s written advice or you did not know what to do. If you appeal after 28 days you will need to give reasons for appealing outside the 28-day period. If this applies to you, look at what we say about this in the **Grounds of appeal** section on **page 25**.

In general, if you have good grounds of appeal, the fact that you are a bit late will not prevent you getting leave to appeal.

### *I had co-defendants. Can I appeal even if my co-defendants do not?*

Yes. It does not matter what your co-defendants do, though if they appeal as well, the court will usually hear the cases at the same time.

### *What do I need to do to start an appeal?*

First, you should make sure your trial barrister writes an advice on appeal. This is a written document giving the barrister's views about the trial and/or the sentence and whether you have any grounds of appeal. If you had legal aid for your trial, you are entitled to this written advice under legal aid. Ask your solicitor for this.

Please note that some solicitors are now qualified to be advocates in the higher courts, in the same way as a barrister. A 'solicitor advocate' may have represented you. In that case, the solicitor will write the advice just as if you were represented by a barrister.

### *I don't have any faith in my trial lawyers. Can I get advice from a new solicitor or barrister?*

You can always do this if you are in a position to pay for the advice. If you cannot pay, you might be able to get advice from a new solicitor under the 'advice and assistance' legal aid scheme.

► See what we say in the **Information on legal aid** section at **page 31**.

To get advice from a new barrister you will usually need to have a solicitor first, so it is best to start by finding a solicitor willing to help you. Some barristers will let you instruct them directly. This is called Direct Access.

The prison legal aid officer should be able to give you a list of solicitors.

You can also find one using the website <https://www.find-legal-advice.justice.gov.uk/>. Alternatively, you can telephone the Law Society on 020 7320 5650. They can give telephone numbers for up to three firms of solicitors. You should ask for a local firm with a Legal Aid Agency Crime Contract.

**Don't forget the time limits for appealing.** (See previous page.)

**If you instruct new solicitors then, before they can lodge an appeal, they will need to independently check what you have told them.**

This may mean they will have to write to your previous solicitors and ask them their opinion on what you are saying. This does not mean they do not believe you, but is a requirement of the Court of Appeal.

#### **WORDS WE EXPLAIN**

'Advice and assistance'  
Advice on Appeal

## Stage 2

### Apply for leave to appeal

If your barrister thinks you may have good grounds of appeal, s/he will draft grounds of appeal for you. Your solicitor will deal with the form-filling procedure described below to start the appeal. After that, the solicitor may not be involved. This is because legal aid for solicitors ends when the Single Judge makes a decision or when the Registrar sends the application to the Full Court.

#### *What if my barrister thinks that I don't have any grounds of appeal?*

You can still appeal by yourself, even if your lawyers do not support your appeal. You do not have to have a lawyer to help you. If you are in prison, the legal aid officer in the prison has copies of the forms you will need. If you are not in prison, you can get the forms by ringing the Criminal Appeal Office on 020 7947 6011/6014 or by post at the Criminal Appeal Office, The Royal Courts of Justice, Strand, London, WC2A 2LL. They are also available from the websites <https://www.gov.uk/appeal-against-sentence-conviction> or <https://www.justice.gov.uk/courts/procedure-rules/criminal/forms> under the heading “Part 39 Appeal to the Court of Appeal about conviction or sentence”.

There are copies of the forms later in this booklet between **pages 36 and 47** to help you find the right one.

- You will need a Notice of Grounds form, called Form NG. There are different forms for appealing against your conviction (Form NG-Conviction) and for appealing against your sentence (Form NG-Sentence). There is a separate form for appealing a confiscation order but this is not covered in this booklet.
- If you want to apply for bail, you need a bail form called a Form B.
- If you want to be allowed to call witnesses you need a Form W – that is a witness form.

#### *Even if my barrister doesn't think I can appeal, can my solicitor still help me?*

If your solicitor disagrees with your barrister's advice he or she can help you to fill out the forms and to write out what they think the grounds of appeal should be. ▶ See what we say in the **Legal Aid** section on **pages 31 and 32**.

#### WORDS WE EXPLAIN

Apply for Leave  
Form NG  
Form B  
Form W  
Full Court  
Grounds of appeal  
Registrar of Criminal Appeals  
Single Judge

***I cannot write any grounds of appeal without my trial documents. Can my solicitor refuse to give these to me or another lawyer?***

You are entitled to have your trial documents from your solicitor if you want them. These will include all the written evidence that the prosecution relied on, any evidence that your trial solicitor put together as part of your defence and any correspondence between you and your solicitor about your case. There might also be a note on what happened at procedural hearings and your trial and advice from your trial barrister. If you were not entitled to legal aid and had to pay your solicitors, they can keep your papers until you pay their bill. If you think you have been overcharged you can find out how to challenge the bill at <https://www.gov.uk/challenge-solicitors-bill>.

***How do I fill out Form NG?***

If you have a solicitor they will fill out the form for you. If you do not have a solicitor you will need to do this yourself. The prison legal aid officer may be able to help you.

The different Form NGs (Notice of Grounds) for appealing conviction and sentence are very similar. You must fill out a separate form for each appeal you wish to make. You can see examples of the forms on **pages 36 to 47**. Make sure you are

using the right form. It says in the top right corner whether the form is for appealing conviction or appealing sentence.

In Section A you need to write your personal details. If you are not in prison it is important that you put an address where you know that post will be delivered to you.

In Section B you need to put which court heard your case and when it was heard.

Section C is called the sentence matrix. You have to fill out each case you are appealing and each count of the indictment you were sentenced for, as well as the type and length of the actual sentence (for example, five years' custody). The indictment is the list of charges (or allegations) you were being prosecuted for (each individual allegation against you is called a "count" on the indictment). If you are appealing sentence there are some additional questions about how long you were on remand (that is, time spent in prison waiting for your trial), and what other orders the judge made. The question that says "Time ordered to count

**WORDS WE EXPLAIN**

Form NG  
Gogana Affidavit  
Indictment  
Trial Documents

towards sentence under s240A Criminal Justice Act 2003” needs you to say how much time the judge took off your sentence if you were on bail and had an electronically monitored (ankle tag) curfew of at least nine hours a day (so if for example your curfew said you had to be at home between 9pm and 6am each day).

Section D is where you tick the applications you are making. You will always want to tick ‘permission to appeal’. If you have not applied within the 28-day time limit you must tick Extension of Time and explain why on a separate piece of paper. If you want to apply for bail or for permission to use new evidence you must tick the box and fill out Form B or Form W (which is explained below). You can ask for an interpreter but should only do so if you do not think you speak English well enough to understand the court proceedings without one.

Section E is the section for legal aid. You first of all explain what legal aid you had in the Crown Court and then tick to say if you want legal aid to pay for a barrister in the Court of Appeal. If you say that you are currently paying privately for legal representation then you or your solicitor will have to obtain and pay for the correct transcripts ▶ See “**What transcripts will the Single Judge look at?**” on page 11.

Section F is if you want the Single Judge to get more than the normal transcripts. By putting in the times, it helps the Registrar identify when things happened at the Crown Court.

If you do not have a solicitor or barrister acting for you then you can ignore section G.

You need to sign the form at section H. Go through the reminder checklist on the third page and make sure you can answer ‘yes’ to all the questions. Then sign and date the form. You will see from the form that it warns you that you might be made to serve more time in prison or pay costs. ▶ See what we say about this under the heading **Disadvantages of appealing** on page 3.

### *What does the Form NG checklist mean?*

The main thing you must have is a signed **Grounds of Appeal**. ▶ If you are filling in the forms yourself you need to read the section of this booklet at **page 25** called **Grounds of Appeal** carefully to help you write out your grounds of appeal.

#### **WORDS WE EXPLAIN**

Court of Appeal  
Form NG  
Grounds of appeal  
Single Judge  
Transcripts

Form B: this is the form you fill out if you want bail. You must send a copy to the Crown Prosecution Service as well as the Court of Appeal. You need to fill out on the form how you intend to do this.

Form W: If you want to call witnesses, you need permission from the Court. Make sure you tick the box in Section D of Form NG to ask for this. You need to complete a Form W for **each witness** you want to call. Look at the example on **page 44**. You need to set out what they can say, and why they did not give evidence at the trial. You will also need to attach a signed witness statement from them and you will need an extra statement by you or your solicitor setting out how you found out about the new evidence. This is because the Court of Appeal will want to look at these circumstances to see if it helps them decide how believable the new evidence is. This extra statement is called a Gogana affidavit.

### *What do I do with the forms once they are filled in?*

If you have completed the forms yourself and you are in prison, give the forms to the legal aid officer in the prison. He or she will arrange for them to be sent to the Criminal Appeal Office.

If you are not in prison, the Court of Appeal prefers to receive the forms by email. They

should be sent to [criminalappealoffice.applications@hmcts.x.gsi.gov.uk](mailto:criminalappealoffice.applications@hmcts.x.gsi.gov.uk). The subject of the email should be Form NG – Your surname – Crown Court your case was heard at. For example, it might say “Form NG – Smith – Leeds Crown Court.” If possible, it should all be sent as one email but, if it is too large, you should mark the emails showing how many there will be and which one this is – for example, if you need to send three emails it would say Part 1 of 3, Part 2 of 3, Part 3 of 3. The Grounds of Appeal and any other attachments should be sent as PDF files.

Alternatively you can take or send the forms to the Criminal Appeal Office in London yourself. If your barrister advises that you have grounds of appeal, your solicitor will do this for you.

Criminal Appeal Office  
The Royal Courts of Justice  
Strand  
London WC2A 2LL

The procedure after that is the same whether you have lawyers acting for you or you have started your appeal yourself.

#### WORDS WE EXPLAIN

Criminal Appeal Office (CAO)  
Form B  
Form NG  
Form W  
Gogana Affidavit

## Stage 3

### The ‘Single Judge’ stage

#### *What happens when I apply to the Criminal Appeal Office?*

The staff of the Criminal Appeal Office check your application and give each application you make a reference number. For example, if you apply to appeal your conviction and your sentence, you will have separate reference numbers. They will write to you within 7 days to confirm that they have received your application, giving you the reference number. If you need to contact the Court you must quote this number.

The staff at the Criminal Appeal Office will then ensure that your application has everything it needs before it is ready to be considered by a Single Judge. Your application is then sent to the Single Judge to read. He or she will decide whether to give you leave (that is, permission) to appeal. It may take up to 8 weeks for a Single Judge to make a decision. This is known as the ‘Single Judge’ stage of an appeal. The Single Judge sees:

- the notice and grounds of appeal
- any advice on appeal that has been sent with it
- the written records or ‘transcripts’
  - ▶ go to the section below about **transcripts**

- and any other documents that the Criminal Appeal Office staff have obtained in the preparation of your case.

The Single Judge records the decision on leave to appeal on the Form SJ. A copy of an Form SJ is included at **page 46**.

There is no hearing in court: the Single Judge reads the documents and decides whether to give leave to appeal. He or she fills in the Form SJ giving reasons for any applications that are granted or refused.

The Registrar’s staff will send you a copy of the Form SJ telling you whether you have been given leave to appeal or not.

#### *What transcripts will the Single Judge look at?*

All Crown Court hearings are digitally recorded. A transcript is a word by word written record of what was said in court.

For an appeal against conviction, the court will want a transcript of the summing up by the trial judge and any other discussions

#### WORDS WE EXPLAIN

Advice on appeal  
Criminal Appeal Office (CAO)  
Form SJ  
Grounds of appeal  
Registrar of Criminal Appeals  
Single Judge  
Transcripts

in court between the summing up and the verdict. This might be a direction by the judge for a majority verdict or an answer to a question asked by the jury. For an appeal against sentence, the court will want the transcript of what the prosecution said and of what the judge said at the sentencing hearing.

If on the Form NG you tell the Court of Appeal that you are paying privately for representation for your appeal then you have to obtain and pay for the transcripts yourself. If you ticked 'no' to that question then the court will automatically arrange to get these transcripts and pay for them.

***A transcript of the trial judge's summing up is not enough for the Court of Appeal to know what went on. Shouldn't there be a transcript of everything that was said in my case?***

It is very unusual for trial transcripts to be automatically prepared for an appeal. They are very expensive to produce and will overburden the court to read for every case. A transcript of part of the evidence may be ordered. The Registrar makes the decision as to what transcripts are necessary in each case after considering the grounds of appeal. There is space on the NG form to explain why you think extra

transcripts are necessary. You can ask the Single Judge or the court to order these transcripts if the Registrar will not do so. You should explain clearly why you think they are needed and they will look at the Registrar's decision again.

***How do I get a transcript?***

If you can raise the money, you can pay to have further transcripts prepared that the court will not order. You will need to fill out Form EX107 Request for transcription of court or tribunal proceedings and send it to the court where you were tried. The guidance notes tell you which transcription provider works in that court. You can write or telephone them directly to ask how much it will cost to prepare the transcript you require.

The guidance notes and form are available online at <https://www.gov.uk/government/publications/order-a-transcript-of-court-or-tribunal-proceedings-form-ex107>.

***What if I think my barrister's grounds don't cover everything that I want to raise?***

It is quite likely that all the points of concern you have will not be made in the grounds your barrister drafts. This is because the court can only consider certain

points (► See the **Grounds of Appeal** section on **page 25**.) You can raise further points yourself, but you should raise them with your lawyers (if you have any) first. You should also read the grounds of appeal to see whether you have a point that the court will consider.

If you do decide to put in further points, you need to send them to the Registrar at the Criminal Appeal Office. You can do this while your application is still being dealt with. However, it is best to write to the Criminal Appeal Office as soon as possible and tell them that you wish to put in further grounds. They might then give you a deadline for these. If they don't know that you need more time, your application might be sent to a Single Judge or the Full Court without your further grounds. Once an application is sent to the Single Judge it is considered complete. Except in exceptional circumstances, any further points sent to the court after the application has been given to the Single Judge will not be considered by the Single Judge, and will only be considered if the application goes to the Full Court. If you have been given a reference number by this stage make sure you put this on your letter.

### ***Can my previous solicitors or barrister comment on my application if they are not acting for me anymore?***

As previously said, if you instruct new solicitors, they may have to ask your original legal team to comment. If your grounds of appeal criticise your lawyers (barrister or solicitor) for making mistakes, the Registrar's office will ask you to sign a 'waiver of privilege' form.

The purpose of the waiver is to allow your barrister or solicitor to comment on your criticisms of their conduct of your case. Usually, all information passing between a lawyer and his or her client is confidential (or 'privileged'). If you sign the waiver then the barrister or solicitor will be able to pass on any information which you might have given in confidence if he or she feels it is necessary in order to comment on your criticisms.

#### **WORDS WE EXPLAIN**

Full Court  
Grounds of appeal  
Registrar of Criminal Appeals  
Single Judge  
Waiver of privilege form

If you do not want to sign the waiver, you will need to think carefully about whether to continue with this ground of appeal. You can withdraw the ground of appeal based upon your lawyer's mistakes. If you continue, the Single Judge will consider your complaints, but will be reluctant to give you leave to appeal on this point.

The court will let you respond to any comments that your trial barrister or solicitor make.

### *How do I find out if I have got leave to appeal?*

If you are in prison, the legal aid officer in the prison will hand you the Form SJ. If you are not in prison, it will be sent to you through the post. A copy of the form is shown on **page 46**. You will see that it has a space for the judge to say which applications are allowed and which are refused. There is also a box in which the judge gives brief reasons for his or her decision.

### *If the Single Judge gives me leave to appeal, what happens next?*

This means that your case will go ahead to be listed as an appeal to be heard before three judges of the Court of Appeal Criminal Division. ▶ See Stage 6, **The Appeal**.



### *What if the Single Judge decides I should not have leave to appeal?*

Stage 4 of this booklet explains what your options are. ▶ See Stage 4, **Renewal to the Full Court** on **page 15**.

## Stage 4

### Renewal to the Full Court

#### *Can I carry on with my appeal if I have been refused leave to appeal?*

Yes. The Court of Appeal gives you 14 days to decide whether or not you want to carry on with your appeal. If your lawyers put in the grounds of appeal, you should contact them for advice, but you can carry on even if they advise against it.

#### *Are there any penalties if I carry on with my appeal?*

► See what we say under the heading **Disadvantages of appealing** on **page 3**.

#### *I want to carry on. What do I need to do?*

If you are in prison, then when you are given the SJ form, the legal aid officer will note on the back the date he or she gave it to you and sign it. From that day, you have 14 days to decide if you want to ‘renew your appeal’. You must decide and tell the legal aid officer within the 14 days.

If you are not in prison and you want to continue your appeal, you must return the form within 14 days of the date it was sent by the Criminal Appeal Office (not the date you received it). The date the Registrar sent it is shown in Part 1 of the form, after the words ‘Date Form SJ dispatched.’

You need to complete parts 3A and 3B on the back page of the Form SJ to show that you are renewing your application to the Full Court. If you have appealed against conviction and sentence, you will receive a separate Form SJ for each appeal. You will need to think about, and decide whether or not to return, each separate form. ► See **page 47** for the form.

If you are in prison, you hand the form back to the legal aid officer. He or she signs and dates it and returns it to the Court of Appeal. If you are not in prison, you must sign and date the form yourself and post it back to the Court of Appeal. It is a good idea to get a photocopy of the signed and dated form before you send it, if you can.

#### *I did not renew my application within 14 days. Can I still continue with my appeal?*

The 14-day time limit will not be extended unless the circumstances are exceptional. In our experience it is very hard to get

#### WORDS WE EXPLAIN

Court of Appeal  
Criminal Appeal Office (COA)  
Form SJ  
Grounds of Appeal  
Renew to the Full Court



the time extended. You need to show that getting the form back in time was beyond your control, for example if you needed emergency hospital treatment. Waiting for your lawyer's advice will not normally be a good enough reason, although the more likely your appeal is to be successful, the more likely you are to be given the extra time. If your lawyer can't advise you in the time limits then they should explain this to the court and ask for the extra time.

If you wish to renew an application after the time limit, you must include a written explanation for the delay with the completed Form SJ when you return it.

### ***What happens after I have signed and returned the form?***

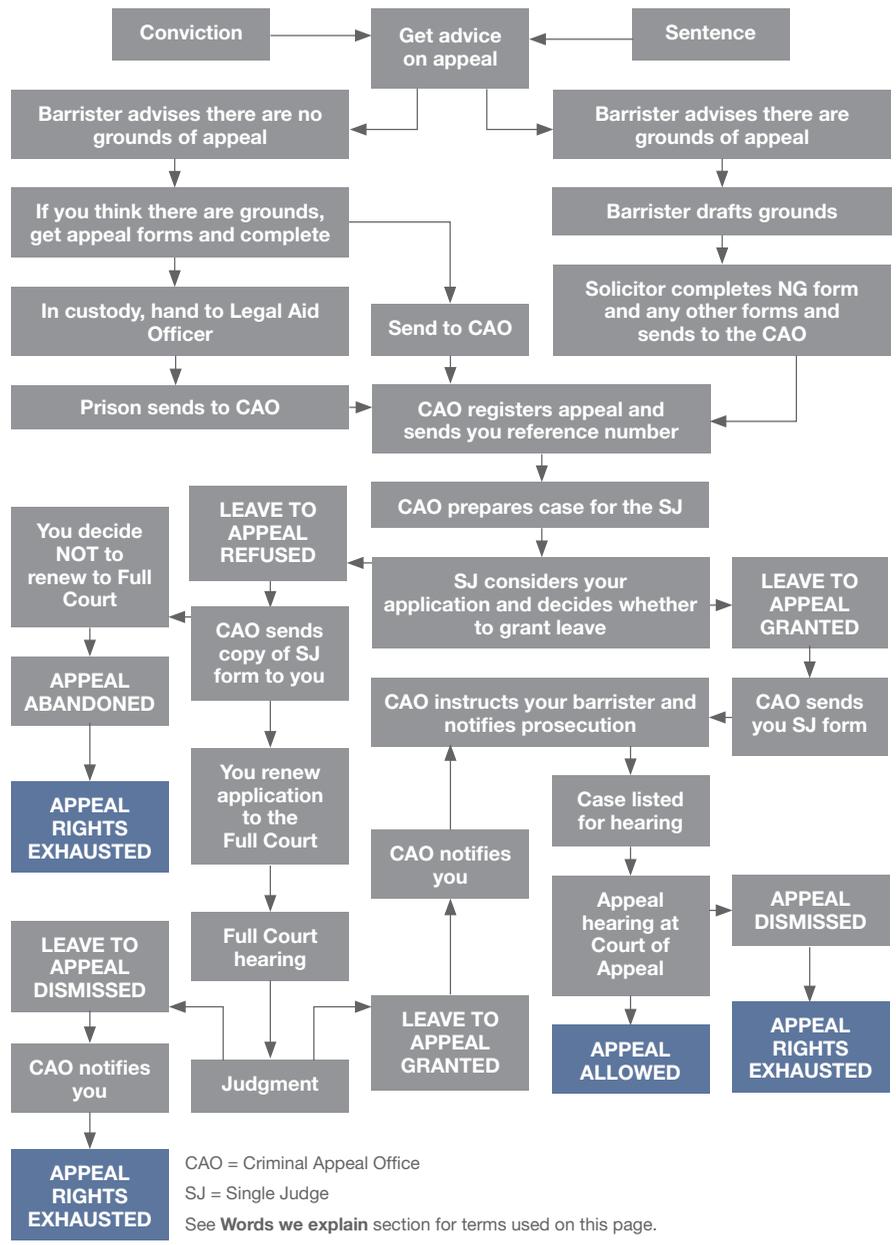
The Registrar's office will prepare the case for the 'Full Court renewal hearing'.

► See Stage 5, **Application for leave - the 'Full Court renewal hearing'** on page 18.

#### **WORDS WE EXPLAIN**

Form SJ

# How it works



## Stage 5

### Application for leave - the ‘Full Court renewal hearing’

#### *What happens after I apply to renew my application?*

The ‘Full Court’ is a panel of two or three judges who look at the case and decide whether or not you should be given leave to appeal. The judges usually make their decision by reading the documents which the Single Judge looked at and discuss the case amongst themselves. The judges say what their decision is, whether they have granted or refused leave to appeal, and what their reasons are.

#### *Who represents me?*

Usually no one represents the applicant. You can arrange for a barrister to represent you and to argue that you should be given leave to appeal. However, there is no legal aid to pay for a barrister. If you can raise the money yourself, you may be able to pay the barrister. If the barrister feels strongly about the case, sometimes s/he will agree to argue the case before the Full Court without charging a fee.

#### *I’m in prison. Will I be brought to court for my Full Court renewal hearing?*

No. Prisoners in custody are not brought for a Full Court renewal hearing. If you are not in prison, you can attend.

#### *Can my family or friends come to the hearing?*

Yes. The hearings are held in public in the Royal Courts of Justice on the Strand in London and anyone can attend.

#### *If I’m not there, how can I know what the decision is?*

You will receive a Court Order, which is a letter from the Criminal Appeal Office that simply tells you whether or not you have been successful. It does not tell you what the judges said in their judgment. That is why it is a good idea to go and sit in court, or to get a friend or relative to go if you are in prison. If you are represented by a barrister, the barrister should report back to you, at least through your solicitor. The reasons for the decision are set out in an “approved Judgment” and it can sometimes take about 6 weeks for this to be ready. You can request a copy of this from the Criminal Appeal Office. There is no fee to pay, unless you ask for more than one copy.

#### WORDS WE EXPLAIN

Criminal Appeal Office (CAO)  
 Full Court  
 Full Court Renewal Hearing  
 Leave to Appeal  
 Single Judge



### *What can I do if my application to the Full Court fails?*

This is the end of your appeal.

► See what we say in Stage 7 – **after the appeal** on **page 24**.

### *What happens if the Full Court grants my application for leave to appeal?*

You will get a letter telling you that the court has decided to give you leave to appeal. Usually they will also have made an order for legal aid. Your case will now go ahead to be prepared for an appeal hearing, in the same way as if the Single Judge had given you leave. ► See Stage 6, **The appeal** on **page 20**.

## Stage 6

### The appeal

#### *What happens at my appeal hearing?*

The hearing of an appeal takes place before three judges sitting in the Court of Appeal Criminal Division in the Royal Courts of Justice, Strand, London.

You will be represented at the hearing by a barrister (or sometimes two barristers). The prosecution will be represented by a barrister as well. The barristers each put their side of the case to the judges. Your barrister goes first, followed by the prosecution barrister. Then your barrister can reply. Sometimes the judges allow witnesses to be called if you have made an application for this. The judges then decide.

Most appeals take one or two hours to hear, though unusual cases can take one or two days. Generally the judges make their decision immediately after hearing the case and one of them then gives a judgment. They will say whether or not they allow the appeal and give reasons. Sometimes, if the case is complex, they say they will reserve judgment, which means that they go away to think about it and give judgment at a later date.

#### *How do I know when my case will come up?*

You will be notified of the date your appeal is to take place (usually at least two weeks beforehand). This information is sent by the Criminal Appeal Office to you in a letter.

#### *If I'm in prison, will I be brought to court for the hearing?*

No, all prisoners attend the Court of Appeal via a video link, unless there is an exceptional reason that requires you to attend in person, such as if you need to give live evidence. If your prison does not have a video link facility you will be taken to a nearby prison that does.

If you do not wish to attend the hearing, you do not have to. Provided you were told of the hearing, the court will continue to decide the appeal in your absence.

#### *Will I get legal aid?*

The judge who gave you leave to appeal will give you legal aid if you asked for this in your application. However, the legal aid is generally limited to a barrister only, not a

#### WORDS WE EXPLAIN

Appeal Hearing  
Court of Appeal  
Criminal Appeal Office  
Reserve Judgment

solicitor as well. The Criminal Appeal Office prepares the appeal documents and sends them to the barrister.

### ***I will need a solicitor to make further inquiries. Can I get legal aid for this?***

It is rare for there to be legal aid for solicitors to do work. It only happens where it is clear that there are significant further investigations to be carried out. You or your solicitor can always apply for legal aid, specifying as precisely as you can what work needs to be done and why. ▶ See what we say under the **legal aid** section at **page 31**.

### ***Who will be my barrister in the Court of Appeal? How is he or she chosen?***

If your trial barrister drafted grounds on which you have got leave to appeal, it is nearly always best for you if that barrister argues your case before the Court of Appeal. S/he will always know more about the case than anyone else can learn by reading the documents.

If you want to change your barrister you have the right to ask the Criminal Appeal Office to instruct someone else for you. However, the Registrar will want very good reasons from you as to why you should

have a different barrister, particularly if the current barrister has already started working on your appeal.

If you get leave to appeal on grounds you have drafted yourself, the Criminal Appeal Office will ask you whom you want to instruct. If you don't have confidence in your original barrister, you can ask the Criminal Appeal Office to instruct someone else.

### ***Will I have the chance to discuss my case with my barrister before the appeal hearing?***

Yes. You should make sure that this is arranged. If you are not in prison, you can arrange to meet to discuss the case. If you are in prison, you will attend court via video link. Your barrister (and your solicitor, if you have one) can speak to you in private on the video link before and after the appeal hearing.

Where there are important things to discuss, and particularly where a different barrister is going to present your appeal, your barrister will arrange a meeting with you. If you are in prison, they will visit you there. If not, the meeting will either be at their office (called 'chambers') or your solicitor's office.

### ***Can I argue my case for myself?***

You may be able to represent yourself – known as ‘acting in person’ – but you have to get permission from the court. However, this is usually very unwise because it is very hard to present your own case well.

### ***What if I’m released from prison before the case comes to hearing?***

You have the right to continue your appeal even if you have served your sentence. The appeal will still go ahead.

You can ask the court for a Defendant’s Costs Order if your appeal is successful. This means the court would repay you your travel expenses for being at the hearing.

### ***Can my family or friends come to support me?***

Yes. Appeal hearings are held in public in the Royal Courts of Justice on the Strand, London, and anyone can attend. However, if you are in prison, you cannot speak to them through the video link like you can with your lawyers.

### ***How long will it all take?***

This is very hard to estimate, because it depends on a number of different factors. You can expect it to take some months between leave to appeal being given and

the appeal hearing. The length of time will depend on the further work that needs to be done to get the appeal ready. It will also depend on the length of your sentence. They try to list people with shorter sentences before those serving long terms of imprisonment.

### ***I’ve been given my date, but I’m not ready for the hearing. What can I do?***

You can apply for an adjournment, and if you have good reasons for needing more time, an adjournment will usually be granted. You need to apply for an adjournment as soon as possible after getting the date.

You should ask your barrister for advice.

### ***What happens when the judges deliver judgment?***

When the judges have decided, one of the judges will ‘deliver judgment’. He or she will set out some of the facts of the case and

#### **WORDS WE EXPLAIN**

Adjournment  
Appeal Hearing  
Deliver Judgment

say what their decision is and why they have made it. You usually hear at the end of the judgment whether you have won or lost.

If you have won, the judge who gives the judgment says that the appeal is ‘allowed’. S/he will say that the conviction is ‘quashed’ (which means that the conviction is cancelled and you are no longer considered guilty) in appeals against conviction, or will announce a substitute sentence (what your sentence will now be) in appeals against sentence. If you have lost, the judge says that the appeal is ‘dismissed’.

Where your appeal against conviction is allowed, the Court of Appeal may order a retrial, if it thinks this is in the interests of justice. This means that the trial will take place again from the beginning, with all the witnesses and arguments heard again. You may be released on bail or held in custody to await your retrial at the Crown Court. If it has been a long time since your original trial and you have spent a long time in custody, these are strong factors against the order of a retrial, but the Court of Appeal may still order one.

After the judges have finished speaking, the barristers may stand up and make any points that need to be made about costs or other matters. You do not have the right to speak.



If you are entitled to be released straight away – i.e. if your appeal against conviction is allowed and there is to be no retrial; if there is a retrial but you are released on bail; or if your sentence is reduced so much that you are due for immediate release – then the prison will arrange this. There is a lot of paperwork to be completed, so you are taken back to your cell while this is completed and sent to the prison. You are then released from prison.

#### WORDS WE EXPLAIN

Appeal Allowed  
Appeal Dismissed  
Conviction Quashed  
Court of Appeal  
Retrial

## Stage 7

### After the appeal

#### *If I've lost my appeal, what then?*

Your rights of appeal end (or in legal terms 'are exhausted') either when the Full Court has refused to give you leave to appeal or when the Court of Appeal has dismissed your appeal. There are two further ways to reopen your conviction, but they are both extremely difficult.

#### *Appeal to the Supreme Court*

You do not have an automatic right to appeal to the Supreme Court. Either the Court of Appeal or the Supreme Court itself can give you leave to do so. The Court of Appeal must have certified that a point of law of general public importance is involved in the decision, and it must appear to the Court of Appeal or the Supreme Court that the point is one that ought to be considered by the Supreme Court. If you think this might apply to your case, you should ask your barrister for advice.

If the Single Judge did not give you leave to appeal (see Stage 3) and the Full Court also decided against your renewed application for leave to appeal (see Stage 4), you have no right to appeal to the Supreme Court against this decision.

#### *Application to the Criminal Cases Review Commission*

The Criminal Cases Review Commission can refer a case back to the Court of Appeal even after a previous, unsuccessful appeal. You must have some new argument or evidence not presented at trial or on appeal. You can find out how to apply to the Criminal Cases Review Commission on its website [www.ccrcc.gov.uk](http://www.ccrcc.gov.uk), by writing to them at 5 St Philip's Place, Birmingham, B3 2PW, or by telephone on 0121 233 1473.

#### WORDS WE EXPLAIN

Court of Appeal  
Full Court  
Leave to Appeal  
Single Judge

# Grounds of appeal

## *What grounds of appeal can I use?*

It is important to understand that the powers of the Court of Appeal are limited. An appeal against conviction is not another trial which looks at the evidence and decides who is telling the truth. It does not look again at the facts of the case in the way that the jury did and decide whether the person is guilty or innocent. It looks to see if the trial judge conducted the trial according to the rules, summed up the facts fairly and got the law right – whether the conviction is ‘unsafe’.

If there is new evidence which was not available for the trial, the Court of Appeal will sometimes look at the new evidence and decide if it might have led the jury to reach a not guilty verdict.

In the same way, an appeal against sentence is not a fresh look at what sentence you should receive. The Court of Appeal will only think about whether or not your sentence was either wrong because the judge made an error or the sentence is ‘manifestly excessive’. This means that the sentence needs to be outside the reasonable range of sentences a judge could pass.

**So ... in order to have a successful appeal you have to be able to show either**

- **that the judge did not conduct the trial or pass sentence in accordance with the legal rules,**
- **that there is good new evidence to show that the jury made the wrong decision, or**
- **that the sentence was outside the range the judge should have passed.**

It is not enough to list the things that you think went wrong with your trial. You have to find things which come within the areas that we set out above. We try below to give you some idea of the things that you can, and can’t, put forward as grounds of appeal.

## *Appeal against conviction*

*What you can’t successfully put forward as grounds*

- I am innocent.
- The jury should have believed me, I was telling the truth.
- It’s not fair. I was convicted and my co-defendant was not.

### WORDS WE EXPLAIN

Court of Appeal  
Grounds of appeal

*Points you might be able to put forward***1 The judge's rulings during the trial**

These are the decisions that the judge made during the trial. They include decisions about whether certain evidence could be heard, or whether the jury should have been told about your previous convictions. These things are difficult to argue, because a trial judge has a lot of freedom about how he or she conducts the trial. So, if your barrister tried to argue these things in front of the judge, the Court of Appeal will not interfere unless the trial judge acted very unreasonably.

**2 The judge's summing up**

The trial judge has a lot of leeway in how he or she sums up the case for the jury. The judge should have explained the law in simple language. He or she does not have to give strict legal definitions. He or she should also have given an outline of the defence case, but this does not need to be in great detail. It is rare to succeed with an appeal on the grounds that the trial judge was biased against you, or did not put your case fully enough. Even if you can show that the judge made a mistake, you will only succeed if the mistake is likely to have led the jury to find you guilty.

**3 Jury issues**

You may want to object to a particular member or members of the jury, because you know them or for some other reason you don't think that they decided your case fairly. This is difficult to do after you have been convicted, because objections to the members of the jury should be made at the time of the trial. You can only raise issues about individual members of the jury if the evidence about them has been brought to your attention after conviction. Even then, it is hard to succeed, if the evidence is only about one of the 12.

You may think that the judge put pressure on the jury to reach a verdict, if they were not given enough time to decide. In general, the judge should give the jury two hours to try to reach a unanimous verdict, before saying that he or she will accept a majority verdict, which is based on ten people agreeing.

**4 Disclosure issues**

You may think, or know, that the police or prosecution did not tell your lawyers about important evidence which they had: for example, information or witnesses which would have been helpful to your case. This must be evidence that is so important that

the jury would probably have found you not guilty if they had known about it. This is a complicated subject, and if you think it affects you, you should seek legal advice under ‘advice and assistance’ legal aid ▶ See the **Legal Aid** section at **page 31**.

## 5 New evidence

New (often referred to as ‘fresh’) evidence does not just mean evidence that was not called at the trial. Before you can use new evidence in an appeal you also need to show that there was a good reason why the evidence was not called at the trial.

Examples of evidence which is not usually new evidence:

- a witness at trial who now wants to add some extra evidence (this is different from the person who accused you now saying that they want to change their evidence)
- someone you or your lawyers knew about who was not called as a witness because it was decided that he or she would not help anyway.

It may be new evidence if you can show that there is evidence which your solicitors should have obtained for the trial but did not (for example, because they forgot to get a statement from that person) but it is unusual for the Court of Appeal to accept this.

Examples of new evidence that are most likely to be helpful are things that were not known about at the time of trial, for example:

- new scientific evidence or tests
- a new witness whom no one knew about at the time of the trial and who has come forward with relevant information.

The Court of Appeal in considering whether to receive new evidence will have regard to the following:

- (i) Whether the evidence appears to the court to be capable of belief.
- (ii) Whether it appears to the court that the evidence may afford any ground for allowing the appeal.
- (iii) Whether the new evidence would have been allowed to go before the jury at the time of the trial.
- (iv) Whether there is a reasonable explanation for the failure to introduce the new evidence at trial. This is always a matter for the discretion of the court, who may exceptionally be prepared to admit new evidence if it is very compelling and significant, even if there is no reasonable explanation for the failure to call it at trial.

The court, when considering new evidence, may in borderline cases ask itself whether the evidence, if given at trial, might reasonably have affected the decision of the jury to convict; if it might have done, then the conviction will be unsafe.

## 6 Lawyers' mistakes

You may feel that your conviction was because of your lawyers' mistakes – either because your solicitor did not prepare the case properly, or because your barrister did not put it over well in court.

It is very difficult to use this as a ground of appeal. In order to succeed, you will have to show both that:

- the mistake was a very serious one; and
- the mistake caused your conviction.

If you want to rely on this ground of appeal, you will be asked to sign a waiver of privilege form. ► See **page 13**.

### *What if I pleaded guilty to some or all of the charges?*

If you pleaded guilty to lesser charges but were tried on and convicted of a more serious charge, you can appeal against the conviction. For instance, if you pleaded guilty to manslaughter and were convicted

of murder you can appeal the murder conviction. If you pleaded guilty to possession of drugs but were convicted of possession with intent to supply you can appeal against the conviction of intent to supply.

**But if you pleaded guilty to a charge and that plea was accepted by the prosecution, so that there was no trial but only a sentencing hearing, it is almost impossible to appeal against conviction. You would have to show that your plea was based on wrong legal advice, new evidence and/or police disclosure issues.**

### *Appeal against sentence*

*What you can't successfully put forward as grounds*

- I read in the newspaper about someone who got less than me.
- It is unfair because I am innocent.
- I don't think I deserve this sentence.
- It is higher than my co-defendant's.

## WORDS WE EXPLAIN

Waiver of Privilege Form

### *Points you might be able to put forward*

To get leave to appeal you have to show that the sentence was ‘wrong in principle or manifestly excessive’. You need to be able to show

- that the judge gave you an unjustifiably high sentence for the facts of your case;
- that he or she used wrong facts or law about your offence in calculating your sentence; or
- that you had a good reason for expecting (a ‘legitimate expectation’) a non-custodial sentence (for example, the judge ordered a pre-sentence report, and indicated that if the report was positive s/he would give you a non-custodial sentence, but then gave you a custodial sentence despite the report being positive; OR that a judge indicated to your barrister that if you pleaded guilty you would get a non-custodial sentence but then you received a custodial sentence after pleading guilty).

You should look at the Sentencing Guidelines for your offence and try to identify where you think your case would fall. You then need to look at the list of things the judge should take into account to argue why the judge has given you too long a sentence. You can find the guidelines

on the Sentencing Council website (<https://www.sentencingcouncil.org.uk/publications>).

### *What should the grounds of appeal look like?*

If you possibly can, you should get legal help to draft grounds of appeal. If you cannot get legal aid (▶ see the **Legal Aid** section at **page 31**), you may have to draft grounds of appeal yourself.

There is no specific form for this but the Court of Appeal has certain expectations. It should be clear what all the points you want to make are. These should be numbered and there should be a brief summary at the start of not more than two pages, so that the points you want to make are easily understood and identified. The Single Judge will use these numbers if s/he wants to grant leave for some of your points but not let you argue some of the others.

You then need to set out the arguments (or reasons) you want to use for each ground, identify any documents you want to refer to and set out any law that you think helps you.

#### WORDS WE EXPLAIN

Court of Appeal  
Leave to Appeal  
Single Judge

At the end of the document it needs to be signed by the person who wrote it (you can just type your name if you are sending the document by email).

### *Appeal to the Court of Appeal by the prosecution*

#### *Attorney General's Reference*

The Attorney General can refer sentences that s/he believes are unduly lenient to the Court of Appeal. 'Unduly lenient' means that the sentence is so low that no reasonable judge could have given it. The Attorney General must notify the court of his/her intention to refer the sentence no more than 28 days after sentencing takes place. If you have been affected by such a notice, you will need to give your view on this within 14 days of the application being served on you. If you were represented at the sentencing hearing then the notice should be sent to your solicitor who should help you with this. Legal aid will automatically be issued by the Court of Appeal for your barrister to continue to represent you.

The Attorney General's power applies to sentences for a range of serious offences. You should ask your solicitor if you are not sure whether this power applies in your case.

If the Court of Appeal grants the Attorney General leave, the Full Court will decide whether the sentencing judge imposed a sentence which was far too low and out of step with other sentences for the relevant offence.

#### *Prosecution Application to Retry for Serious Offences*

It is now possible for the prosecution to apply for a retrial following acquittal (that is a finding of 'not guilty' by the jury at trial) for a small number of very serious offences. The consent of the Director of Public Prosecutions is required to reopen the case and for an application to be made to the Court of Appeal. New and compelling evidence must have come to light which appears to show that the acquitted person was guilty of the crime. Examples include DNA evidence, or a confession subsequently made by the acquitted person.

If the Court of Appeal grants the application then a retrial will take place.

#### **WORDS WE EXPLAIN**

Attorney General  
Court of Appeal  
Retrial

# Information about legal aid

There are different kinds of legal aid:

## 1 *Trial legal aid under a Representation Order*

This will have been sorted out by your solicitor. It continues after you have been sentenced and will pay for your barrister to give you written advice on an appeal. If he or she advises that you do not have good grounds of appeal, your trial legal aid ends. If he or she advises that you have good grounds of appeal, legal aid covers the cost of the barrister drafting those grounds and your solicitor submitting them to the court to start the appeal process.

If your barrister advises that you do not have good grounds of appeal and your solicitor disagrees, then he or she may draft the grounds of appeal under the representation order.

## 2 *'Advice and assistance' legal aid*

You can get legal aid under the 'advice and assistance' scheme for advice from a solicitor.

If your barrister or solicitor advises against appeal or the Single Judge refuses leave to appeal, this is the only possibility of getting more legal advice under legal aid. But it is very difficult to get 'advice and assistance' legal aid. The Legal Aid Agency will usually



say that you have already had legal advice about your appeal.

You will only be able to get 'advice and assistance' legal aid for a new solicitor to advise you if you can show that the points on which you want advice are a 'new matter' and if six months has elapsed since your previous advice. This is only likely to be of use if you have new evidence.

If you can't get 'advice and assistance' legal aid, you will either have to persuade your trial solicitor to help you without being paid (or find another solicitor who will do so) or put your own grounds in and hope to get legal aid later.

### WORDS WE EXPLAIN

Grounds of appeal  
Leave to Appeal  
Single Judge

### *3 Legal aid granted by the Court of Appeal*

If the Single Judge gives you leave to appeal, he or she will make a representation order for you to be represented by a barrister at your appeal. So will the appeal court judges, if you get leave to appeal from the Full Court.

This legal aid does not normally cover work done by solicitors. Your barrister can apply to the Registrar and ask for legal aid for a solicitor to carry out further investigations. But you will only succeed if you can show very good reasons why it is necessary for your appeal.

If you are told that the Attorney General is appealing your sentence as being too lenient, you will automatically get legal aid for a barrister to represent you. Normally this will be the same barrister who represented you when you were sentenced.



#### **WORDS WE EXPLAIN**

Attorney General

Full Court

Leave to Appeal

Registrar to Registrar of Criminal Appeals

Single Judge

## Words we explain

- abandonment** . . . . . an appeal has been given up
- adjournment** . . . . . the court puts off the date of a hearing
- ‘advice and assistance’** . . . . . a type of legal aid – see the Legal Aid section
- advice on appeal** . . . . . written advice from a barrister about whether you have good grounds for appeal
- appeal allowed** . . . . . the appeal is won
- appeal dismissed** . . . . . an appeal has been lost
- appeal hearing** . . . . . when the appeal is heard by the Court of Appeal after leave to appeal has been given
- apply for leave** . . . . . to send the appeal application to the court to start an appeal
- Attorney General** . . . . . a member of the Government who gives legal advice to the rest of the Government and performs other duties in the public interest, such as looking at sentences which may be too low
- conviction quashed** . . . . . the appeal is won and the conviction is cancelled. You are no longer considered guilty
- Court of Appeal Criminal Division** . . . . . (often referred to as the CACD) the Criminal Division is the part of the Court of Appeal that deals with criminal cases
- Criminal Appeal Office (CAO)** . . . . . the office of the Registrar of Criminal Appeals that deals with all the paperwork and procedure for appeals
- deliver judgment** . . . . . the Court of Appeal judge gives the judgment of all three judges
- Form B** . . . . . the form that is used to apply for bail whilst the appeal is being processed
- Form NG** . . . . . the form used to start an appeal. There are different forms for appealing against conviction, sentence or a confiscation order. Examples of these forms are printed in this booklet to help you.

- Form SJ** . . . . . the form on which the Single Judge records his or her decision
- Form W** . . . . . the form that you use to ask for witnesses to give evidence in the Court of Appeal
- Full Court** . . . . . the panel of three judges who hear a renewed application for leave to appeal
- Full Court renewal hearing** . . . . . when the Full Court decides whether to give you leave to appeal
- Gogana affidavit** . . . . . a statement explaining how new evidence was discovered. This is to help the court decide if the new evidence is believable or not.
- grounds of appeal** . . . . . this is the summary of why you think you should win an appeal
- indictment** . . . . . this is the list of charges (or allegations) you were being prosecuted for. Each individual allegation against you is called a count on the indictment.
- leave to appeal** . . . . . permission to go ahead with an appeal
- loss of time order** . . . . . if the Court of Appeal decides that you do not have good grounds of appeal and have wasted their time, the court can order that some or all of the time you have served in custody while waiting for leave to appeal does not count towards your sentence
- Registrar of Criminal Appeals** . . . . . the person who is responsible for organising cases to be considered for appeal. He or she runs the Criminal Appeal Office
-

- renew to the Full Court** . . . . . to apply to a panel of three judges (the Full Court) for leave to appeal after the Single Judge has refused leave to appeal
- reserve judgment** . . . . . the judges decide that they will not give their judgment immediately
- retrial** . . . . . the trial will take place again from the beginning, with all the witnesses and arguments heard again
- Single Judge** . . . . . the judge who considers the NG form and other papers to decide whether to give leave to appeal
- transcripts** . . . . . all Crown Court hearings are digitally recorded. A transcript is a word by word written record of what was said in court.
- trial documents** . . . . . these will include all the written evidence that the prosecution relied on, any evidence that your trial solicitor put together as part of your defence and any correspondence between you and your solicitor about your case. There might also be a note on what happened at procedural hearings and your trial and advice from your trial barrister.
- Waiver of privilege form** . . . . . if you criticise your trial lawyers in your grounds of appeal you will need to sign this form. This is to allow your barrister or solicitor to tell the Court of Appeal anything that you told them in confidence, if he or she feels it is necessary in order to comment on your criticisms.



FOR OFFICIAL USE: CAO Ref No: \_\_\_\_\_

**NOTICE and GROUNDS of appeal or application for permission to appeal against CONVICTION to the Court of Appeal Criminal Division**  
*(Criminal Procedure Rules 39.3(1), 39.3(2))*

Form  
**NG**  
 Conviction

Please read the Guidance Notes before completing this form. Write in black ink and use block capitals

<b>Section A</b> Appellant's details See Note A	Surname _____	Forenames _____
	Address (Personal or Prison if in custody) _____	Prison Index No _____
	E-mail _____	Date of birth _____

<b>Section B</b> Court details	Crown Court at _____	Name of Judge _____
	Date trial started _____	Date of Conviction _____
	Date of Sentence _____	Tick if not yet sentenced <input type="checkbox"/>

<b>Section C</b> Details of relevant proceedings	Crown Court Case number(s)	Count No.	Offence(s)	Pleaded guilty or convicted	Sentence	Consecutive or Concurrent
Total Sentence:						

<b>Section D</b>	<input type="checkbox"/> Extension of time (see Notes D1 & D2)
	<input type="checkbox"/> Permission to appeal against conviction
<b>The appellant is applying for:</b>	<input type="checkbox"/> Bail (attach Form B – see Note D3)
	<input type="checkbox"/> Permission to introduce fresh evidence (attach Form W & supporting material – see Note D4)
Please tick (✓) as appropriate	Would an interpreter be required for a full Court hearing? (See Note D6) Yes <input type="checkbox"/> No <input type="checkbox"/>
	If Yes, please state: Language _____ Dialect _____

<b>Section E</b>	<b>In the Crown Court</b>
	<b>The appellant's funding details</b>
	Did you have a Representation Order? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, attach a copy if available & see Note E1
	Did you represent yourself? Yes <input type="checkbox"/> No <input type="checkbox"/>
	Did you pay privately for your representation? Yes <input type="checkbox"/> No <input type="checkbox"/>
	<b>For the Appeal</b>
	Are you applying for a Representation Order if permission to appeal is granted? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, see Notes E1 & E2
	Are you currently representing yourself? Yes <input type="checkbox"/> No <input type="checkbox"/>
	Do you currently have fresh legal representatives who have agreed to act for you without payment? Yes <input type="checkbox"/> No <input type="checkbox"/>
	Are you currently paying privately for legal representation? Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, see Note F1
	If none of the above, please explain: _____ _____ _____

<b>Section F</b>	If your application is privately funded you must obtain transcripts for the Registrar - see Note F1				
	<b>Transcripts</b>	If your application is not privately funded, please note that on an application for <b>permission to appeal against conviction</b> a transcript of the trial judge's summing up is obtained by the Registrar as a matter of course -see Note F2			
	If ADDITIONAL transcript is sought, please provide reasons within the grounds of appeal and specify the transcripts required below, <b>giving specific dates and times</b> of the part of the proceedings for which the transcript is requested. <b>Failure to give such details could result in unnecessary delay and prejudice the appellant.</b> See Note F3				
	Crown Court where proceedings took place	Judge	Date	Time	Description of transcript

<b>Section G</b>  <b>For completion by Counsel and Solicitors only</b>	Name of Counsel _____ Counsel's Reference _____
	Address _____ Post Code _____
	DX No _____ Telephone No _____
	Secure E-mail _____
	Were you Counsel at trial? Yes <input type="checkbox"/> No <input type="checkbox"/>
	If No, tick to confirm you have complied with your obligations under R v McCook - see Note G2 <input type="checkbox"/>
	Name of additional Counsel (if applicable) _____ Counsel's Reference _____
	Address _____ Post Code _____
	DX No _____ Telephone No _____
	Secure E-mail _____
<b>Section H</b>  <b>Declaration and signature</b>	Name of Solicitor _____ Reference _____
	Address _____ Post Code _____
	DX No _____ Telephone No _____
	Secure E-mail _____
	Were you Solicitor at trial? Yes <input type="checkbox"/> No <input type="checkbox"/>
	If No, tick to confirm you have complied with your obligations under R v McCook - see Note G2 <input type="checkbox"/>
	Prosecuting Authority _____ Reference _____
	Address _____ Post Code _____
	DX No _____ Telephone No _____
	Secure E-mail _____

<b>Section H</b>  <b>Declaration and signature</b>	I have:
	a) included reasons in support of any application for extension of time Yes <input type="checkbox"/> No <input type="checkbox"/>
	b) included Form B if applying for bail Yes <input type="checkbox"/> No <input type="checkbox"/>
	c) included Form W, witness statement in respect of each piece of fresh evidence and a Gogana affidavit (see Note D4) Yes <input type="checkbox"/> No <input type="checkbox"/>
	d) attached signed grounds of appeal (see Note H2) Yes <input type="checkbox"/> No <input type="checkbox"/>
	e) specified requirement for any additional transcript Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Declaration by appellant</b>	
I understand that if the Court is of the opinion that the application for permission to appeal is plainly without merit, an order may be made that time spent in custody as an appellant shall not count towards sentence, or if I am not in custody, an order may be made for payment of costs against me, including the cost of any transcript obtained.	

**Declaration by legal representative signing this form on behalf of an appellant**

I understand that I may only sign this form on behalf of the appellant provided the WARNINGS contained in the declarations for appellants (above) have been explained to the appellant.

**Signature of appellant or of legal representative signing on behalf of an appellant**

(if sending electronically the signature may be typed)

Signature \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_  
 Name \_\_\_\_\_

**Section I  
(see "other  
information"  
in the  
Guidance  
Notes)**

An appellant **not in custody** or legal representative should lodge this form direct to the **Registrar of Criminal Appeals** at the Criminal Appeal Office – address details below.

An appellant **in custody** should hand this form to a **prison officer** who will complete section J (below) and send it to the Registrar of Criminal Appeals – address details below

**Section J**

This notice was handed to me by the appellant today. Appellant's Index No \_\_\_\_\_

**For Prison  
Use**

Signed \_\_\_\_\_ (prison officer) EDR \_\_\_\_\_

Date \_\_\_\_\_ PED \_\_\_\_\_

**NOW PLEASE SEND THIS FORM BY EMAIL TO THE CRIMINAL APPEAL OFFICE AT:**

[criminalappealoffice.applications@hmcts.x.gsi.gov.uk](mailto:criminalappealoffice.applications@hmcts.x.gsi.gov.uk)

**If you do not have access to an email account, then please send by post to:**

**The Registrar, Criminal Appeal Office, Royal Courts of Justice, Strand, London, WC2A 2LL.**

**DX: The Registrar, Criminal Appeal Office, DX 44451 Strand**

The Registrar of Criminal Appeals will send an acknowledgement letter which will provide the Criminal Appeal Office reference number and the name of the casework group dealing with the appeal. If no acknowledgement is received within 7 days of sending it is important you contact the Criminal Appeal Office. Full contact details are provided in the Guidance Notes.



FOR OFFICIAL USE: CAO Ref No: \_\_\_\_\_

**NOTICE and GROUNDS of appeal or application for permission to appeal against SENTENCE to the Court of Appeal Criminal Division**  
*(Criminal Procedure Rules 39.3(1), 39.3(2))*

Form  
**NG**  
 Sentence

Please read the Guidance Notes before completing this form. Write in black ink and use block capitals

<b>Section A</b>	Surname _____	Forenames _____
<b>Appellant's details</b>	Address _____	_____
	(Personal or Prison if in custody) _____	Prison Index No _____
See Note A	E-mail _____	Date of birth _____

<b>Section B</b>  <b>Court details</b>	The court where convicted _____	The court where sentenced _____
	Date convicted _____	Date sentenced _____
	Name of Judge _____	Name of Judge _____

<b>Section C</b>  <b>Details of relevant proceedings</b>	Crown Court Case number(s)	Count No.	Offence(s) & Legislation	Pleaded guilty or convicted	Sentence	Consecutive or Concurrent	Maximum sentence for offence
See Note C1							
Total Sentence:							
Minimum term if applicable:							
Total period of remand in custody prior to sentence							
Time ordered to count towards sentence under s.240A Criminal Justice Act 2003 – see Note C2							
Other relevant orders: (mention any ancillary orders that were made e.g. Sexual Harm Prevention Order, Disqualification from Driving)							

<b>Section D</b>	<input type="checkbox"/> Extension of time (see Notes D1 & D2) <input type="checkbox"/> Permission to appeal against sentence <input type="checkbox"/> Bail (attach Form B – see Note D3) <input type="checkbox"/> Permission to introduce fresh evidence (attach Form W & supporting material – see Note D4)
<b>The appellant is applying for:</b>	Would an interpreter be required for a full court hearing? (See Note D6)      Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, please state:    Language _____      Dialect _____
Please tick (✓) as appropriate	

<b>Section E</b>	<b>In the Crown Court</b>
<b>The appellant's funding details</b>	Did you have a Representation Order?      Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, attach a copy if available & see Note E1 Did you represent yourself?      Yes <input type="checkbox"/> No <input type="checkbox"/> Did you pay privately for your representation?      Yes <input type="checkbox"/> No <input type="checkbox"/>
	<b>For the Appeal</b>
	Are you applying for a Representation Order if permission to appeal is granted?      Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, see Notes E1 & E2 Are you currently representing yourself?      Yes <input type="checkbox"/> No <input type="checkbox"/> Do you currently have fresh legal representatives who have agreed to act for you without payment?      Yes <input type="checkbox"/> No <input type="checkbox"/> Are you currently paying privately for legal representation?      Yes <input type="checkbox"/> No <input type="checkbox"/> If Yes, see Note F1 If none of the above, please explain: _____ _____ _____

<b>Section F</b>	If your application is privately funded you must obtain transcripts for the Registrar - see Note F1				
<b>Transcripts</b>	If your application is not privately funded, please note that the Registrar will obtain a transcript of the sentence remarks as a matter of course – see Note F2				
	If ADDITIONAL transcript is sought, please provide reasons within the grounds of appeal and specify the transcripts required below, <b>giving specific dates and times</b> of the part of the proceedings for which the transcript is requested. <b>Failure to give such details could result in unnecessary delay and prejudice the appellant.</b> See Note F3				
	Crown Court where proceedings took place	Judge	Date	Time	Description of transcript

<b>Section G</b>	Name of Counsel _____ Counsel's Reference _____	
<b>For completion by Counsel and Solicitors only</b>	Address _____ Post Code _____	
	DX No _____ Telephone No _____	
	Secure E-mail _____	
See Note G1	Were you Counsel at the sentencing hearing? Yes <input type="checkbox"/> No <input type="checkbox"/>	
	If No, tick to confirm you have complied with your obligations under R v McCook – see Note G2 <input type="checkbox"/>	
	Name of additional Counsel (if applicable) _____ Counsel's Reference _____	
	Address _____ Post Code _____	
	DX No _____ Telephone No _____	
	Secure E-mail _____	
	Name of Solicitor _____ Reference _____	
	Address _____ Post Code _____	
	DX No _____ Telephone No _____	
	Secure E-mail _____	
	Were you Solicitor at the sentencing hearing? Yes <input type="checkbox"/> No <input type="checkbox"/>	
	If No, tick to confirm you have complied with your obligations under R v McCook - see Note G2 <input type="checkbox"/>	
	Prosecuting Authority _____ Reference _____	
	Address _____ Post Code _____	
	DX No _____ Telephone No _____	
	Secure E-mail _____	

<b>Section H</b>  <b>Declaration and signature</b>	I have:	
	a) included reasons in support of any application for extension of time	Yes <input type="checkbox"/> No <input type="checkbox"/>
	b) included Form B if applying for bail	Yes <input type="checkbox"/> No <input type="checkbox"/>
	c) included Form W, witness statement in respect of each piece of fresh evidence and a Gogana affidavit (see Note D4)	Yes <input type="checkbox"/> No <input type="checkbox"/>
	d) attached signed grounds of appeal (see Note H2)	Yes <input type="checkbox"/> No <input type="checkbox"/>
	e) specified requirement for any additional transcript	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Declaration by appellant</b>		
I understand that if the Court is of the opinion that the application for permission to appeal is plainly without merit, an order may be made that time spent in custody as an appellant shall not count towards sentence, or if I am not in custody, an order may be made for payment of costs against me, including the cost of any transcript obtained.		
<b>Declaration by legal representative signing this form on behalf of an appellant</b>		
I understand that I may only sign this form on behalf of the appellant provided the WARNINGS contained in the declarations for appellants (above) have been explained to the appellant.		
<b>Signature of appellant or of legal representative signing on behalf of an appellant</b> (if sending electronically the signature may be typed)		
Signature _____ Print _____ Date _____ Name _____		

<b>Section I</b> (see "other information" in the Guidance Notes)	An appellant <b>not in custody</b> or legal representative should lodge this form direct to the <b>Registrar of Criminal Appeals</b> at the Criminal Appeal Office – address details below.
	An appellant <b>in custody</b> should hand this form to a <b>prison officer</b> who will complete section J (below) and send it to the Registrar of Criminal Appeals – address details below

<b>Section J</b>  <b>For Prison Use</b>	This notice was handed to me by the appellant today.	Appellant's Index No _____
	Signed _____ (prison officer)	EDR _____
	Date _____	PED _____

**NOW PLEASE SEND THIS FORM BY EMAIL TO THE CRIMINAL APPEAL OFFICE AT:**  
[criminalappealoffice.applications@hmcts.x.gsi.gov.uk](mailto:criminalappealoffice.applications@hmcts.x.gsi.gov.uk)

**If you do not have access to an email account, then please send by post to:**  
**The Registrar, Criminal Appeal Office, Royal Courts of Justice, Strand, London, WC2A 2LL.**

**DX: The Registrar, Criminal Appeal Office, DX 44451 Strand**

The Registrar of Criminal Appeals will send an acknowledgement letter which will provide the Criminal Appeal Office reference number and the name of the casework group dealing with the appeal. If no acknowledgement is received within 7 days of sending it is important you contact the Criminal Appeal Office. Full contact details are provided in the Guidance Notes.



**NOTICE OF APPLICATION FOR WITNESS ORDER and / or PERMISSION TO CALL A WITNESS**  
**THE COURT OF APPEAL CRIMINAL DIVISION**  
 s.23 Criminal Appeal Act 1968  
 (Criminal Procedure Rules<sup>1</sup> (rr 39.3, 39.7))

Form  
**W**

If possible, this form should be lodged at the same time as Form NG by email to [criminalappealoffice.applications@hmcts.x.gsi.gov.uk](mailto:criminalappealoffice.applications@hmcts.x.gsi.gov.uk). If you do not have access to an email account please send by post to the Registrar of Criminal Appeals, Royal Courts of Justice, Strand, London, WC2A 2LL. If this application is made at a later stage, it should be sent to the email/postal address above, quoting the Criminal Appeal Office reference number.

FOR CRIMINAL APPEAL OFFICE USE	
Reference No.	_____
Date Received	_____

Please ensure that you have read the notes for guidance D4. Write in **BLACK INK** and use **BLOCK LETTERS**

1. The Appellant	
Surname _____	Forenames _____
Address _____	
_____	
Index No _____	

2. Particulars of Witness	
Surname _____	Forenames _____
Address _____	
_____	

Do you want a Witness Order? (A witness order is not required if the witness would attend the Court of Appeal voluntarily)	Yes / No*
Was the Witness called at the trial?	Yes / No*
Do you seek any directions about the way evidence should be received (see r39.7(1) CPR). If yes, please attach details.	Yes / No*
* delete as appropriate	

**The witness can now give the following fresh evidence.** Please attach full witness statement.

**The evidence was not given at the trial because (see guidance notes D4):**

3. Signature	
Signed _____	Address and status of person signing on appellant's behalf _____
Appellant / Legal Rep* _____	_____
*delete as appropriate	_____
Date _____	_____

<sup>1</sup> The Criminal Procedure Rules are on line at: <http://www.justice.gov.uk/courts/procedure-rules/criminal/rulesmenu>



**NOTICE OF APPLICATION FOR BAIL**  
**THE COURT OF APPEAL CRIMINAL DIVISION**  
 Criminal Appeal Act 1968  
 (Criminal Procedure Rules<sup>1</sup>, r.39.8(2))

Form

**B**

If possible, this form should be lodged at the same time as Form NG by email to [criminalappealoffice.applications@hmcts.x.gsi.gov.uk](mailto:criminalappealoffice.applications@hmcts.x.gsi.gov.uk). If you do not have access to an email account please send by post to the Registrar of Criminal Appeals, Royal Courts of Justice, Strand, London, WC2A 2LL. If this application is made at a later stage, it should be sent to the email/postal address above, quoting the Criminal Appeal Office reference number.

FOR CRIMINAL APPEAL OFFICE USE

Reference No. \_\_\_\_\_

Date Received \_\_\_\_\_

Please ensure that you have read the notes for guidance. Write in **BLACK INK** and use **BLOCK LETTERS**

<b>1. The Appellant</b>	Surname _____	Proposed Address if granted Bail _____ _____
	Forenames _____	
	Place Where Detained _____	Name of householder _____
	Index No _____	
<b>2. Police Station</b>	Enter the name of the nearest Police Station the appellant is able to report to, if bail is granted _____	_____
<b>3. Proposed sureties</b>	Name _____	Name _____
	Address _____	Address _____
	Occupation _____	Occupation _____
	£ _____	£ _____
<b>4.</b>	Was bail granted before trial or sentence? If yes, please attach details	Yes / No
<b>5. Grounds for bail pending appeal</b>	The appellant applies for bail pending appeal on the following ground(s): _____ _____	
<b>6. Certificate of Service of Service</b> (rule 39.8(2) of the Criminal Procedure Rules)	Give details of those on whom this Notice has been served, including the date and method of service: _____ _____	
<b>7. Signature</b>	Signed	Address and status of legal representative signing on appellant's behalf _____ _____
	Appellant / Legal Rep (delete as appropriate)	
	Date	

<sup>1</sup> See The Criminal Procedure Rules on-line at <http://www.justice.gov.uk/courts/procedure-rules/criminal>

**COURT OF APPEAL, CRIMINAL DIVISION**  
Determination by Single Judge under Section 31 Criminal Appeal Act 1968  
(Criminal Procedure Rules, r36.5(2))



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<b>APPLICANT</b>	<b>REF NUMBER</b>	<b>DOB</b>
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<b>WHERE DETAINED</b>	<b>INDEX NO.</b>	<b>EDR</b>
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**ORDER by the Hon.**

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**APPLICATIONS considered**

- |  |                             |
|--|-----------------------------|
| (a) <b>EXTENSION</b> of time                       | (c) <b>LEGAL ASSISTANCE</b> |
| (b) Permission to appeal against <b>CONVICTION</b> | (d) <b>BAIL</b>             |
- 

**DECISION**

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If legal assistance is granted please indicate the number of Counsel and whether Solicitors are included.

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**REASONS FOR DECISION**

I have considered the papers in your case and your grounds of appeal

Where a refused application for leave to appeal is renewed to the full Court, the Court may make a **loss of time order** if the application is considered to be wholly without merit, even if it is supported by your legal advisers. The Court will certainly consider doing so if the judge's initials appear in this box: ▷



**SIGNED** \_\_\_\_\_ **DATE** \_\_\_\_\_



<b>PART 1 - FOR CRIMINAL APPEAL OFFICE USE</b>	<b>CAO REF:</b>	<b>FORM SJ - RENEWAL</b>
Date form SJ despatched:		Date renewal received:
<b>PART 2 - FOR USE BY THE PRISON SERVICE</b>		
A. Date form SJ handed to applicant:		Signed: _____ (Prison Officer)
B. Date applicant handed in form SJ renewal with Part 3 completed:		Signed: _____ (Prison Officer)
<b>PART 3 - RENEWAL NOTICE FOR USE BY APPLICANT/APPLICANT'S LEGAL REPRESENTATIVE</b>		
Applicants should read the notes below in Part 4 and tick the relevant box(es) and sign below in this part of the form if they wish to renew <u>existing</u> application(s). This form cannot be used to lodge a <u>new</u> application. This renewal notice is invalid unless Parts 3A and 3B are completed.		
<b>A.</b> I wish to renew the following application(s) ( <i>Tick the relevant box(es)</i> ):		
<input type="checkbox"/> EXTENSION of time	<input type="checkbox"/> LEGAL ASSISTANCE	
<input type="checkbox"/> Permission to appeal against CONVICTION	<input type="checkbox"/> BAIL	
<input type="checkbox"/> Permission to appeal against SENTENCE	<input type="checkbox"/> ORDER for witness to attend	
<input type="checkbox"/> Permission to appeal against CONFISCATION ORDER		
I understand that if an application is renewed after being refused by a Judge and the Court comes to the conclusion that there is no justification for the renewal, the Court may:		
i) direct that some or all of the time spent in custody as an applicant shall not count towards sentence "a loss of time order" and/or		
ii) make an order for costs against the applicant, including the cost of any transcript obtained.		
You may include in the box below any reasons why you consider the Court should not make an order pursuant to i) and ii):		
<b>B.</b> Signed: _____ (Applicant / Applicant's legal representative)		Date: _____
<b>PART 4 – NOTES</b>		
a) Applications which have been refused by a Judge may be renewed for consideration by the full Court of Appeal.		
b) This form must be completed and signed if any applications are being renewed. A renewal cannot be lodged validly by any other means. This form may be completed by the applicant or by that person's legal representative. Legal representatives cannot renew an application without the applicant's express instructions.		
c) <b>For applicants in custody, this form must be handed in the prison or other custodial authority <u>within 14 days</u> of the date shown in part 2a of this form. The date of handing in the form must be completed by the custodial authority in part 2b. Applicants not in custody and legal representatives must return this form to the Registrar to reach him <u>within 14 days</u> of the date shown in part 1 of this form.</b>		
d) If an application is not renewed within the above time limits it will generally be treated as having been refused by the Full Court of Appeal, which will not extend the time limits unless the circumstances are wholly exceptional. If an applicant wishes to renew an application after the time limits, he or she <u>must</u> include with the late renewal a written explanation for the delay.		
e) If an applicant wishes to obtain advice before renewing any application(s), this should be done and the completed form returned within the time limits already mentioned. The Court will not normally accept as a reason for delay the fact that the applicant was seeking further legal advice because legal advice received when the appeal was first launched will usually be sufficient to enable the applicant to make a decision concerning whether or not to renew any application(s).		
f) An applicant is not entitled to be present at the hearing of a renewed application.		
<u>Important notice to the applicant's legal representative</u> Legal assistance is not available under the provisions of the Crown Court representation order to prepare or present a renewed application. If a legal representative intends to appear in court on the applicant's behalf at the hearing of a renewed application (on a private or pro bono basis) he or she should inform the registrar in writing <u>within 14 days</u> of the date shown in part 1 of this form. Otherwise, the matter will be fixed for hearing as a non-counsel matter and, save in exceptional circumstances, will not be re-listed for hearing thereafter.		



## **Acknowledgements**

**This is the 4th edition of How to Appeal, produced in 2018. We are grateful to all those who have assisted in the preparation of past editions.**

**This revised edition was prepared by JUSTICE’s legal director Jodie Blackstock and Kevin Blount and colleagues at Howard and Byrne Solicitors. We are very grateful for their time and assistance.**

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**We are also grateful to Sarah Bergstrom and Vicky Sheppard-Jones of the Criminal Appeal Office for reviewing the guide.**

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THIS JUSTICE PROJECT HAS BEEN KINDLY SUPPORTED BY

KING & SPALDING

Howard  Byrne  
S O L I C I T O R S