

# FREQUENTLY ASKED QUESTIONS

## 1 HOW DO I APPEAL?

### A WHICH COURT SHOULD I APPEAL TO?

You need to make sure that you should be appealing to the Court of Appeal and not to another court.

Appealing against conviction You can only appeal against conviction to the Court of Appeal if you were convicted at the Crown Court. If you were convicted in the Magistrates' Court, you need to appeal to the Crown Court (or possibly to the Administrative Court) and you should speak to the Magistrates' Court for advice on how to appeal

Appealing against sentence If you were sentenced at the Crown Court, you can appeal against your sentence to the Court of Appeal (even if you were convicted in the Magistrates' Court).

Appeal against a confiscation order If the confiscation order was imposed by the Crown Court, you can appeal against it to the Court of Appeal (even if you were convicted in the Magistrates' Court).

### B HOW CAN I GET LEGAL ADVICE ABOUT MAKING AN APPEAL?

If you had a solicitor or barrister representing you at court through public funding (i.e. under a Representation Order) they must give you advice (in writing if you request it) about whether or not there are good grounds for an appeal against conviction and/or sentence. A copy of this advice should be sent to you immediately. If they think there are good grounds, they will fill in the form (see part C below) for you and send it to the Crown Court. The Representation Order will usually cover your solicitors and barrister taking any further necessary action on your behalf right up to the stage when your application is sent to a judge (see 3B below).

If you have already had advice from your barrister or solicitor saying there are no grounds for appeal, you don't have the right to public funding to get further advice from a different barrister or solicitor. However, in some circumstances it may be possible for new legal representatives to be given public funding from the Legal Services Commission to give you advice.

The Legal Services Commission website is at [www.legalservices.gov.uk](http://www.legalservices.gov.uk). Community Legal Advice is the LSC helpline offering free, confidential and independent legal advice. Their number is 0845 345 4345. If you are not in custody you could also speak to the Citizens' Advice Bureau

You can pay privately to get advice from another firm of solicitors or another barrister.

If you do not want legal advice or your representatives have told you there are no grounds of appeal but you still want to appeal you can fill in form NG (see next section) yourself and send it to the Crown Court where you were convicted or sentenced.

## **C WHAT FORMS DO I NEED TO USE?**

### **Forms to use when starting your appeal**

An appeal is made by filling in a Form NG, giving the reasons why you think the conviction is unsafe or the sentence is too long considering the offence and the circumstances or wrong in principle. These reasons are known as the grounds of appeal. It is not a proper ground of appeal just to say that a sentence is too long or a conviction is unsafe - you must explain the reasons why you think the sentence is wrong or the conviction is unsafe.

Once you have completed the Form NG and included your grounds of appeal, it should be sent to the Crown Court where you were convicted or sentenced. The Crown Court will then copy all the documents used at the trial and send them, with Form NG, to the Criminal Appeal Office, which provides administrative support to the Court of Appeal. Contact details for the Criminal Appeal Office are given at paragraph D below.

If you wish to apply for legal aid for a barrister or solicitor advocate to represent you at the appeal hearing if the judge gives you permission to appeal, you should tick the relevant box on Form NG. There is no need to supply any further information at this stage.

If you want to ask for bail whilst your appeal papers are being processed, you need to tick the appropriate box on Form NG and fill in a Form B. This should be submitted with your Form NG to the Crown Court where you were convicted. If you decide to apply for bail after you have already submitted your Form NG, Form B should be sent directly to the Criminal Appeal Office.

If you want to ask for a witness to appear in court for your appeal (usually for conviction matters only), you need to tick the appropriate box on the Form NG and fill in a Form W. This should be submitted with your Form NG to the Crown Court where you were convicted.

### **Other forms used in the Court of Appeal**

If you have started an appeal, but do not want to proceed with it or part of it, you may abandon all or part of the proceedings by completing Form A and sending it to the Criminal Appeal Office.

If you were granted leave to appeal, but your appeal is dismissed and you want to appeal to the House of Lords (see 3I below) you must use Form HL/SC, which should be sent to the Criminal Appeal Office.

## **D WHERE CAN I GET THE FORMS FROM?**

You can get [Form NG](#) (Notice and Grounds of appeal), [Form B](#) (asking for bail) and [Form W](#) (asking for a witness to attend court) from any Crown Court; from the HMCS website or from the Prison Personnel Officer.

You can get [Form A](#) (abandoning your appeal or part of your appeal), [Form HL / SC](#) (asking for permission to appeal to the House of Lords) or any other appeal forms from the HMCS website or from the Criminal Appeal Office:

Criminal Appeal Office, Royal Courts of Justice, Strand, London WC2A 2LL  
Criminal Appeal Office, DX 44450, Strand

Telephone: 020 7947 6011

Fax: 020 7947 6900

E mail: [Criminalappealoffice.generaloffice@hmcourts-service.x.gsi.gov.uk](mailto:Criminalappealoffice.generaloffice@hmcourts-service.x.gsi.gov.uk)

## **E WHAT ARE THE TIME LIMITS FOR SENDING IN MY FORM?**

Form NG must be sent to the Crown Court or, if you are in custody, handed to a Prison Officer, within 28 days from the date of your conviction (for appeals against conviction) or within 28 days from the date of your sentence (for appeals against sentence).

Where confiscation proceedings have been adjourned (and any confiscation order is therefore imposed on a different date to the custodial or other sentence), you should appeal the custodial or other sentence within 28 days of that sentence and then appeal the confiscation order within 28 days of that order being made. Therefore you may have two appeals against sentence, which should be submitted using separate Forms NG: one for the custodial or other sentence and one for the confiscation order.

If you are going to be outside those time limits, you need to ask for an “extension of time” (i.e. permission to send the form in late). You need to send in Form NG containing your grounds of appeal and also the reasons why you were late in sending the form in. We cannot accept reasons for an extension of time on their own without the grounds of appeal ([Rule 65.4 of the Criminal Appeal Rules 2007](#)).

## **2 HOW LONG WILL MY APPEAL TAKE?**

### **A HOW LONG WILL MY APPEAL TAKE OVER ALL?**

There are a number of different factors which affect the time an appeal will take (see 2B below). Our targets are being reviewed at the moment but at present are:

- to process straight forward conviction cases, on average, within 8 months (i.e. from receipt in the office to the final court hearing)
- to process straight forward sentence cases, on average, within 5 months (i.e. from receipt in the office to the final court hearing)

However, the appeal process is in two general stages

- the first stage is getting the papers to a judge (“the Single Judge”) so s/he can decide, from looking at the papers, whether to grant permission to appeal (See 2C below for how long it takes to get a decision from the Single Judge). In some legal documents, “permission to appeal” is referred to as “leave to appeal”.
- the second stage is preparing the case for a hearing in court.

### **B WHAT FACTORS CAN AFFECT THE TIME MY APPEAL TAKES?**

- Length of sentence – we will try to get all cases heard in court before the appellant’s release date but this is not always possible. For appeals against sentence, cases with a shorter sentence are generally dealt with more quickly than cases with longer sentences
- Complexity – if a case is very complicated it will usually take longer

- Co-appellants – if your appeal is linked to someone else's, it may take longer eg if there are some issues relating to their file which are not proceeding so quickly
- Your personal characteristics– we will take these into account if appropriate e.g. if you are very young or old or suffering from a serious illness

## **C HOW LONG WILL MY APPEAL TAKE TO GET TO A SINGLE JUDGE?**

Subject to the factors set out above (at 2B), we try to ensure that straightforward sentence cases are sent to our General Office, for them to send to a Single Judge, within 5 to 6 weeks of receipt in the office. We try to send straightforward conviction cases to our General Office within 3 to 4 months of receipt.

Our General Office is responsible for sending papers to judges and its staff try to send papers to a judge within a few days of receipt. However, at various times (particularly Christmas, Easter and in August and September) there is limited availability of judges. This means there is sometimes unavoidable delay in the General Office sending the papers to a judge.

Judges usually make their decision and return the papers to the General Office within a month.

## **3 WHAT STAGES DOES MY APPEAL HAVE TO GO THROUGH?**

### **A FORM NG IS RECEIVED AT CRIMINAL APPEAL OFFICE**

We will give your case a reference number and send confirmation that the form has been received. We will put the case details on our database and make a file up. The file is usually sent within 2 days to one of our casework sections (called sections A, B, C or D). A Case Officer will be assigned to ensure that your case is progressed efficiently through the process. When dealing with the Criminal Appeal Office you should always quote the unique case reference number, which will enable staff to identify the Case Officer dealing with your case.

### **B THE CASEWORK SECTION PREPARES THE PAPERS TO SEND TO A JUDGE**

The casework section will make sure they have all the papers the judge will need in order to make a decision whether or not to give permission to appeal. This may take some time. They may need to get further papers from the Crown Court or your solicitors or barrister. They will also have to get a typed-up record (transcript) of what happened at the relevant time at the Crown Court. If the appeal is against conviction they may have to send a copy of the transcript to your barrister for him / her to "perfect" the grounds of appeal by referring to the transcript.

If your grounds of appeal include a complaint about the way you were represented at trial by your barrister and/or solicitors, the Registrar may ask you to "waive privilege" so that your complaints may be investigated. If you do waive privilege, your trial representative(s) will be asked to comment on your complaints and they may give details of the advice that you were given and the instructions they received from you. If they do make such comments, these would be sent to you so you can make a final comment on them. All this correspondence would be included with the papers sent to the judge.

Occasionally, it will be necessary to ask the Crown Prosecution Service and/or their barrister to comment on your grounds of appeal ([Rule 68.6](#)) before they are submitted to a judge.

## **C THE PAPERS ARE SENT TO A JUDGE**

The casework group will send the papers to our General Office, which deals with allocation of all papers to judges. (See 2C above.) Once the judge has made a decision, the papers are returned to the General Office and from there to the casework section. The judge may grant or refuse leave to appeal or, sometimes but not often, may refer the case to the full Court of Appeal without having made a decision either way.

## **D IF PERMISSION TO APPEAL IS GRANTED / REFERRED**

If the judge grants permission to appeal or the case is being referred to the full Court of Appeal, a representation order is usually granted either by the Judge or the Registrar. This will give you public funding for a barrister to represent you whilst you continue with the appeal (unless you are paying privately). We will send a copy of the order to you and your barrister.

A case summary will be written to assist the judges at the full hearing of the appeal. If your case is very complex it can take some time to complete the summary. A copy of the case summary will be sent to your barrister or to you if you don't have a barrister acting for you.

Once the summary has been written, all the papers will be copied for the judges and the case details sent to our List Office for them to set a hearing date.

## **E IF PERMISSION TO APPEAL IS REFUSED**

If permission is refused, a copy of the judge's decision will be sent to you and you will need to sign and hand the form to a prison officer or return it to us within 14 days of receipt if you want to renew your application (i.e. if you want the full Court of Appeal to consider whether you should be given permission to appeal).

If the judge has refused permission, s/he may also have initialled a box on the form for the full Court to consider loss of time. This means that the judge thinks that the points you have made have no merit and if you renew them the full court should consider ordering loss of time (see paragraph H below). On the renewal form you can write why you think a loss of time order should not be made. However the full court can make a loss of time order whether or not the judge has initialled the box on the form.

You do not have a right to public funding for a barrister to represent you if your application is being renewed. You may be able to find a barrister who will represent you for free (pro bono) or you may be able to pay a barrister privately to represent you. If you do not have a barrister the full Court will still consider your case by looking at all the papers and then making a decision which they will announce in "open court" (see G below.)

As above (3D) a case summary will be written and the papers copied before the case details are sent to our List Office for them to set a hearing date.

If you do not renew your application we will arrange for the case to be closed in due course and we will send a letter confirming this.

## **F SETTING A HEARING DATE**

If you were given permission to appeal or your case was referred to the court or if you have renewed your application after it was refused, the next stage is for a date to be set for your case to be considered by the full Court of Appeal. The List Office will contact your barrister if you are being represented at the hearing. They will try to set a hearing date as quickly as possible and, subject to this, will try to set a date which is convenient for your barrister. The List Office have guidelines as to how long a case should take to list. They aim to list sentence cases within 28 days of receiving them in the List Office and aim to list conviction cases within 63-80 days of receiving them in the List office depending on the complexity and whether witnesses are to attend.

A letter will be sent to you telling you the date which has been set.

## **G THE HEARING**

This will usually be heard at the Royal Courts of Justice in London in open court i.e. a court room open to the public. There will usually be 3 judges to decide an appeal against conviction, but an appeal against sentence or an application for permission to appeal may be heard by 2 or 3 judges.

If you have been given permission to appeal, you have a right to attend the hearing of the appeal (but not any other proceedings such as a Directions Hearing) and if you are in custody, arrangements will be made for you to be brought to the court. If you do not want to attend, you should write to the Criminal Appeal Office to say so. Sometimes the court may either order you to attend or agree that you may attend by video-link to the court rather than attending in person.

If permission to appeal has not been granted and the full Court is considering your renewed application for permission, you do not have a right to attend.

## **H THE DECISION OF THE COURT**

Where permission to appeal has been granted (either by a Single Judge or the full Court), the court will either allow or dismiss the appeal. This decision is final.

Where permission to appeal has not been granted by a Single Judge, the court will either grant permission to appeal (see below) or refuse it, in which case the decision is final.

If the Single Judge refused permission to appeal but the full court grants permission, they will usually grant you public funding for a barrister to represent you and will ask for another hearing date to be set. Occasionally, the full Court may decide your case there and then if your appeal is against sentence and the judges feel that your sentence should be reduced. If you are represented at the hearing, your representative will be asked to agree that the court should proceed immediately to hear the appeal and the court's decision on the appeal is final even though you did not attend the hearing. If you were not represented, you will be notified of the court's decision and, if there are fresh matters which the court was not aware of and which may have made a difference to their decision, you may apply to have your appeal reconsidered by the court in your presence.

Where the full Court refuses permission to appeal, it may also order that some or all of the time you have spent in custody as an appellant should not count towards your sentence. The court will only make such an order where it considers that the application for permission is totally without merit and it may do so even where a barrister has advised that you should appeal.

## **I AFTER THE HEARING**

Whether or not you were present at the hearing, a copy of the court order will be sent to you.

If the full Court has dismissed your appeal or refused permission to appeal, your appeal is at an end. If you have matters which you did not raise at your appeal you can apply to the Criminal Cases Review Commission (CCRC), asking for your case to be referred back to the Court of Appeal. The CCRC's address is: Alpha Tower, Suffolk Street, Queensway, Birmingham, B1 1TT. The phone number is: 0121 633 1800.

If your appeal has been dismissed (but not if permission to appeal has been refused) you can ask the Court of Appeal to certify that a point of general public importance was involved in the decision and for permission to appeal to the House of Lords. You cannot appeal to the House of Lords unless the Court of Appeal certifies that there is a point of law of general public importance involved. A point of general public importance means a point that does not just relate to your case but a point that the House of Lords needs to consider because it would affect lots of cases.

You need to make an application to the House of Lords using [Form HL / SC](#). If the Court of Appeal certifies that a point of general public importance was involved, you may then be able to appeal to the House of Lords, but you will still need to be given permission to appeal, either from the Court of Appeal or the House of Lords.

The House of Lords will be known in the future as The Supreme Court.

## **4 I WANT TO ABANDON MY APPEAL. HOW DO I DO THIS?**

If you decide at any stage that you don't want to go on with your appeal or want to give up on part of your appeal, you must confirm this by completing and sending us [Form A](#). It is not enough to just send a letter or speak to someone on the telephone.

## **5 HOW DO I COMPLAIN?**

The HMCS leaflet [I want to complain](#) sets out all the details concerning this. A copy will be supplied on request if you speak to one of our Customer Service Officers (020 7947 6011) or write to the Customer Service Manager, Criminal Appeal Office, Royal Courts of Justice, Strand, London, WC2A 2LL or make your request by e mail to: [Criminalappealoffice.generaloffice@hmcourts-service.x.gsi.gov.uk](mailto:Criminalappealoffice.generaloffice@hmcourts-service.x.gsi.gov.uk)

If you want to complain, the member of staff dealing with your problem will try to assist you there and then. If you are not satisfied you can write or send an e mail to the Customer Service Manager (see details above) or to the Court Manager (at the same address). If you are not satisfied with the response you receive from the Court Manager, you can write

to the Area Director, Loraine Ladlow (at the same address). If still not satisfied you can contact the HMCS Customer Service Unit as set out below:

Customer Service Unit, 5th Floor Clive House, 70 Petty France, London, SW1H 9EX.

Telephone: 0845 456 8770 or 0207 189 2000

Fax: 020 7189 2732

Disability helpline/textphone: 0800 358 3506 (freephone)

Email: [customerservicecshq@hmcourts-service.gsi.gov.uk](mailto:customerservicecshq@hmcourts-service.gsi.gov.uk)

Criminal Appeal Office, 04 December 2008