



# A guide to the Judicial Committee of the Privy Council for those without a legal representative

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## 1. Introduction

This guide is designed to assist people without legal representation who would like to bring a case to the Judicial Committee of the Privy Council (JCPC). The guide provides a brief introduction to the JCPC, explains how appeals are brought to the JCPC, and sets out how proceedings before the JCPC work.

For further information, please see our website: <https://www.jcpc.uk/>. Please note that Registry is not able to provide legal advice.

## 2. What is the JCPC?

The JCPC is the highest court of appeal for many Commonwealth countries, as well as the UK's overseas territories, crown dependencies and military sovereign base areas. These countries and territories will be referred to in this guide as "JCPC jurisdictions". For a full list of the JCPC jurisdictions, please see the [Role of the JCPC](#) page on our website.

The JCPC also hears very occasional appeals from a number of ancient and ecclesiastical courts in the UK. Ecclesiastical courts decide matters relating to the affairs of the Christian church. The JCPC also has jurisdiction to consider appeals under section 17 of the Veterinary Surgeons Act 1966 and under the Brunei (Appeals) Act 1989.

For more information about the JCPC, please refer to the 'About the JCPC' section on our website.

### 3. When can I appeal to the JCPC?

The JCPC hears three types of appeal:

- **Appeals as of right**, where the constitution or law of the local JCPC jurisdiction provides that a party has the right to appeal a local court decision to the JCPC, and the local court decides that the party has satisfied the conditions for an appeal as of right.
- **Appeals with permission of the local court**, where the constitution or law of the local JCPC jurisdiction provides that a local court may grant Permission to Appeal to the JCPC, and the local court grants such permission.
- **Appeals with permission of the JCPC**, where the JCPC itself grants Permission to Appeal from a local court to the JCPC.

Therefore, you may be able to bring your case to the JCPC if:

- a court in a JCPC jurisdiction (the "local court") has made a decision in your case that you would like to challenge; and
- the constitution or law of the JCPC jurisdiction allows for appeals to be brought from the local court to the JCPC, and the local court has confirmed that you may appeal your case to the JCPC (either as of right or with its permission); or
- the JCPC itself has decided that you have Permission to Appeal your case from the local court to the JCPC.

The following three sections of this guide set out the different procedures that apply depending on whether you:

- have an appeal as of right (see section [4] below);
- have Permission to Appeal from the local court (see section [5] below); or
- need to apply directly to the JCPC for Permission to Appeal (see section [6] below).

## **4. Procedure for appeals as of right**

### **4.1. Obtaining permission from the local court**

If you think you have an appeal as of right, you must first seek permission from the local court (the one that issued the decision you would like to appeal, also known as the “court below”) to confirm that you have in fact satisfied the conditions for an appeal as of right. If the local court concludes that you do have an appeal as of right, it may choose to impose conditions on your ability to bring an appeal to the JCPC. If the local court concludes that you do not have an appeal as of right, but you think that it was wrong to reach such a conclusion, you may be able to apply directly to the JCPC for Permission to Appeal (see section [6] below).

### **4.2. Submitting a notice of appeal**

If the local court confirms that you can appeal your case to the JCPC, you will need to notify the JCPC of your appeal within 56 days of the date of that decision. This is referred to as a “notice of appeal” and involves providing certain information and documentation to Registry.

The JCPC uses an online case management portal through which you submit your case documents and track your application. The first step is to go through the Court’s ‘Eligibility Checker’ by logging into the case management portal here: <https://www.uksc-jcpc-casemanagementportal.uk/>.

First you should register as a portal user and log in. You should then click the ‘File a new case’ button and select no when asked if you are legally represented. You will be asked to upload a copy of the order you are seeking to appeal.

If required, the Court’s case management team members will be able to help you fill out the digital forms. Once using the portal all communication and service is done via the portal. If you are unable to access the internet, Registry can assist you with an offline application.

There is detailed guidance about how the portal works in the Portal Practice Direction, available here <https://www.jcpc.uk/appeal-process/practice-directions#portal-guidance>. If, once you have a case issued as a Permission to Appeal or appeal in the portal, you need further help navigating the portal the Registry can assist.

Generally, it will be necessary to provide the following information to Registry as part of your notice of appeal:

- details of the parties to the case;
- information about the decision being appealed;

- the reasons why you would like to challenge the decision of the local court; and
- the factual background to your case and a history of the proceedings.

It will also be necessary to provide the following documents:

- a “certificate of value” confirming the value of the case being appealed;
- the order of the local court that you are appealing (for example, an order from a local court of appeal requiring you to pay money to another person);
- the judgment of the local court to which the order gives effect (for example, a judgment from a local court of appeal explaining why, in its opinion, you are required to pay money to another person);
- the order of the local court confirming that you can appeal your case to the JCPC;
- the order of the first instance court in your case (i.e. the first court to have delivered a judgment in your case on the issue that you are appealing), if different from the order of the local court that you are appealing; and
- the judgment of the first instance court in your case (i.e. the first court to have delivered a judgment in your case on the issue that you are appealing), if different from the judgment of the local court which gives effect to the order that you are appealing.

Normally, you are required to pay a fee in order to submit an application for Permission to Appeal: <https://www.jcpc/appeal-process/fees>. The amount of the fee depends on the value of the claim. In certain circumstances, the JCPC may waive the fee (or part of the fee) see [HWF info page](#).

### ***Review of appeal***

Once your notice of appeal has been received by Registry, your appeal documents will be reviewed by the JCPC. If it is considered by a single Justice that your appeal is seeking to overturn decisions by two lower courts which decided a set of facts in the same way (this is known as concurrent findings of fact by the courts below - the rule established by the case of *Devi v Roy* [1946] AC 508) they may decide to send directions inviting parties to a short case management hearing before three Justices which is to be listed on notice to the respondent, or ‘other side’. The respondent is invited to attend but is not required to attend or to make submissions. You will be asked to make submissions as to why the appeal should not be dismissed for falling foul of the rule in *Devi v Roy*. The hearing will be listed for 30 minutes if the appellant alone appears, and for one hour if the respondent wishes to be heard. The hearing will be offered as a remote hearing (although the parties may request a hearing in person before the Board). If, following the

hearing, the Justices consider that the appeal should not proceed to any further argument, they may then dismiss the appeal. They may also choose to direct that a further hearing takes place.

## **5. Procedure for appeals with permission of the local court**

If the court below has the ability, under the constitution or law of the relevant JCPC jurisdiction, to grant Permission to Appeal to the JCPC, you will need to make an application to that court for permission. Whether or not the local court grants you Permission to Appeal to the JCPC is a matter for that court, and will depend on the laws of the particular JCPC jurisdiction concerned.

If the local court refuses you Permission to Appeal, you may nonetheless be able to apply to the JCPC directly for permission, depending on the constitution or law of the relevant JCPC jurisdiction. Please refer to section [6] below for information as to how you can apply to the JCPC for Permission to Appeal.

If the local court grants you Permission to Appeal to the JCPC, the procedural steps set out at subsections [4.2]-[4.3] above will apply.

## **6. Procedure for appeals with permission of the JCPC**

As explained under sections [4] and [5] above, if the local court refuses to grant you Permission to Appeal (whether as of right or not), you may nonetheless be able to apply directly to the JCPC for Permission to Appeal. Whether this is the case will depend on the laws of the relevant JCPC jurisdiction. Any application to the JCPC for Permission to Appeal must be filed within 56 days from either (i) the date of the order or decision of the local court that you wish to appeal, or (ii) the date of the order or decision of the local court refusing Permission to Appeal (if later).

### ***6.1. Submitting your Permission to Appeal application***

In order to apply to the JCPC for Permission to Appeal, you must provide certain information and documentation to Registry. The JCPC uses an online case management portal through which you submit your case documents and track your application. The first step is to go through the Court's 'Eligibility Checker' by logging into the case management portal here: <https://www.uksc-jcpc-casemanagementportal.uk/>.

First you should register as a portal user and log in. You should then click the 'File a new case' button and select no when asked if you are legally represented. You will be asked to upload a copy of the order you are seeking to appeal. If required, the Court's case management team members will be able to help you fill out the

digital forms. If you are unable to access the internet, Registry will assist you with an offline application.

Generally, it will be necessary to provide the following information as part of your Permission to Appeal application:

- details of the parties to the case;
- information about the decision being appealed;
- the reasons why you would like to challenge the decision of the local court; and
- the factual background to your case and a history of the proceedings.

It will also be necessary to provide the following documents:

- a “certificate of value” confirming the value of the case being appealed;
- the order of the local court that you are appealing (for example, an order from a local court of appeal requiring you to pay money to another person);
- the judgment of the local court to which the order gives effect (for example, a judgment from a local court of appeal explaining why, in its opinion, you are required to pay money to another person);
- if available, the order of the local court refusing you Permission to Appeal to the JCPC;
- the order of the first instance court in your case (i.e. the first court to have delivered a judgment in your case on the issue that you are appealing), if different from the order of the local court that you are appealing; and
- the judgment of the first instance court in your case (i.e. the first court to have delivered a judgment in your case on the issue that you are appealing), if different from the judgment of the local court which gives effect to the order that you are appealing.

Normally, you are required to pay a fee in order to submit an application for Permission to Appeal. The amount of the fee depends on the value of the claim. In certain circumstances, the JCPC may waive the fee (or part of the fee) see HWF info page.

### ***Suspending the effect of the order being appealed***

The filing of an application for Permission to Appeal in the JCPC does not automatically suspend the effect of the order which is being appealed. Therefore, if (for example) the court below has ordered you to pay money to another person, you will still be obliged to pay that money even though you are seeking to challenge the order before the JCPC.

If you would like to delay complying with the order while an appeal against it before the JCPC is ongoing, you must apply to the court below for a “stay of execution”. If the local court grants the stay of execution, it may be subject to certain conditions. The JCPC very rarely grants stays of execution itself.

## **6.2. *Involvement of the opposing party***

After you have submitted your Permission to Appeal application, the opposing party or parties in your case may, if they wish, file a “notice of objection” setting out their reasons why they think Permission to Appeal should not be granted by the JCPC. If they do, and Permission to Appeal is subsequently refused by the Court, they will normally be able to require you to pay them the costs they reasonably incurred preparing their notice of objection (unless the Justices of the JCPC order otherwise). This is a risk you should weigh up when applying for Permission to Appeal.

## **6.3. *Consideration of your application***

Once you have submitted your Permission to Appeal application to Registry, and the opposing party or parties in your case have submitted any notice of objection, the JCPC will consider whether to grant you Permission to Appeal.

In general, Permission to Appeal will only be granted in the following circumstances:

- in **criminal appeals** where, in the opinion of the Justices, there is a risk that a serious miscarriage of justice may have occurred; and
- in **all other appeals** where, in the opinion of the Justices, the application for Permission to Appeal raises an arguable point of law of general public importance which ought to be considered by the JCPC at that time.

In nearly all cases, the Justices will decide whether or not to grant Permission to Appeal after considering the documents submitted by the parties and without an oral hearing. The Justices’ decision will be recorded in an order which will be communicated to you (and the other parties to your case). If Permission to Appeal is refused, the order will set out brief reasons provided by the Justices for their decision.

Please note that the Court hears only a limited number of appeals, and the Justices have the sole responsibility of deciding whether Permission to Appeal should be granted. If Permission to Appeal is refused, then that decision is final: there is no right to request that the decision be reviewed (whether on paper or at an oral hearing).

#### ***6.4. What do I need to do if I have been granted Permission to Appeal by the JCPC?***

If you have been granted Permission to Appeal by the JCPC, you must notify the Court and the other parties to your case within 14 days that you intend to proceed with your appeal.

### **7. Proceedings before the JCPC**

Once you have filed your notice of appeal (if the local court has granted you Permission to Appeal, as of right or otherwise), or your notice to proceed (if the JCPC has granted you Permission to Appeal), arrangements will be made for your appeal to be heard by the Court. You will be referred to as the “appellant” in the case, and your opponent will be referred to as the “respondent”. There may be more than one appellant and respondent in a case.

Once signed up to the JCPC’s online case management portal, document filings and communications between the parties and the Registry is done via the portal.

#### ***7.1. Legal representation***

Wherever possible, if you have an appeal before the JCPC and you do not have legal representation, Registry will try to help you to find a lawyer who is willing to represent you for free. A lawyer will be able to prepare and file documents required by the Court in advance of the hearing, and will be able to argue your case (also known as making “oral submissions” on your behalf) at the hearing itself.

#### ***7.2. Listing of the appeal hearing***

After you have filed your notice of appeal or notice to proceed, the Registrar will notify the parties when the appeal is ready to be scheduled (or “listed”). The Registrar will also specify the period of time within which the appeal hearing will take place, and the number of Justices who will form the panel (also referred to as the “Board”) that will hear the appeal.

The parties must then file a document informing the Court of the dates on which they would be available to attend the appeal hearing, the number of hours they think they or their legal representatives will need to make oral submissions, any reasonable adjustments they require and whether they or their legal representatives will be attending the hearing in person or remotely via video link.

Following consideration of this document, the Registrar will notify the parties of the date(s) fixed for the hearing. Usually, appeal hearings last one or two days, depending on the number and complexity of issues the Court needs to consider.



### **7.3. Documents for the appeal hearing**

In preparation for the appeal hearing, you (as the appellant) will be required to prepare certain documents in order to assist the Court:

- **The certified and reproduced records.** You must arrange for a record of the proceedings that have already taken place in your case to be certified by an officer of the court below and emailed by the local court to Registry. This record is referred to as the “certified record”. You will then be required to prepare a “reproduced record”. The reproduced record should contain all the documents in the certified record relating to the proceedings in the court below that are necessary for the hearing of the appeal by the JCPC.
- **The statement of facts and issues.** You must draft a document setting out the facts and issues relevant to your case. This should be shared with, and agreed by, every respondent before filing.

You will then be required to file the following documents ahead of the appeal hearing:

- the statement of facts and issues;
- the reproduced record; and
- your written arguments in the appeal (also known as “written submissions” or “written cases”). The respondent(s) will also file a set of written submissions.

Once the above documents have been filed with the Court, you will be required to collate relevant case materials into two sets of “bundles”: a “key documents bundle” and a “main hearing bundle”.

The key documents bundle should be filed in hard copy and electronic form at least 42 days before the appeal hearing, and should include the following documents:

- the statement of facts and issues;
- the parties’ written cases;
- the orders of the court below and the first instance court; and
- the judgments of the court below and the first instance court.

The main hearing bundle should be filed in electronic form at least 21 days before the appeal hearing, and should include the following documents:

- all of the documents in the key documents bundle;
- the reproduced record;

- all other documents which any party participating in the appeal wishes to draw to the Justices' attention during the hearing (which do not form part of the reproduced record); and
- previous judgments in other cases that may be referred to during the hearing in order to support the parties' arguments (also known as "authorities").

For further information about the documents that will need to be filed before the appeal hearing, please see [Practice Direction 5](#) and [Practice Direction 6](#).

#### ***7.4. The appeal hearing***

At the hearing, you (as the appellant) will have the opportunity to present your arguments first. The respondent to the appeal will then present their arguments, and you will have a right to reply to those arguments. Hearings are normally held in public, unless exceptional circumstances apply.

To gain more of a sense of what happens at JCPC hearings, you can watch live court sittings and recorded cases on our website at <https://www.jcpc.uk/http://www.supremecourt.uk/>.

#### ***7.5. The judgment***

In nearly all cases, the Court will not announce its decision at the end of the hearing. Instead, the Justices will prepare a written judgment after the hearing. The judgment will normally be shared with the parties in draft form a few months after the hearing. It will then be formally published on the JCPC website and made accessible to the public. JCPC judgments are final and cannot be appealed.

**Please note that Registry is not able to help you by providing legal advice or by helping to find legal representation if you do not have Permission to Appeal to the JCPC.**