

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Practice Direction 1

Section 1: The Judicial Committee - general notes

1.1 The Judicial Committee of the Privy Council is the court of final appeal for the UK overseas territories and Crown dependencies, and for those Commonwealth countries that have retained the appeal to His Majesty in Council or, in the case of Republics, to the Judicial Committee. The Judicial Committee deals with about 55-65 Commonwealth appeals a year.

1.2 It also has other domestic jurisdiction within the United Kingdom. For further details see paragraph 2.6 below.

1.3 The membership of the Judicial Committee is generally made up as follows:

- The Justices of the UK Supreme Court (the former Lords of Appeal in Ordinary ([1](#))) who do most of the judicial work of the Privy Council([2](#));
- Other Privy Counsellors (including former Justices of the UK Supreme Court) who have held high judicial office.

Five judges normally sit to hear Commonwealth appeals and three for other matters.

[Back to top](#)

Section 2 The Jurisdiction of the Judicial Committee

I. Commonwealth Jurisdiction

A. Appeals to His Majesty in Council

2.1 An appeal lies from the countries listed at paragraph 2.2 of which The King is head of State and from UK overseas territories and Crown Dependencies as follows.

1. By leave of the local Court of Appeal. The circumstances in which leave can be granted will depend on the law of the country or territory concerned. Leave can usually be obtained as of right from final judgments in civil disputes where the value of the dispute is more than a stated amount and in cases which involve issues of constitutional interpretation. Most Courts of Appeal also have discretion to grant leave in other civil cases.
2. By leave of His Majesty in Council. The Judicial Committee has complete discretion whether to grant leave. It is mostly granted in criminal cases (where leave cannot usually be granted by the Court of Appeal) but it is sometimes granted in civil cases where the local Court of Appeal has for any reason refused leave.

2.2 The countries referred to in paragraph 2.1 -

- Antigua and Barbuda
- The Bahamas([3](#))
- Cook Islands and Niue * (Associated States of New Zealand)
- Grenada
- Jamaica
- St. Christopher and Nevis

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

- Saint Vincent and the Grenadines
- Tuvalu

* **Note.** Legislation enacted in New Zealand in October 2003 abolished appeals from New Zealand to the Privy Council in respect of all cases heard by the Court of Appeal of New Zealand after the end of 2003. The New Zealand legislation does not affect rights of appeal from the Cook Islands and Niue.

The Sovereign Base Areas of Akrotiri and Dhekelia (in Cyprus)

The United Kingdom Overseas Territories, which include -

- Anguilla
- Ascension ([4](#))
- Bermuda
- British Virgin Islands
- Cayman Islands
- Falkland Islands
- Gibraltar
- Montserrat
- Pitcairn Islands
- St. Helena
- Tristan da Cunha ([5](#))
- Turks and Caicos Islands

The Crown Dependencies of Jersey, Guernsey and the Isle of Man

B. Appeal to Local Head of State

2.3 Brunei. An appeal lies from the Court of Appeal of Brunei to the Sultan and Yang di-Pertuan, in civil cases only. By agreement between His Majesty and the Sultan these appeals are heard by the Judicial Committee who report their opinion to the Sultan instead of to His Majesty.

C. Appeals to the Judicial Committee

2.4 From the following independent republics within the Commonwealth an appeal lies to the Judicial Committee itself.

1. The Republic of Trinidad and Tobago
2. The Commonwealth of Dominica ([6](#))
3. Kiribati
4. Mauritius

2.5 The circumstances in which appeals may be brought are similar to those in which appeals lie to His Majesty in Council (see A above), except that from Kiribati an appeal lies only in cases where it is

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

alleged that certain constitutional rights of any Banaban or of the Rabi Council have been or are likely to be infringed.

II. Domestic Jurisdiction

2.6 The Board hears appeals to His Majesty in Council:

- a. from the Disciplinary Committee of the Royal College of Veterinary Surgeons;
- b. against certain Schemes of the Church Commissioners under the Mission and Pastoral Measure 2011 ([7](#)).

2.7 The Board also has the following rarely used jurisdictions:

1. Appeals from the Arches Court of Canterbury and the Chancery Court of York in non-doctrinal faculty causes.
2. Appeals from Prize Courts.
3. Disputes under the House of Commons Disqualification Act 1975.
4. Appeals from the Court of Admiralty of the Cinque Ports.
5. Appeals from the Court of Chivalry ([8](#))

2.8 His Majesty has the power to refer any matter to the Board for "consideration and report" under section 4 of the Judicial Committee Act 1833.

III. United Kingdom Legislation

The following is a list of the principal items of legislation made in the United Kingdom (statutes and Orders in Council) relating to the Judicial Committee and its proceedings. Appeals from outside the United Kingdom are in many cases also governed by laws made in the countries and territories concerned.

1. General Legislation

- Judicial Committee Act 1833
- Judicial Committee Act 1843
- Judicial Committee Act 1844
- Court of Chancery Act 1851, section 16
- Privy Council Registrar Act 1853
- Appellate Jurisdiction Act 1876, sections 6 and 25
- Judicial Committee Act 1881
- Appellate Jurisdiction Act 1887, sections 3 and 5
- Judicial Committee Amendment Act 1895
- Appellate Jurisdiction Act 1908
- Judicial Committee Act 1915

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

- References of appeals to Judicial Committee Order in Council 1909
- (S.R. & O. 1909 No. 1228)
- Judicial Committee (Appellate Jurisdiction) Rules Order 2009, (S.I. 2009/224)
- Judicial Committee (Appellate Jurisdiction) Rules (Amendment) Order 2013 (SI 2013/246 [\(9\)](#))

2. Legislation governing particular proceedings

a. Appeals from outside the United Kingdom

Note: Those Orders which are wholly or partially revoked and replaced by the Judicial Committee (Appellate Jurisdiction) Rules 2009 are marked with an asterisk.

(i) Appeals from Independent Commonwealth countries to His Majesty in Council.

Antigua and Barbuda

- Antigua and Barbuda Constitution Order 1981 (S.I.1981 No.1106), Schedule 1, section 122.
- Antigua and Barbuda Appeals to Privy Council Order (S.I. 1967 No. 224, as modified and retitled by the Antigua and Barbuda Modification of Enactments Order 1981, S.I. 1981 No. 1105).

Bahamas, Commonwealth of the

- Bahamas Independence Order 1973 (S.I. 1973 No.1080), Schedule, Articles 104(2) and 105.
- *Bahamas (Procedure in Appeals to Privy Council) Order 1964 (S.I. 1964 No. 2042), (as amended by the *Bahamas (Procedure in Appeals to Privy Council) (Amendment) Order 1973, S.I. 1973 No.1081).

Belize

- The Belize Independence Order 1981 (S.I. 1981 No. 1107), Schedule 1, section 104.

Jamaica

- Jamaica (Constitution) Order 1962 (S.I. 1962 No. 1550), Schedule 2, section 110.
- *Jamaica (Procedure in Appeals to Privy Council) Order 1962 (S.I. 1962 No. 1650).

St. Christopher and Nevis

- St. Christopher and Nevis Constitution Order 1983 (S.I. 1983 No. 881), Schedule 1, section 99.
- *St. Christopher and Nevis Appeals to Privy Council Order (S.I. 1967 No. 224, as modified and retitled by the St. Christopher and Nevis Modification of Enactments Order 1983, S.I. 1983 No. 882).

St. Vincent and the Grenadines

- The St. Vincent Constitution Order 1979 (S.I. 1979 No. 916), Schedule 1, section 99.
- *St. Vincent Appeals to Privy Council Order (S.I. 1967 No. 224, as modified and retitled by the St. Vincent Modification of Enactments Order 1979, S.I. 1979 No. 917).

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Tuvalu

- The Tuvalu Independence Order 1978, Schedule, section 84.
- *The Tuvalu (Appeals to Privy Council) Order 1975 (S.I. 1975 No.1507).

(ii) Appeals from Commonwealth Republics to the Judicial Committee.

Dominica

- Commonwealth of Dominica Constitution Order 1978 (S.I. 1978 No. 1027), Schedule 1, section 106 and Schedule 2, paragraphs 9 and 10.
- *Dominica Appeals to Judicial Committee Order (S.I. 1967 No. 224, as amended and retitled by the Dominica Modification of Enactments Order 1978 (S.I. 1978 No. 1030), Schedule, paragraph 10).

Kiribati

- Kiribati Independence Order 1979 (S.I. 1979 No. 719), Schedule, section 123.
- *Kiribati Appeals to Judicial Committee Order 1979 (S.I. 1979 No. 720).

Mauritius

- Mauritius Independence Order 1968, Schedule, section 81.
- Mauritius (Appeals to Privy Council) Order 1968 (S.I. 1968 No. 294).
- Mauritius Appeals to Judicial Committee Order 1992 (S.I. 1992 No. 1716).

Trinidad and Tobago

- *Trinidad and Tobago Appeals to Judicial Committee Order 1976 (S.I. 1976 No. 1915).

(iii) Appeals from the Supreme Court of Brunei Darussalam to His Majesty the Sultan and Yang Di-Pertuan.

These appeals are referred to the Judicial Committee by virtue of an agreement made between His Majesty The King and His Majesty The Sultan.

- Brunei (Appeals) Act 1989 (1989 c.36).
- *Brunei (Appeals) Order 1989 (S.I. 1989 No. 2396, as amended by Brunei (Appeals) (Amendment) Order 1998, S.I. 1998 No. 255).

(iv) Appeals from United Kingdom Overseas Territories.

Anguilla

- Anguilla Constitution Order 1982 (S.I. 1982 No. 334), Schedule, section 72.
- *Anguilla (Appeals to Privy Council) Order 1983 (S.I. 1983 No.1109).

Bermuda

- There is no United Kingdom legislation specifically governing appeals from Bermuda.

British Antarctic Territory

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

- *British Antarctic Territory Court of Appeal (Appeal to Privy Council) Order 1965 (S.I. 1965 No. 592).

British Indian Ocean Territory

- *British Indian Ocean Territory (Appeals to Privy Council) Order 1983 (S.I. 1983 No. 1888).

British Virgin Islands

- *Virgin Islands (Appeals to Privy Council Order) 1967 (S.I. 1967 No. 234, as amended by the Anguilla, Montserrat, and Virgin Islands (Supreme Court) Order 1983 (S.I. 1983 No. 1108), Article 3).

Cayman Islands

- *Cayman Islands (Appeals to Privy Council) Order 1984 (S.I. 1984 No. 1151).

Falkland Islands

- *Falkland Islands (Appeals to Privy Council) Order 1985 (S.I. 1985 No. 445).

Gibraltar

- Gibraltar Constitution Order 2006, Chapter VI, Section 66.
- *Gibraltar (Appeals to Privy Council) Order 1985 (S.I. 1985 No. 1199).

Montserrat

- *Montserrat (Appeals to Privy Council) Order 1967 (S.I. 1967 No. 233), as amended by Anguilla, Montserrat and Virgin Islands (Supreme Court) Order 1983 (S.I. 1983 No. 1108), Article 3.

Pitcairn

- Pitcairn Order 1970 (S.I. 1970 No.1434) as amended by S.I. 2000 No. 1340 and S.I. 2002 No. 2638.

St. Helena

- *St. Helena Court of Appeal (Appeal to Privy Council) Order 1964 (S.I. 1964 No. 1846), as amended by St. Helena Court of Appeal (Appeal to Privy Council) (Amendment) Order 1990 (S.I. 1990 No. 991).

South Georgia and South Sandwich Islands

- *The South Georgia and South Sandwich Islands (Appeals to Privy Council) Order 1985 (S.I.1985 No. 450).

Turks and Caicos Islands

- *Turks and Caicos Islands (Appeal to Privy Council) Order 1965 (S.I. 1965 No. 1863), as amended by the *Turks and Caicos Islands (Appeal to Privy Council) (Amendment) Order 1973 (S.I. 1973 No. 1084).

The Sovereign Base Areas of Akrotiri and Dhekelia (Cyprus)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

- *The Sovereign Base Areas of Akrotiri and Dhekelia (Appeals to Privy Council) Order in Council 1961 (S.I. 1961 No. 59).

(v) Appeals from the Channel Islands and the Isle of Man.

Channel Islands

- Order in Council of 19th May 1671 relating to appeals to His Majesty in Council from Jersey (S.R. & O. Rev 1948 XI p 341); Court of Appeal (Jersey) Law 1961, art.14.
- Order in Council regulating Appeals to His Majesty in Council from Guernsey (13th May 1823) (S.R. & O. Rev 1948 XI p 344).
- Order in Council regulating Appeals to His Majesty in Council from Jersey and Guernsey, 15th July 1835 (S.R. & O. Rev 1948 XI p 347).

Isle of Man

There is no United Kingdom legislation specifically governing appeals from the Isle of Man.

(b) United Kingdom Appeals

(i) Appeals from the Council of the Royal College of Veterinary Surgeons.

- Veterinary Surgeons Act 1966, section 17.

(ii) Appeals against Pastoral Schemes.

- Mission and Pastoral Measure 2011, section 12, Schedule 2 ([10](#)).

[Back to top](#)

Section 3: The exercise of the Judicial Committee's Jurisdiction

3.1 Some of the powers of the Judicial Committee may be exercised by the Registrar. Rule 9 makes specific provision for procedural decisions.

3.2 The Registrar will normally make a decision without an oral hearing but may direct an oral hearing. The Registrar may also refer the matter to the Judicial Committee for decision.

3.3 A party who is dissatisfied with a decision of the Registrar may apply for that decision to be reviewed by the Judicial Committee. Any application must be made in Form 2 and must be filed within 14 days of the Registrar's decision: rule 9(4). See paragraph 7.1 of [Practice Direction 7](#) for applications and for the relevant fee see Annex 2 to [Practice Direction 7](#).

[Back to top](#)

Footnotes

1. Amended Apr 2013. [Return to footnote 1](#)
2. Amended Apr 2013. [Return to footnote 2](#)
3. Amended Apr 2013. [Return to footnote 3](#)
4. Amended Apr 2015. [Return to footnote 4](#)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

5. Amended Apr 2013. [Return to footnote 5](#)
6. With effect from 6 March 2015 appeals from Dominica will lie to the Caribbean Court of Justice. [Return to footnote 6](#)
7. Amended Apr 2013. [Return to footnote 7](#)
8. Amended Apr 2015. [Return to footnote 8](#)
9. Amended Apr 2013. [Return to footnote 9](#)
10. Amended Apr 2013. [Return to footnote 10](#)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Practice Direction 2

Introduction

2.1.1 The registry of the Judicial Committee of the Privy Council situated on the ground floor of the building in Parliament Square which houses the Supreme Court of the United Kingdom, the former Middlesex Guildhall. The staff of the Registry act under the guidance and supervision of the Registrar of the Privy Council.

2.1.2 The postal address of the Judicial Committee is

The Judicial Committee of the Privy Council
Parliament Square
London
SW1P 3BD

The email address is registry@jcpc.uk(1) and the telephone numbers are 020 7960—1991 and 020 7960—1992.

2.1.3 The Registry public counter is open from 11 am to 3 pm on Mondays to Thursdays during the law terms(2) only. During August and September the Registry public counter will be open at such times as the Registrar directs if the UK Supreme Court or the JCPC is sitting. Registry staff are available to answer telephone and email queries from 10 am to 4pm on Mondays to Fridays during the law terms and from 11am to 2 pm during the summer vacation. The Registry is closed during all other vacations(3) .

The Registry is closed on(4) :

- a. Saturdays and Sundays,
- b. the Thursday before Good Friday, Good Friday and the day after Easter Monday,
- c. during the Christmas vacation,
- d. Bank Holidays in England and Wales. under the Banking and Financial Dealings Act 1971, and
- e. such other days as the Registrar may direct.

The "Christmas vacation" is the two week period over Christmas Day and New Year's Eve(5). At a time when the Registry is closed, the Registrar can for urgent business be contacted via the Supreme Court switchboard on 020 7960-1900. (6)

2.1.4 Enquiries about fees and the filing of documents, records and papers should be addressed to Registry. Litigants should contact the registry staff if they have difficulty in complying with the requirements of the Judicial Committee's Practice Directions(7). The management of the Judicial Committee's list is dealt with by the listing officer under the direction of the Registrar and enquiries about the listing of appeals should be addressed to the listing officer in the first instance. Enquiries about the assessment of costs should be addressed to the Registrar or the costs clerk at costs@supremecourt.uk(8).

2.1.5 Cheques and drafts for fees should be made payable to "The Judicial Committee Fees Account". Fees may be paid by verified Bank Transfer and the Registry will supply the necessary details on request(9).

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

2.1.6 Cheques and drafts for security money should be made payable to "The Judicial Committee Security Account". Payment may also be made by bank transfer([10](#)).

[Back to top](#)

Filing documents in the Registry of the Judicial Committee

2.1.7 A document may be filed in the Registry "by any of the following methods:

- a. personal delivery;
- b. first class post (or an alternative service which provides for delivery on the next working day);
- c. through a document exchange;
- d. ...by electronic means in accordance with the relevant([11](#)) practice direction": rule 7(1).

When an application for permission to appeal, a notice of appeal, a notice of objection, an acknowledgement or an application is filed, it will be sealed by a member of staff in the Registry: rule 7(4).

2.1.8 A document filed by first-class post or through a document exchange will be taken to have been filed on the second day after it was posted or left at the document exchange, as the case may be (not including days which are not business days): rule 7(2). Business days are defined by rule 3(2) and mean any day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971, in England and Wales. Where a document is received on a business day at a time when the Registry is closed, the document will be taken to have been filed in time and the Registrar may give whatever consequential directions appear appropriate.

2.1.9 Except with the consent of the Registrar, "the contents of documents

- a. filed in hard copy must also be provided to the Registry by electronic means, and
- b. filed by electronic means must also be provided to the Registry in hard copy"

in accordance with Practice Directions [5](#) and [6](#): rule 7(3). See [Practice Direction 9](#) for filing by electronic means. Documents under 10MB in size can be sent to the registry attached to an email sent to registry@jcpc.uk([12](#)).

Documents and bundles over 10MB should be submitted via SharePoint see the Annex to Practice Direction 3 or Practice Direction 9([13](#)).

2.1.10 The Registrar may refuse to accept any document which is illegible or does not comply with any provision in the Rules or any relevant practice direction. Where the Registrar refuses to accept a document, the Registrar will give whatever directions appear appropriate. (See rule 8.)

2.1.11 The Registry will not issue an application for permission to appeal or other document unless:

- a. it has been properly served on the respondents (see rule 6);
- b. all the required documents are supplied; and
- c. the prescribed fee is paid or a request for fee remission or exemption from fees is made (see paragraphs 2.1.25 -2.1.28).

[Back to top](#)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Time limits

2.1.12 The Rules provide for the following time limits to apply:

- a. An application for permission to appeal must be filed within 56 days from the date of the order or decision of the court below or (if later) from the date of the court below refusing permission (leave) to appeal: rule 11(2). Where permission (or leave) to appeal is required, it should be sought first from the court below.
- b. A notice of appeal must be filed within 56 days of the date of the order or decision of the court below [\(14\)](#) granting permission or final leave to appeal: [\(15\)](#) rule 18(2).
- c. If an appellant has applied to be treated as a financially assisted person (see rule 38), the above periods are extended to 28 days after the final determination of the application for funding, including any appeals. (See rules 5(5), 11 and 18.)

2.1.13 The Registry may accept applications for permission to appeal or notices of appeal which are out of time if the application or notice sets out the reason(s) why it was not filed within the time limit and it is in order in all other respects. See paragraphs 3.1.4 and 3.1.6 [\(16\)](#) of [Practice Direction 3](#) and paragraph 4.4 of [Practice Direction 4](#). The Registrar may reject an application for permission to appeal solely on the ground that it is out of time [\(17\)](#).

2.1.14 The Judicial Committee or the Registrar may extend or shorten any time limit set by the Rules unless to do so would be contrary to any statutory provision. They may do so either on an application by one or both parties or without an application being made. An application for an extension may be granted after the time limit has expired. The Registrar will notify the parties when a time limit is varied. (See rule 5.) A prospective application for an extension of time cannot be made and parties should bear in mind that under the Rules unnecessary disputes over procedural matters are to be discouraged [\(18\)](#).

2.1.15 A Respondent who has applied for public funding or other party who has difficulty in complying with a relevant time limit should contact the Registry. [\(19\)](#)

[Back to top](#)

Form of application for permission to appeal and notice of appeal

2.1.16 The form of an application for permission to appeal is dealt with in paragraphs 3.1.1 - 3.1.4 of [Practice Direction 3](#). The form of a notice of appeal is dealt with in paragraphs 4.2.1 - 4.2.5 of [Practice Direction 4](#).

[Back to top](#)

Case title

2.1.17 Applications for permission to appeal and appeals carry the same title as in the court below, except that the parties are described as appellant(s) and respondent(s). For reference purposes, the names of parties to the original proceedings who are not parties to the appeal should nevertheless be included in the title: their names should be enclosed in square brackets. The names of all parties should be given in the same sequence as in the title used in the court below.

2.1.18 Applications for permission to appeal and appeals in which trustees, executors etc. are parties are titled in the short form, for example Trustees of John Black's Charity (Respondents) v. White (Appellant).

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

2.1.19 In any application or appeal concerning children or where in the court below the title used has been such as to conceal the identity of one or more parties to the proceedings, this fact should be clearly drawn to the attention of the Registry at the time of filing, so that the title adopted in the Judicial Committee can take account of the need for anonymity. Applications involving children are normally given a title in the form B (Children).

[Back to top](#)

Service

2.1.20 Documents such as applications for permission to appeal and notices of appeal must be served by the party or their agent on the respondents or their agents, in accordance with rule 6, before they are filed. A party or agent will be taken to have consented to a particular method of service if, for example, their writing paper includes a fax number or a numbered box at a document exchange unless they have indicated in writing that they are not willing to accept service by that particular method. Service may be effected on agents abroad or on registered offices of a corporate party where the local law so permits.

2.1.21 A certificate of service which complies with rule 6(4) by giving details of the persons served, the method of service used and the date on which the document was served personally, posted, delivered to the document exchange or sent electronically, must be included either in the original document and signed or a separate certificate of service must be provided.

[Back to top](#)

Supporting documents

2.1.22 See paragraph 3.1.6 of [Practice Direction 3](#) for the documents which must be filed with an application for permission to appeal.

2.1.23 See paragraph 4.3.2 of [Practice Direction 4](#) for the documents which must be filed with a notice of appeal.

2.1.24 See paragraph 7.1.3 of [Practice Direction 7](#) for guidance on the documents which may need to be filed with an application.

[Back to top](#)

Fees

2.1.25 The fees which are payable are prescribed by rule 42 and the Appendix to the Rules. Fees are payable at the time a document is filed or a step is taken, not at the conclusion of the proceedings and rule 42 allows the Registrar to refuse to accept a document or to allow a party to take any step unless the relevant fee is paid.

2.1.26 In circumstances where an appellant has applied to be treated as a financially assisted person in accordance with rule 38, the requirement to pay fees may be waived. Any application ([20](#)) should be made to the Registrar supported by sworn or credible evidence as to ([21](#)) the appellant's means (see paragraphs 7.12.1 - 7.12.3 of [Practice Direction 7](#)).

2.1.27 For the fees which are payable, see Annex 2 to [Practice Direction 7](#).

2.1.28 Any fees paid are not refunded, even if it is decided that the application for permission to appeal is inadmissible or if an application is withdrawn.

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

[Back to top](#)

Footnotes

1. Amended Oct 2020. [Return to footnote 1](#)
2. The law terms are the four terms of the year during which the Judicial Committee holds its sittings see [Practice Direction 6](#) paragraph 6.2.1. [Return to footnote 2](#)
3. Amended Oct 2020. [Return to footnote 3](#)
4. Amended Oct 2020. [Return to footnote 4](#)
5. Amended Apr 2013. [Return to footnote 5](#)
6. Amended Oct 2020. [Return to footnote 6](#)
7. Amended Oct 2020. [Return to footnote 7](#)
8. Amended Oct 2020. [Return to footnote 8](#)
9. Amended Oct 2020. [Return to footnote 9](#)
10. Amended Oct 2020. [Return to footnote 10](#)
11. Amended Oct 2020. [Return to footnote 11](#)
12. Amended Oct 2020. [Return to footnote 12](#)
13. Amended Oct 2020. [Return to footnote 13](#)
14. Amended Apr 2013. [Return to footnote 14](#)
15. Amended Apr 2013. [Return to footnote 15](#)
16. Amended Apr 2013. [Return to footnote 16](#)
17. Amended Apr 2015. [Return to footnote 17](#)
18. Amended Oct 2020. [Return to footnote 18](#)
19. Amended Apr 2015. [Return to footnote 19](#)
20. Amended Apr 2013. [Return to footnote 20](#)
21. Amended Apr 2013. [Return to footnote 21](#)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Practice Direction 3

Form of application for permission to appeal

3.1.1 Applications for permission to appeal are considered by an Appeal Panel of the Judicial Committee. Applications are generally decided~~(1)~~ without a hearing and it is essential that the application is in the correct form and that the basis on which and the relevant provision(s) under which the Judicial Committee is said to have jurisdiction are set out.

3.1.2 An application for permission to appeal should be produced in Form 1 (PTA)~~(2)~~ ~~on A4 paper, securely bound on the left, using both sides of the paper.~~ (See Annex 1 to [Practice Direction 7](#) for Form 1 (PTA)~~(3)~~). The application should set out briefly the facts and points of law; and include a brief summary of the reasons why permission should be granted. The information required by Form 1 (PTA) ~~(4)~~ must be provided but the Board favours brevity and clarity~~(5)~~. The grounds of appeal should not normally exceed 10 pages of A4, in size 12 font with 1.5 line spacing, bearing in mind that the judgments of the courts below will be available to the Board. The Board deprecates the practice of annexing to Form 1 (PTA) ~~(6)~~ a "long, discursive recital of facts and legal argument. Grounds of appeal should be succinctly stated. They should not rehearse facts nor should they contain legal argument": *Lesage v Mauritius Commercial Bank Ltd.* [2012] UKPC 41 at paragraph 20~~(7)~~.

The Registrar will reject any application where the grounds appear without adequate explanation from counsel to be excessive in length or where the application fails to identify the relevant issues ~~(8)~~.

Applications which are not legible or which are not produced in the required form will not be accepted. Parties may consult the Registry at any stage of preparation of the application, and may submit applications in draft for approval. Amendments to applications are allowed where the Registrar is satisfied that this will assist the Appeal Panel and will not unfairly prejudice the respondents or cause undue delay. Any amendments must be served on the respondents (see paragraph 3.1.5).

3.1.3 If an application for permission to appeal invites the Judicial Committee to depart from one of its own decisions or from one made by the House of Lords or the UK Supreme Court, this should be stated clearly in the application.

(The Supreme Court has not re-issued the House of Lords' Practice Statement of 26 July 1966 (Practice Statement (Judicial Precedent) [1966] 1 WLR 1234) which stated that the House of Lords would treat former decisions of the House as normally binding but that it would depart from a previous decision when it appeared right to do so. The Practice Statement is "part of the established jurisprudence relating to the conduct of appeals" and "has as much effect in [the Supreme] Court as it did before the Appellate Committee in the House of Lords": *Austin v Mayor and Burgesses of the London Borough of Southwark* [2010] UKSC 28 at paragraphs 24, 25.)

3.1.4 An application for permission to appeal must be signed by the appellant or his agent. [An electronic signature is acceptable.](#) Where an appellant is unable to file his **application** within the time limit prescribed by the rules, an explanation must be provided either in Form 1 (PTA) ~~(9)~~ or as an attachment to the form. A prospective application for an extension of time cannot be made except in cases in which rule 5(5) applies. (Rule 5(5) provides an automatic extension of the time limit where an application for public funding has been made~~(10)~~). The longer the delay in filing, the more convincing and weighty the explanation will need to be and the Board will need to be satisfied that, having regard to all the circumstances, it is in the interests of justice that the time limit should be

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

extended: see *Carlos Hamilton and Jason Lewis v The Queen* [2012] UKPC 31. In criminal cases, the prosecuting authorities should be notified as soon as a prisoner has indicated an intention to **apply for permission to appeal** to the Judicial Committee and a copy of that notification should be produced to the Registrar of the Privy Council when the **application** is filed ~~(11)~~.

Service

3.1.5 A copy of the application (and any amendment to it) must be served on the respondents or ~~his(12)their~~ agents in accordance with rule 6, before it is filed. A certificate of service (giving the full name and address of the respondents or ~~his(13)their~~ agents) must be included in the original application and signed or a separate certificate of service must be provided. An electronic signature is acceptable. See rule 6(4) and paragraph 2.1.21 of [Practice Direction 2](#). Additional supporting documents other than those set out in paragraphs 3.1.6 and 3.2.1 (additional documents ~~(14)~~) are not normally accepted.

Supporting documents

3.1.6 In order to comply with rule 14(1), the ~~original~~ application ~~together with 1 copy(15)~~ must be filed in electronic form at the Registry ~~together with~~ by sending to registry@jcpc.uk and the prescribed fee, ~~paid~~. The application must be accompanied by a copy of the order appealed against and, if separate, a copy of the order of the court below refusing permission to appeal. If the substantive order appealed against is not immediately available, the application should be filed within the required time limit, and the order filed as soon it is available. ~~The application must also be sent in electronic form to registry@jcpc.uk(16)~~. For the relevant time limits for filing an application for permission to appeal see paragraphs 2.1.12-2.1.15 of [Practice Direction 2](#). The respondent's views on the extension of time should be sought and, if possible, those views should be communicated to the Registry. The application for an extension of time will be referred to the ~~Registrar~~ Board to be considered at the same time as the application for permission to appeal. An appellant must file with his application a certificate of value as required by rule 7(6) and (7) ~~(17)~~. ~~When an application for permission to appeal is filed, it will be sealed by a member of staff in the Registry: rule 7(4).~~

Objections by respondents

3.1.7 Each "respondent who wishes to object to the application must, within 28 days ~~(18)~~ after service, file notice of objection" in Form 3 together with a certificate of service: rule 13(1). (See Annex 1 to [Practice Direction 7](#) for Form 3.) ~~The original notice together with 1 copy(19) must be filed at the Registry together with the prescribed fee. The notice must also be sent in electronic form to registry@jcpc.uk(20). When a notice of objection is filed, it will be sealed by a member of staff in the Registry: rule 7(4).~~ The notice must be filed in electronic form at the Registry by sending to registry@jcpc.uk and the prescribed fee paid.

3.1.8 Before filing, a respondent must serve a copy of the notice on the appellant and any other respondent: rule 13(2). A certificate of service (giving the full name and address of the persons served) must be included in Form 3 and signed or a separate certificate of service must be provided. See rule 6(4) and paragraph 2.1.21 of [Practice Direction 2](#). An electronic signature is acceptable.

3.1.9 A respondent who files notice will be permitted to participate in the application and will be given notice of its progress: rule 13(3). An order for costs will not be made in favour of a respondent who has not given notice.

3.1.10 A notice of objection should

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

set out briefly the reasons why permission to appeal should not be granted by reference to the threshold test for the grant of permission (see paragraph 3.3.3);

state any conditions which the Respondent proposes should be attached to the grant of permission and whether permission should be limited to any issues, specifying them;

normally not exceed 5 pages of A4 with size 12 font and 1.5 line spacing, in section 3 of Form 3 or in any attachment to Form 3.

[Back to top](#)

Additional documents – the PTA bundle~~(21)~~

3.2.1 To comply with rule 14(2), the following additional papers must be filed by the appellant for use by the Appeal Panel within 21 days after the filing of the application:

- a. a copy of the permission application;
- b. a copy of the order appealed against and, if separate, a copy of the order of the court below refusing permission to appeal;
- c. a copy of the official transcript of the judgment of the court below;
- d. a copy of the final order(s) of all other courts below;
- e. a copy of the official transcript of the final judgment(s) of all other courts below;
- f. a copy of any unreported judgment(s) cited in the application or judgment of the court below;
- g. a copy of the notice of objection filed by any respondent to the application; and
- h. any written submissions filed under rule 15 in support of the application.

A bundle under 10MB in size can be sent to the registry attached to an email. Bundles over 10MB should be submitted via SharePoint see the Annex to this Practice Direction.

No other papers are required and documents other than those listed above will not be accepted unless requested by the Appeal Panel. An appellant who wishes to provide documents other than those listed above must give a detailed explanation. Documents which are not clearly legible or which are not in the required style or form (see paragraph 3.1.2) will not be accepted.

3.2.2 Parties will be contacted if hard copies of the PTA bundle are required~~(22)~~.

3.2.3 Where the necessary supporting documents~~(23)~~ are not filed within 8 weeks after the filing of the application and no good reason is given for the delay, the Registrar may

- a. refer the application to an Appeal Panel without the required accompanying papers;
- b. dismiss the application, or
- c. give such other directions as appear appropriate under rule 8.

[Back to top](#)

Consideration on the documents~~(24)~~

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

3.3.1 The Appeal Panel decides first whether an application for permission to appeal is admissible (that is, whether the Judicial Committee has jurisdiction to entertain an appeal). If the Appeal Panel determines that an application is inadmissible, it will refuse permission on that ground alone and not consider the content of the application. The Appeal Panel gives a reason for deciding that the application is inadmissible.

3.3.2 If the Appeal Panel decides that an application is admissible, rule 15 provides that the Panel may then:

- a. refuse permission (see paragraph 3.3.4);
- b. give permission (see paragraph 3.3.5);
- c. invite the parties to file written submissions as to the grant of permission on terms whether as to costs or otherwise (see paragraphs 3.3.6 - 3.3.11);
- d. direct an oral hearing (see paragraphs 3.3.12 - 3.3.16).

3.3.3 Permission to appeal is granted

- a. in civil cases for applications that, in the opinion of the Appeal Panel, raise an arguable point of law of general public importance which ought to be considered by the Judicial Committee at that time, bearing in mind that the matter will already have been the subject of judicial decision and may have already been reviewed on appeal; an application which in the opinion of the Appeal Panel does not raise such a point of law is refused on that ground;
- b. in criminal cases for applications where, in the opinion of the Appeal Panel, there is a risk that a serious miscarriage of justice may have occurred;
- c. In cases in which the appellant had an appeal as of right but the court appealed from refused in error to grant leave as of right, unless in the opinion of the Appeal Panel the appeal is devoid of merit and has no prospect of success or is an abuse of process. [\(25\)](#)

The Appeal Panel gives brief reasons for refusing permission to appeal.

Permission refused

3.3.4 If the Appeal Panel decides that permission should be refused, the parties are notified that the application is refused and they are sent a copy of the order sealed by the Registrar which records the Panel's decision.

Permission given outright

3.3.5 If the Appeal Panel decides that an appeal should be entertained without further proceedings, it grants permission outright and the parties are sent a copy of the order sealed by the Registrar which records the Panel's decision.

Respondents' objections

3.3.6 Respondents may submit written objections giving their reasons why permission to appeal should be refused when they file notice of objection in accordance with rule 13. Exceptionally a respondent could seek to file more fully reasoned objections or might be asked to do so by the Appeal Panel. In such circumstances further objections should be filed

- a. within 14 days of any invitation by the Appeal Panel to do so; or

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

b. within 14 days of an application for permission to appeal being referred for an oral hearing.

3.3.7 Respondents' objections should set out briefly the reasons why the application should be refused or make submissions as to the terms upon which permission should be granted (for example, on costs). The respondents' written objections must be filed in the Registry in electronic form~~(26)~~.

3.3.8 A copy of the respondents' objections should be sent to the agents for the other parties. In certain circumstances the Appeal Panel may invite further submissions from the appellant in the light of the respondents' objections, but appellants do not have a right to comment on respondents' objections and further submissions are not encouraged~~(27)~~. Where the Appeal Panel does not require further submissions to make its decision, the parties are sent a copy of the order sealed by the Registrar which records the Panel's decision. Where the Appeal Panel proposes terms for granting permission, paragraph 3.3.11 applies.

3.3.9 For the costs of respondents' objections, see paragraph 3.5.

3.3.10 Respondents who are unable to meet the deadlines set out in paragraph 3.3.6 must write to the Registrar requesting an extension of time for filing their written objections.

Permission given on terms

3.3.11 If the Appeal Panel is considering granting permission to appeal on terms:

- a. the Panel proposes the terms and the parties have the right to make submissions on the proposed terms within 14 days of the date of the Panel's proposal;
- b. the Panel will then decide whether to grant permission (unconditionally or on terms);
- c. prospective appellants who are granted permission to appeal subject to terms that they are unwilling to accept may decline to pursue the appeal.

Application referred for oral hearing

3.3.12 In all cases where further argument is required, an application for permission to appeal is referred for an oral hearing.

3.3.13 Respondents may seek to file more fully reasoned objections within 14 days of being informed that the application has been referred for a hearing (see paragraph 3.3.6(b)).

3.3.14 When an application is referred for an oral hearing, the appellant and all respondents who have filed notice of objection under rule 13 are notified of the date of the hearing before the Appeal Panel. Parties may be heard before the Appeal Panel by counsel, by agent, or in person. If counsel are briefed, agents should ensure that the Registry is notified of their names.

3.3.15 Oral permission hearings usually last for 30 minutes. The panel will normally give its decision orally at the end of the hearing.

3.3.16 All the parties are sent a copy of the order sealed by the Registrar which records the Panel's decision.

Filing notice to proceed

3.3.17 Where permission to appeal is granted, the application for permission to appeal will stand as the notice of appeal and the grounds of appeal are limited to those on which permission has been granted. The appellant must, within 14 days of the grant of permission to appeal, file notice under

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

rule 17 that he wishes to proceed with his appeal. ~~When the notice is filed, the application for permission to appeal will be re-sealed and, in order to comply with rule 17(2), the appellant must then serve a copy on each respondent and file the a copy(28).~~

3.3.18 Where an appellant is unable to file notice under rule 17 within the time limit of 14 days, a formal application for an extension of time must be made on Form 2: see paragraph 7.1 of [Practice Direction 7](#) for applications. The respondent's views on the extension of time should be sought and, if possible, those views should be communicated to the Registry. The application will be referred to the Registrar and, if it is granted, the appellant must then comply with rule 17(2) and paragraph 3.3.17.

Expedition

3.3.19 In cases involving the liberty or life of the subject, urgent medical intervention or the well-being of children, a request for expedition may be made in writing to the Registrar.

[Back to top](#)

Counsel

3.4. Appellants and respondents to an application for permission to appeal may instruct leading or junior counsel.

[Back to top](#)

Costs

3.5.1 Where an application for permission to appeal is referred for an oral hearing and is dismissed, any application for costs must be made by the respondent at the end of the hearing. No order for costs will be made unless a request is made at that time.

3.5.2 Where permission to appeal is granted, costs of the application for permission become costs in the appeal.

3.5.3 The reasonable costs of objecting to an unsuccessful application for permission to appeal will normally be awarded to the respondent, subject to any order for costs made by the Appeal Panel.

a. If permission to appeal is granted, the costs of respondent's objections become costs in the appeal.

b. Where an unsuccessful application for permission to appeal is determined without a hearing, those costs necessarily incurred in attending the client, attending the appellant's agents, considering the application for permission to appeal, filing notice of objection under rule 13 and, where applicable, preparing respondent's objections to the application may be awarded to a respondent.

Where costs are sought under (b) above, the application may be made by letter addressed to the Registrar or may be included in a bill of costs filed in the Registry conditional upon the application being granted.

3.5.4 Bills of costs must be filed within 3 months from the date of the decision of the Appeal Panel or from the date on which an application for permission to appeal is withdrawn in accordance with rule 33 (see paragraph 7.16 of [Practice Direction 7](#)). If an extension of the three month period is desired, application must be made in writing to the Registrar and copies of all such correspondence sent to all interested parties. In deciding whether to grant an application for an extension of time made after

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

the expiry of the 3 month period, the Registrar takes into account the circumstances set out in paragraph 6 of [Practice Direction 8](#).

3.5.5 For the fees payable on the assessment of a bill of costs, see Annex 2 to [Practice Direction 7](#). For the assessment of costs, see rules 46-51 and [Practice Direction 8](#).

3.5.6 For security for costs see paragraph 7.9.1 of [Practice Direction 7](#).

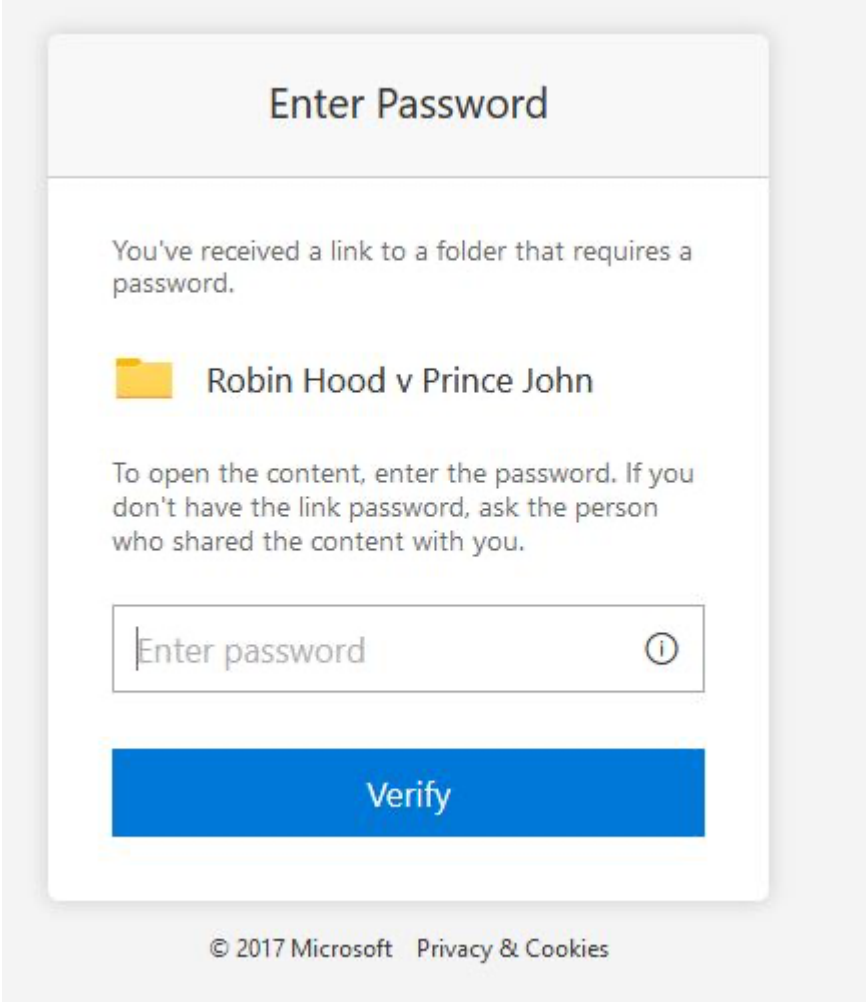
[Back to top](#)

[Annex to PD 3\(29\)](#)

[Annex to PD 3](#)

When you have papers to lodge that are too large to email (over 10 MB) please contact the Registry to ask them to give you access to our upload area. They will ask you for an email address to which they will send access permissions and also agree a password for the folder they will create for you.

You will receive an email with a link that takes you to a page that looks like this:

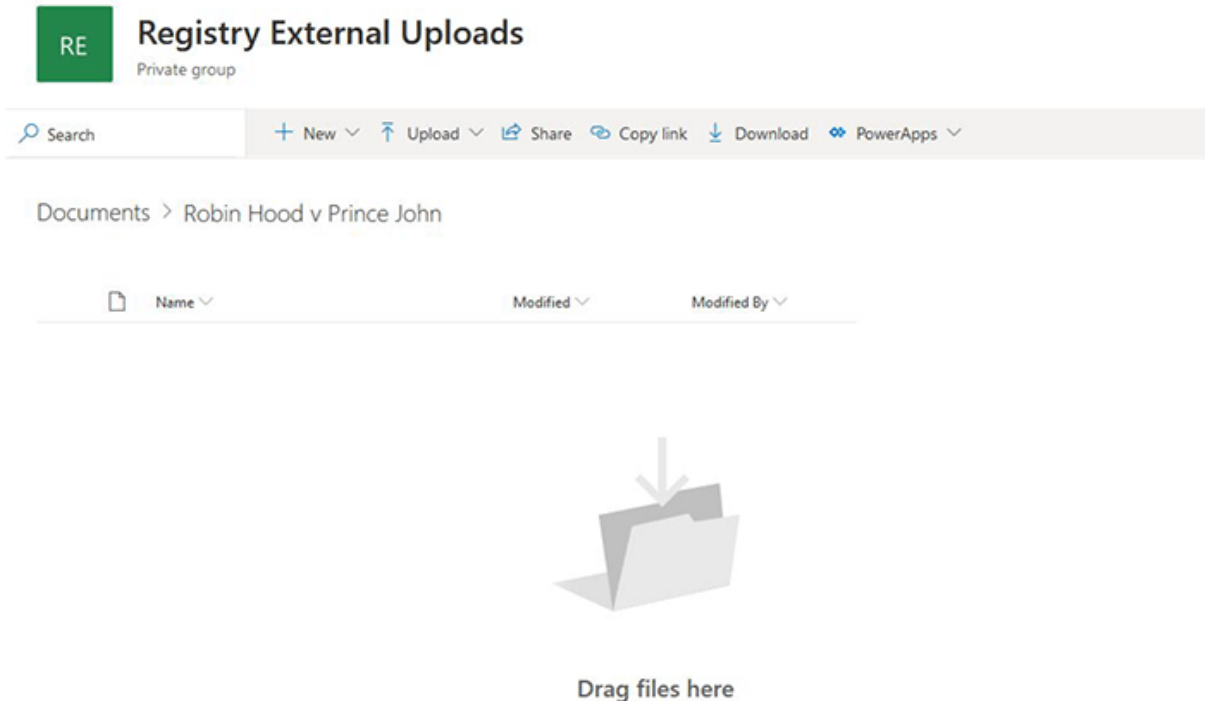


The screenshot shows a web page titled "Enter Password". The main heading is "Enter Password". Below this, the text reads: "You've received a link to a folder that requires a password." There is a yellow folder icon next to the text "Robin Hood v Prince John". Below this, the text reads: "To open the content, enter the password. If you don't have the link password, ask the person who shared the content with you." There is a text input field with the placeholder text "Enter password" and an information icon (i) to its right. Below the input field is a blue button labeled "Verify". At the bottom of the page, there is a copyright notice: "© 2017 Microsoft Privacy & Cookies".

Please enter the password you previously agreed with the Registry.

That will take to a page similar to the below.

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL



RE Registry External Uploads
Private group

Search + New Upload Share Copy link Download PowerApps

Documents > Robin Hood v Prince John

Name Modified Modified By

Drag files here

Here you can upload your files either by clicking the upload button, or, if supported by your browser, you can drag and drop. Once you have finished uploading your files please inform Registry who will then take the files and close the access area. Should you need to lodge further papers you must request a fresh link.

***Important Note**

If you have an existing Office 365/SharePoint account on your system you may find it does not let you connect to our system. Rather than having to change your system settings we have learned that copying the original link into an Incognito or Private Window within your web browser allows you access.

How to open an Incognito window in:

[Internet Explorer](#)

[Firefox](#)

[Chrome](#)

[Edge](#)

Footnotes

[1.— Amended Oct 2020. Return to footnote 1](#)

[2.— Amended Nov 2018. Return to footnote 2](#)

[3.— Amended Nov 2018. Return to footnote 3](#)

[4.— Amended Nov 2018. Return to footnote 4](#)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

- 5.—Amended Apr 2013. [Return to footnote 5](#)
- 6.—Amended Nov 2018. [Return to footnote 6](#)
- 7.—Amended Jan 2013. [Return to footnote 7](#)
- 8.—Amended Apr 2015. In the Supreme Court, an Appeal Panel has directed that, irrespective of the outcome of the appeal, the costs of preparing the permission application should not be recoverable in a case where it considered that a very long application did not assist the Panel. [Return to footnote 8](#)
- 9.—Amended Nov 2018. [Return to footnote 9](#)
- 10.—Amended Oct 2020. [Return to footnote 10](#)
- 11.—Amended Jan 2013. [Return to footnote 11](#)
- 12.—Amended Oct 2020. [Return to footnote 12](#)
- 13.—Amended Oct 2020. [Return to footnote 13](#)
- 14.—Amended Oct 2020. [Return to footnote 14](#)
- 15.—Amended Oct 2020. [Return to footnote 15](#)
- 16.—Amended Oct 2020. [Return to footnote 16](#)
- 17.—Amended Apr 2013. [Return to footnote 17](#)
- 18.—Amended Apr 2013. [Return to footnote 18](#)
- 19.—Amended Oct 2020. [Return to footnote 19](#)
- 20.—Amended Oct 2020. [Return to footnote 20](#)
- 21.—Amended Oct 2020. [Return to footnote 21](#)
- 22.—Amended Oct 2020. [Return to footnote 22](#)
- 23.—Amended Oct 2020. [Return to footnote 23](#)
- 24.—Amended Oct 2020. [Return to footnote 24](#)
- 25.—Amended Nov 2018. [Return to footnote 25](#)
- 26.—Amended Oct 2020. [Return to footnote 26](#)
- 27.—Amended Apr 2015. [Return to footnote 27](#)
- 28.—Amended Oct 2020. [Return to footnote 28](#)
- 29.—Amended Oct 2020. [Return to footnote 29](#)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Practice Direction 4

General note

4.1.1 The practice is that where permission to appeal is granted by the Judicial Committee, the application for permission to appeal will stand as the notice of appeal and the grounds of appeal are limited to those on which permission has been granted: rule 17(1). The appellant must, within 14 days of the grant by the Judicial Committee of permission to appeal, file notice under rule 17(1)(c) that he wishes to proceed with his appeal. ~~When the notice is filed, the application for permission to appeal will be re-sealed and the appellant must then serve a copy on each respondent and file 1(1) copies: rule 17(2).~~ In any other case an appellant must file a notice of appeal in ~~the~~ Form 1: rule 17(3). (See Annex 1 to [Practice Direction 7](#) for Form 1 (Appeal)~~(2)~~)).

4.1.2 In those cases in which an appellant had an appeal as of right but the court appealed from has refused to grant conditional and final leave, the appellant must seek special leave from the Judicial Committee: see [Practice Direction 3](#) and, in particular, paragraph 3.3.3(c).

[Back to top](#)

Form of notice of appeal

4.2.1 It is essential that the notice of appeal sets out the basis on which and the relevant provision(s) under which the Judicial Committee is said to have jurisdiction. ~~A notice of appeal should be produced in Form 1 on A4 paper, securely bound on the left, using both sides of the paper. (See [A notice of appeal should be produced in Form 1](#).~~ ~~Annex 1 to [Practice Direction 7](#) for Form 1 (Appeal) (2)~~). Notices which are not legible or which are not produced in the required form will not be accepted. Parties may consult the Registry at any stage of preparation of the notice, and may submit notices in draft for approval. Amendments to notices are allowed where the Registrar is satisfied that this will assist the Judicial Committee and will not unfairly prejudice the respondents or cause undue delay. Any amendments must be served on the respondents (see paragraph 4.2.6).

4.2.2 If an appellant asks the Judicial Committee to depart from one of its own decisions or from one made by the House of Lords, the UK Supreme Court or the Court of Appeal of England and Wales ~~(4)~~₂, this should be stated clearly in the notice of appeal and full details of the relevant decision must be given.

(The Supreme Court has not re-issued the House of Lords' Practice Statement of 26 July 1966 (Practice Statement (Judicial Precedent) [1966] 1 WLR 1234) which stated that the House of Lords would treat former decisions of the House as normally binding but that it would depart from a previous decision when it appeared right to do so. The Practice Statement is "part of the established jurisprudence relating to the conduct of appeals" and "has as much effect in [the Supreme] Court as it did before the Appellate Committee in the House of Lords": *Austin v Mayor and Burgesses of the London Borough of Southwark* [2010] UKSC 28 at paragraphs 24, 25.)

Case title

4.2.3 Notices of appeal to the Judicial Committee carry the same title as in the court below, except that the parties are described as appellant(s) and respondent(s). For reference purposes, the names of parties to the original proceedings who are not parties to the appeal should nevertheless be included in the title: their names should be enclosed in square brackets. The names of all parties should be given in the same sequence as in the title used in the court below.

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

4.2.4 Notices of appeal in which trustees, executors, etc. are parties are titled in the short form, for example Trustees of John Black's Charity (Respondents) v. White (Appellant).

4.2.5 In any notice of appeal concerning children or where in the court below the title used has been such as to conceal the identity of one or more parties to the proceedings, this fact should be clearly drawn to the attention of the Registry at the time the notice of appeal is filed, so that the title adopted in the Judicial Committee can take account of the need for anonymity. Notices of appeal involving children are normally given a title in the form B (Children).

Service

4.2.6 A copy of the notice of appeal must be served on each respondent or their agents in accordance with rule 6, before it is filed. A certificate of service (giving the full name and address of the respondents or their agents) must be included in Form 1 (Appeal) ~~(5)~~ and signed or a separate certificate of service must be provided. [An electronic signature is acceptable](#). See rule 6(4) and paragraph 2.1.21 of [Practice Direction 2](#).

[Back to top](#)

Filing a notice of appeal

4.3.1 A notice of appeal must be filed in the Registry within 56 days of the date of the order or decision of the court below granting permission or final leave to appeal ~~(6): rule 18(2): rule 18(2)~~. However, this time limit may be varied by the Judicial Committee under rule 5. For the relevant time limits see paragraphs 2.1.12-2.1.15 of [Practice Direction 2](#). An appellant must file with his notice of appeal a certificate of value as required by rule 7(6) and ~~(7) (7)~~. ~~When a notice of appeal is filed, it will be sealed by a member of staff in the Registry: rule 7(4).~~

4.3.2 In order to comply with rule 18(2), the ~~original~~ notice of appeal ~~together with 1 copy(8)~~ must be filed [in electronic form only](#) at the Registry ~~with, by email to registry@jcpc.uk, and~~ the prescribed fee [paid](#). For the relevant fee see Annex 2 to [Practice Direction 7](#). If permission to appeal was granted by the court below, a copy of the order appealed from must also be filed and, if separate, a copy of the order granting permission to appeal to the Judicial Committee: rule 18(5). If the order appealed from is not immediately available, "the notice of appeal should be filed without delay and the order filed as soon as it is available": rule 18(5).

Filing notice to proceed under rule 17

4.3.3 Where under rule 17(1)(a) an application for permission to appeal stands as a notice of appeal, the appellant must, within 14 days of the grant by the Judicial Committee of permission to appeal, file notice that he wishes to proceed with his appeal. See paragraph 3.3.17 of [Practice Direction 3](#) for filing notice to proceed and paragraph 3.3.18 where an appellant is unable to file notice within the prescribed time limit.

[Back to top](#)

Out of time appeals

4.4 Where an appellant is unable to file a notice of appeal ~~(9)~~ within the relevant time limit, an application ~~(10)~~ for an extension of time must be made in Section 7 of Form 1 (Appeal) ~~(11)~~. A prospective application for an extension of time cannot be made except in cases in which rule 5(5) applies. (Rule 5(5) provides an automatic extension of the time limit where an application for public funding has been made ~~(12)~~).

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

The respondent's views on the extension of time should be sought and, if possible, those views should be communicated to the Registry. The application ~~(13)~~ for an extension of time will be referred to the Registrar and, if it is granted, Board to be considered at the appellant must comply with rule 18 and paragraph 4.3.2 same time as the appeal. The longer the delay in filing, the more convincing and weighty the explanation will need to be and the Board will need to be satisfied that, having regard to all the circumstances, it is in the interests of justice that the time limit should be extended: see *Carlos Hamilton and Jason Lewis v The Queen* [2012] UKPC 31. In criminal cases, the prosecuting authorities should be notified as soon as a prisoner has indicated an intention to appeal to the Judicial Committee and a copy of that notification should be produced to the Registrar of the Privy Council when the appeal is filed ~~(14)~~.

[Back to top](#)

Fees

4.5 For the fee payable on filing a notice of appeal and on filing notice to proceed under rule 17 see Annex 2 to [Practice Direction 7](#).

[Back to top](#)

Acknowledgement by respondent

4.6.1 Each "respondent who intends to participate in the appeal must, within 21 days after service under rule 17(2)(a) or rule 18(4)(a), give notice" in Form 3: rule 19(1). (See Annex 1 to [Practice Direction 7](#) for Form 3.) (Where under rule 17(1)(a) an application for permission to appeal stands as a notice of appeal, the time limit for a respondent to give notice under rule 19 runs from the date on which he is served with a resealed copy of the application.) ~~Form 3 must be produced on A4 paper, securely fastened, using both sides of the paper.~~

4.6.2 Before filing, a respondent must serve a copy of Form 3 on the appellant and any other respondent: see rule 19(2). A certificate of service (giving the full name and address of the persons served) must be included in Form 3 and signed or a separate certificate of service must be provided. [An electronic signature is acceptable.](#) See rule 6(4) and paragraph 2.1.21 of [Practice Direction 2](#).

4.6.3 The ~~original notice together with 1 copy(15)~~ of Form 3 must be filed at the Registry ~~together within electronic form, by email to registry@jcpc.uk, and~~ the prescribed fee paid. For the relevant fee see Annex 2 to [Practice Direction 7](#). ~~When Form 3 is filed, it will be sealed by a member of staff in the Registry: rule 7(4).~~

~~4.6.4 A respondent who gives notice must also pay the prescribed fee (see Annex 2 to Practice Direction 7).~~4.6.4 A respondent who does not give notice under rule 19 will not be permitted to participate in the appeal and will not be given notice of its progress: rule 19(3). An order for costs will not be made in favour of a respondent who has not given notice.

[Back to top](#)

Review procedure for full appeals

4.7.1 Where a notice of appeal is filed and permission has not been granted by the Judicial Committee¹, a review will be undertaken before the appeal is listed.

¹ Referred to as an 'appeal as of right'

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

The procedure is as follows:

Upon receipt of the Notice of Appeal, the papers will be referred to a single Justice for an initial review of the chronology of proceedings and grounds of appeal. The single Justice may do one of the following:

- a) Direct that the appeal be listed for hearing before a panel of 3 Justices;
- b) Direct that the appeal be listed for hearing before a panel of 5 Justices;
- c) Direct that the appellant(s) be invited to file submissions within 21 days as to why the appeal should not be summarily dismissed on the basis that it:
 - i- falls foul of the rule in *Devi v Roy* [1946] AC 508, i.e. seeks to overturn concurrent findings of fact; and/or
 - ii- is otherwise devoid of any merit.

4.7.2 If the single Justice directs that the appeal should be listed, the usual procedure for appeals will continue.

4.7.3 If the single Justice directs that the appellant(s) be invited to file submissions, a letter will be sent to the appellant(s) by the Registry, copied to the Respondent(s) for information, inviting such submissions within 21 days.

4.7.4 Upon receipt of the appellant's submissions, or following the conclusion of the 21 day period if no submissions have been filed, the papers will be referred to a panel of Justices to consider whether the appeal ought to be summarily dismissed, or whether it should proceed to a full appeal hearing. If the former, an order will be made and (if appropriate) sent to the Privy Council for approval by the King in the normal way. This will be a final decision of the JCPC and is not open to reconsideration or appeal.

[Back to top](#)

Security for costs

~~4.78.1~~ Where the Judicial Committee grants permission to appeal, the Committee or the Registrar may, on the application of a respondent, order an appellant to give security for the costs of the appeal and any order for security will determine

- ~~a-~~ the amount of that security, and
- ~~b-~~ the manner in which, and the time within which, security must be given: rule 37.

An application for security must be made in the general form of application, Form 2, (see paragraph 7.1 of, and Annex 1 to, ~~Practice Direction 7~~. Practice Direction 7). Orders for security for costs will be sparingly made.

~~4.78.2~~ For payment of security see paragraph 7.9.1 of ~~Practice Direction 7~~. Practice Direction 7.

~~4.78.3~~ No security for costs is required in cross-appeals ~~(16)~~.

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

4.78.4 Where the court below grants permission to appeal, security for costs is a matter for that court. But see paragraph 7.9.2 of [Practice Direction 7 \(17\)](#); [Practice Direction 7](#).

4.78.5 Failure to provide security as required will result in the appeal being struck out by the Registrar although the appellant may apply to reinstate the appeal. See paragraph 7.1 of [Practice Direction 7](#); [Practice Direction 7](#) for applications.

[Back to top](#)

Expedition

4.89 For requests for expedition see paragraph 6.2.4 of [Practice Direction 6](#); [Practice Direction 6](#).

[Back to top](#)

Footnotes

- 1.— Amended Oct 2020. [Return to footnote 1](#)
- 2.— Amended Nov 2018. [Return to footnote 2](#)
- 3.— Amended Nov 2018. [Return to footnote 3](#)
- 4.— Amended Oct 2016. [Return to footnote 4](#)
- 5.— Amended Nov 2018. [Return to footnote 5](#)
- 6.— Amended Apr 2013. [Return to footnote 6](#)
- 7.— Amended Apr 2013. [Return to footnote 7](#)
- 8.— Amended Oct 2020. [Return to footnote 8](#)
- 9.— Amended Jan 2013. [Return to footnote 9](#)
- 10.— Amended Jan 2013. [Return to footnote 10](#)
- 11.— Amended Nov 2018. [Return to footnote 11](#)
- 12.— Amended Oct 2020. [Return to footnote 12](#)
- 13.— Amended Jan 2013. [Return to footnote 13](#)
- 14.— Amended Jan 2013. [Return to footnote 14](#)
- 15.— Amended Oct 2020. [Return to footnote 15](#)
- 16.— Amended Apr 2013. [Return to footnote 16](#)
- 17.— Amended Apr 2013. [Return to footnote 17](#)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Practice Direction 5

General note

5.1.1 The Judicial Committee is moving to a system under which the vast majority of the documents filed are to be provided in electronic form only. The original and one hard copy of key documents such as the statement of facts and issues may be requested for the court record. It is essential that duplication of material is avoided particularly where two or more appeals are heard together⁽¹⁾.

5.1.2 See [Practice Direction 6](#) for cases and ~~volumes of~~^{the} authorities.⁽²⁾

5.1.3 **Records.** Rule 20 governs the provision of the Record and this practice direction applies to Records reproduced overseas as well to as those reproduced in England. All agents should draw it to the attention of their professional clients overseas as necessary. There is a distinction between the **certified** record i.e. that which is **certified** by the registrar overseas and the **reproduced** record which is extracted from the certified record for the purposes of the proceedings before the Judicial Committee. Not all the documents in the certified record will be needed for the proceedings before the Board. The parties should collaborate to reproduce a more limited and appropriately ordered and paginated record. This should consist of (a) a small bundle including the relevant judgments and orders made by the courts below and (b) a second bundle including such other documents as are necessary for the determination of the appeal. The contents and pagination of this reproduced record should correspond with that of the relevant part of the ⁽³⁾ electronic bundle provided by [Practice Direction 9](#) ⁽⁴⁾ (which will include other material such as ^{the} authorities) ⁽⁵⁾. Except in cases where the reproduced ⁽⁶⁾ record is small (100 pages or less), it should be "double-sided", i.e. printed on both sides of the page. Witness statements and affidavits may be included in the record. The original and 1 copy⁽⁷⁾ of the reproduced⁽⁸⁾ record must be filed.

5.1.4 Reproduced records which do not comply with paragraph 5.1.3 will not be accepted. Paragraph 5.1.3 does not apply to certified records⁽⁹⁾.

5.1.5 Directions should be sought from the Registrar in the event of disagreement or other problem regarding the contents of the reproduced record: see rule 20(3) and in ⁽¹⁰⁾ those cases in which the parties consider that the Judicial Committee will not be assisted by the record and that they are able to provide an agreed bundle of the documents which will be necessary for the determination of the appeal. Any request for directions should provide a detailed explanation of the reasons for the request and be signed by Counsel for the parties. Similarly where the record is extensive and the provision of 10 ⁽¹¹⁾ copies will entail considerable expense, a request for directions should be made to the Registrar. In all cases it is helpful for the Board to have a separate core bundle of the judgments given, and the orders made, below ⁽¹²⁾.

5.1.6 **Electronic documents.** For electronic documents see [Practice Direction 9](#).

5.1.7 **The statement of facts and issues** The statement of facts and issues must be a single document, drafted initially by the appellant but submitted to, and agreed by, every respondent before filing (see rule 21). The statement must set out "the relevant facts and the issues" and, if the parties cannot agree as to any matter, the statement should make clear what items are disputed. It is usually helpful for it to contain a chronology with a ⁽¹³⁾ list of the key dates. This should be set out in an annex and include cross-references to the page numbers of any relevant documents in the record. The statement should contain references to every law report of the proceedings below, and should state the duration of the proceedings below. It should be signed by counsel for both parties. The statement of facts and issues

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

is a neutral document and is not to be used to argue a party's case. It is the professional duty of the parties' legal representatives to co-operate to produce the statement ([14](#)).

5.1.8 The précis The statement of facts and issues must be accompanied by a précis of the case. This must be on no more than 1 side of A4 paper (in Arial point 12), and should be drafted initially by the appellant but submitted to, and agreed by, every respondent before filing. The précis should be filed with the statement of facts and issues and an electronic copy of the précis should be e-mailed to the Registry.

5.1.9 Translations All documents which are not in English must be accompanied by a translation into English. Every translation must be accompanied by a statement by the person making it that it is a correct translation, and that statement must include

- a. the name of the person making the translation;
- b. his address, and
- c. his qualifications for making a translation.

[Back to top](#)

Time limits

5.2.1 The statement of facts and issues must be filed by the appellant "**within 42 days after the receipt by the Registrar of the reproduced([15](#)) record ([16](#))**": rule 21(1). If the appellant is unable to comply with the relevant time limit, an application for an extension of time must be made. (See rule 5 and paragraph 5.2.2.) Where the parties have agreed a timetable for the filing of documents in an appeal, the Registrar should be informed and that timetable will be approved unless it will prejudice the hearing date or adversely affect the preparation time the Justices require([17](#)).

Extensions of time for filing the statement of facts and issues

5.2.2 Appellants who are unable to complete preparation of the statement within the time limit may apply to the Registrar for an extension of that time under rule 5. Any application must be made in the general form of application, Form 2, (see Annex 1 to [Practice Direction 7](#)) and should explain the reason(s) why an extension is needed.

5.2.3 The Registrar may grant an application for an extension of time, provided that it does not prejudice the preparation for the hearing or its proposed date. The time limits provided by the Rules are, however, generous and applicants for an extension of time must set out in some detail why they are unable to comply with any relevant time limit.

Respondents' consent

5.2.4 Respondents are expected not to withhold unreasonably their consent to an application for an extension of time. Appellants are advised to communicate the views of respondents to the Registry since, if they raise no objection, the application may be dealt with on paper without a hearing.

Filing the Statement

5.2.5 When the statement is ready, it must be filed (in electronic form) at the Registry. The original and one hard copy of the statement should also be filed([18](#)).

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

5.2.6 Within 14 days after filing the statement, the parties must comply with rule 22(1) by notifying the Registrar that the appeal is ready to list and providing a time estimate (see paragraph 6.2.1 of [Practice Direction 6](#)).

[Back to top](#)

Footnotes

1. Amended Oct 2020. [Return to footnote 1](#)
2. Amended Nov 2018. [Return to footnote 2](#)
3. Amended Nov 2018. [Return to footnote 3](#)
4. Amended Apr 2015. [Return to footnote 4](#)
5. Amended Nov 2018. [Return to footnote 5](#)
6. Amended Nov 2018. [Return to footnote 6](#)
7. Amended Oct 2020. [Return to footnote 7](#)
8. Amended Nov 2018. [Return to footnote 8](#)
9. Amended Oct 2020. [Return to footnote 9](#)
10. Amended Nov 2018. [Return to footnote 10](#)
11. Amended Oct 2020. [Return to footnote 11](#)
12. Amended Jan 2012. [Return to footnote 12](#)
13. Amended Apr 2013. [Return to footnote 13](#)
14. Amended Oct 2016. [Return to footnote 14](#)
15. Amended Oct 2020. [Return to footnote 15](#)
16. Amended Apr 2013. [Return to footnote 16](#)
17. Amended Oct 2020. [Return to footnote 17](#)
18. Amended Oct 2020. [Return to footnote 18](#)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Practice Direction 6

General note

6.1.1 Attention is drawn to the provisions of [Practice Direction 5](#) about papers for the appeal hearing. Duplication of material must be avoided particularly where two or more appeals are heard together. The Judicial Committee is moving to a system under which the vast majority of the documents filed are to be provided in electronic form only~~(1)~~.

[Back to top](#)

Fixing the hearing date

6.2.1 Within 14 days after the filing of the statement of facts and issues (see paragraphs 5.1.7, 5.2.5 and 5.2.6 of [Practice Direction 5](#)), the parties must notify the Registrar that the appeal is ready to list and specify the number of hours that their respective counsel estimate to be necessary for their oral submissions (see rule 22(1)). Parties are encouraged to offer agreed dates which are convenient to all Counsel at an early stage and there is no need to wait until after the filing of the statement of facts and issues to fix the hearing date. Time estimates must be as accurate as possible since, subject to the Judicial Committee's discretion, they are used as the basis for arranging the Judicial Committee's list. The sittings of the Judicial Committee (or the 'law terms') are four in each year, that is to say:

- a. the Michaelmas sittings which begin on 1 October and end on 21 December;
- b. the Hilary sittings which begin on 11 January and end on the Wednesday before Easter Sunday;
- c. the Easter sittings which begin on the second Tuesday after Easter Sunday and end on the Friday before the spring holiday; and
- d. the Trinity sittings which begin on the second Tuesday after the spring holiday and end on 31 July.

The 'spring holiday' means the bank holiday falling on the last Monday in May or any day appointed instead of that day under section 1(2) of the Banking and Financial Dealings Act 1971.

6.2.2 Subject to any directions by the Judicial Committee before or at the hearing, counsel are expected to confine their submissions to the time indicated in their estimates. The Registrar must be informed at once of any alteration to the original estimate. Not more than one day is normally allowed for the hearing of an appeal and appeals are listed for hearing on this basis. Estimates of more than one day must be fully explained in writing to the Registrar. Counsel should agree an order of speeches and timetable for the hearing and submit it to the Registry at least 3 working days~~(2)~~ before the hearing.

6.2.3 The Registrar will subsequently inform the parties of the date fixed for the hearing. The appellant and every respondent must then sequentially exchange their respective written cases and file them (see rule 23 and paragraph 6.3.9).

Requests for expedition

6.2.4 Any request for an expedited hearing should be made to the Registrar. Wherever possible the views of all parties should be obtained before a request is made.

Directions hearings

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

6.2.5 Where it considers it to be appropriate, the Judicial Committee may decide that a directions hearing should be held. A directions hearing will normally be held before three members of the Board. Any request for a directions hearing should be made to the Registrar. Wherever possible the views of all parties should be obtained before a request is made.

Hearings via video-link

6.2.6 The Annex to this Practice Direction sets out the technical requirements for holding a hearing via a video link and includes the hearing protocol ~~(3)~~.

[Back to top](#)

Appellants' and Respondents' cases

6.3.1 The case is the statement of a party's argument in the appeal. The ~~Judicial Committee~~[Court](#) favours brevity and a case should be a concise summary of the submissions ~~to be developed~~. A case should not (without ~~the~~ permission of the ~~Board~~[Court](#)) exceed 50 pages of A4 size and in most cases fewer than 50 pages will be sufficient. ~~(4) Cases in excess of 50 pages will not be accepted unless permission to file a longer case has been sought and obtained. Any such application should be made not less than 14 days before the case is due to be filed. The page limit includes footnotes, which should be brief and should not contain substantive argument. In addition to the page limit, the following formatting is required for written cases:~~

- ~~Font size 12;~~
- ~~1.5 line spacing;~~
- ~~Numbered paragraphs;~~
- ~~Signature and name of Counsel to appear at the end (an electronic signature will suffice).~~

6.3.2 The case should be confined to the heads of argument that counsel propose to submit at the hearing and omit material contained in the statement of facts and issues (see paragraph 5.1.7 of [Practice Direction 5](#)).

6.3.3 If either party is abandoning any point taken in the courts below, this should be made plain in their case. If they intend to apply in the course of the hearing for permission to introduce a new point not taken below, this should also be indicated in their case and the Registrar informed. If such a point involves the introduction of fresh evidence, application for permission must be made either in the case or by filing an application for permission to adduce the fresh evidence (see paragraph 7.1 of [Practice Direction 7](#) for applications).

6.3.4 If a party intends to invite the Judicial Committee to depart from one of its own decisions or from a decision of the House of Lords or the UK Supreme Court, this intention must be clearly stated in a separate paragraph of their case, to which special attention must be drawn. A respondent who wishes to contend that a decision of the court below should be affirmed on grounds other than those relied on by that court must set out the grounds for that contention in their case.

6.3.5 Transcripts of unreported judgments should only be cited when they contain an authoritative statement of a relevant principle of law not to be found in a reported case or when they are necessary for the understanding of some other authority.

6.3.6 All cases must conclude with a numbered summary of the reasons upon which the argument is founded, and must bear the signature of at least one counsel for each party to the appeal who has

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

appeared in the court below or who will be briefed for the hearing before the Judicial Committee. [Electronic signatures are acceptable.](#)

6.3.7 The filing of a case carries the right to be heard by two counsel and, generally ~~(5)~~ fees of two counsel only for any party are allowed on assessment.

Separate cases

6.3.8 Parties whose interests in the appeal are passive (for example, stakeholders, trustees, executors, etc.) are not required to file a separate case but should ensure that their position is explained in one of the cases filed.

Filing and exchange of cases

6.3.9 Rule 23 provides the time limits for the parties to file their cases. Cases must be filed in electronic form ~~as well as in hard copy only~~ (see [Practice Direction 9](#) for electronic documents). No later than eight weeks ~~(6)~~ before the proposed date of the hearing, the appellants must file [their case](#) at the Registry ~~the original and (7) 1 copy(8) of their case~~ and serve it on the respondents. The case should be filed ~~in hard copy and electronically(9).~~ [only at this stage, although a hard copy will subsequently be required as part of the Key Documents bundle \(see paragraph 6.3.12\).](#)

6.3.10 No later than six weeks ~~(10)~~ before the proposed date of the hearing, the respondents ~~must serve on the appellants a copy of their case in response and file at the Registry the original and 1 copy (11) of their case, as must~~ [any other party filing a case \(for example, an intervener\).](#)

~~6.3.11 or advocate to the court) must file with the Registry and serve on the appellants a copy of their case in response. The number of copies of cases exchanged case should be enough to meet filed electronically only at this stage, although a hard copy will subsequently be required as part of the requirements of counsel and agents and should not usually exceed eight.~~

[Key Documents bundle \(see paragraph 6.3.12\).](#)

[6.3.11](#) Following the exchange of cases, further arguments by either side may not without permission be submitted in advance of the hearing. [In particular, speaking notes should not be submitted either in advance of or at the hearing: attention is drawn to the observations by Lord Hodge in Harold Chang \(Appellant\) v The Hospital Administrator and 2 others \[2023\] UKPC 44, para 26.](#)

Form of cases

~~6.3.13 Cases must be produced on A4 paper, securely bound on the left, using both sides of the paper with:~~

- ~~a. ——— numbered paragraphs, and~~
- ~~b. ——— signatures of counsel at the end, above their printed names.~~

Key documents bundle

[6.3.12](#) The key documents bundle must [be filed in hard copy only, and must](#) contain in the following order ~~hard~~ copies of

1. the statement of facts and issues;

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

2. the appellants' and respondents' cases, with cross-references (in a footnote or in the body of the text) to the record and ~~the authorities-volume(s);~~
3. the case of the advocate to the court or intervener, if any; and
4. the following orders and judgments
 - a. the order appealed against;
 - b. the official transcript of the judgment of the court below;
 - c. the final order(s) of all other courts below; and
 - d. the official transcript of the final judgment(s) of all other courts below.~~(12).~~

The key documents bundle:

- a. should be bound, preferably with plastic comb binding and with card covers;
- b. should include tabs for each of the documents, preferably with the name of the document on the tab;
- c. should show on the front cover a list of the contents and the names and addresses of the agents for all parties;
- d. must indicate (by e.g. a label attached to the plastic spine) the short title of the appeal;
- e. must be paginated. Any pagination should accord with the pagination of the electronic volume: bundle, regardless of whether or not this means that the pagination in the key documents bundle is not consecutive.

A copy of the key documents bundle must be provided for each member of the Board hearing the appeal and the copies must be filed four weeks before the hearing~~(13).~~

[Back to top](#)

Authorities

6.4.1 A joint set of authorities, jointly produced, should be compiled for the appeal at least 28 days before the hearing. ~~This set should include a primary volume, agreed between Counsel for the parties, containing those legislative provisions and caselaw authorities to which frequent reference is likely to be made during oral argument. Two(14) sets of the primary volume should be filed in hard copy at least 28 days(15) before the hearing. All these authorities must also be filed electronicallyThe authorities must be filed electronically only,~~ and included in the electronic bundle prepared for the hearing in accordance with [Practice Direction 9](#)~~(16).~~ Respondents should arrange with the appellants for the delivery to them of such ~~of the~~ authorities ~~volumes~~ as the respondents' counsel and agents require. ~~Volumes of authorities~~ Authorities which do not comply with paragraph 5.1.2 of [Practice Direction 5](#) will not be accepted. ~~Authorities' volumes must be filed in electronic form (see Practice Direction 9 for electronic documents).~~ The following paragraphs give guidance on the arrangement and order of the ~~volumes~~ authorities but where the parties consider that a different order or arrangement would be of greater assistance to the ~~Board~~ Court, that order or arrangement should be adopted ~~(17).~~

6.4.2 The authorities should appear in alphabetical order ~~in the primary volume as well as in other bundles or categories within bundles.~~ The ~~primary volume~~ authorities should include an index ~~to all~~

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

~~authorities in all the volumes of authorities, and, where there is a large number of volumes, this. The index should also be reproduced separately. Every volume of authorities other than the primary volume should contain an index of its own contents. (The indexes must be included in the pagination) (18).~~

~~a. — be A4 size reproduced as one page per view (with any authorities smaller than A4 being enlarged);~~

~~b. — separate each authority by numbered dividers (20);~~

~~contain an index and (21) an index to all the volumes;~~

~~c. — be numbered consecutively on the cover and spine with numerals at least point 72 in size for swift identification of different volumes during the hearing;~~

~~c. — have printed clearly on the front cover the title of the appeal and the names of the agents for all parties;~~

~~c. — have affixed to the spine a sticker indicating clearly the volume number in Arabic numerals and short title of the appeal.~~

~~Where an authority or other document extends to many pages, only those pages that are relevant to the appeal should be copied.~~

6.4.3 The Board has on numerous occasions criticised the over-proliferation of authorities. It should be understood that not every authority that is mentioned in the parties' printed cases need be included in the ~~volumes of~~ authorities. They should include only those cases that are likely to be referred to during the oral argument ~~or which are less accessible because they have not been reported in any of the recognised reports.~~

6.4.4 The cost of preparing the ~~volumes of~~ authorities falls to the appellants, but is ultimately subject to the decision of the Judicial Committee as to the costs of the appeal.

[Back to top](#)

The hearing

6.5.1 The Registrar lists appeals taking into account the convenience of all the parties. Provisional dates are agreed with the parties well in advance of the hearing and every effort is made to keep to these dates. Agents receive formal notification shortly before the hearing.

6.5.2 Parties should inform the Registry as early as possible of the names of counsel they have briefed.

6.5.3 The Judicial Committee usually hears appeals on Mondays from 11am-1pm and from 2-4pm, and on Tuesdays to Thursdays from 1030-1300 and 1400-1600.

6.5.4 Only in wholly exceptional circumstances will the Judicial Committee consider sitting in private. Any request for the Judicial Committee to sit in private should be addressed to the Registrar and should be copied to the other parties. The request should set out fully the reasons why it is made and the request together with any objections filed by the respondents will normally be referred to the Judicial Committee.

6.5.5 ~~Generally, no~~No more than two counsel will be heard on behalf of a party ~~(or a single counsel on behalf of an intervener permitted to make oral submissions) (22).~~

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

6.5.6 If a party wishes to have a stenographer present at the hearing or to obtain a full transcript of the hearing, he must notify the Registrar not less than 7 days before the hearing. Any costs of the stenographer or of transcription must be borne by the party making such a request.

6.5.7 The Registrar will on request inform the parties of the intended constitution of the Judicial Committee for the hearing of a forthcoming appeal; this will be subject to possible alteration. Counsel should assume that the Judicial Committee will have read the printed cases and the judgment under appeal but not all the papers which have been filed.

6.5.8 Provided that all Counsel in the case agree, they may communicate to the Registrar their wish to dispense with part or all of court dress. The Board will normally agreed to such a request ~~(23)~~.

6.5.9 The Judicial Committee has been given permission for video footage of proceedings to be streamed live, and made available afterwards on the JCPC website. Permission has also been given for video footage of proceedings before the Board to be broadcast by media outlets where this does not affect the administration of justice and the recording and broadcasting is conducted in accordance with the protocol which has been agreed with representatives of the relevant UK broadcasting authorities. The Board may additionally impose such conditions as it considers to be appropriate including the obtaining of consent from all the parties involved in the proceedings ~~(24)~~.

[Back to top](#)

Costs

6.6.1 Rule 43 deals with orders for costs. If counsel seek an order other than that costs should be awarded to the successful party, they may make written submissions in accordance with rule 44 if the Judicial Committee so directs.

~~The original and 1 copy(25) of any written~~The submissions must be filed at the Registry in electronic form only. Copies should also be sent to the other parties to the appeal. Costs submissions are considered without a hearing ~~(26)~~.

[Back to top](#)

Judgment

~~Place and time of judgment~~

~~6.7.1 Judgments are given on a day notified in advance. One week's notice is normally given.~~

Attendance of counsel

6.7.2 Counsel or agents for each party or group of parties who have filed a case may attend if the judgment is delivered in Court, but the attendance of counsel is not required.

6.7.3 The judgment of the Board may be made available to the parties' legal teams before judgment is given. In releasing the judgment, the Board gives permission for the contents to be disclosed to counsel, agents and solicitors (including solicitors outside London who have appointed London agents) and in-house legal advisers in a client company, Government department or other body. The contents of the judgment and the result of the appeal may be disclosed to the client parties themselves 24 hours before the judgment is to be given unless the Board or the Registrar directs otherwise. A direction will be given where there is reason to suppose that disclosure to the parties would not be in the public interest.

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

6.7.4 It is the duty of counsel and agents to check the judgment for typographical errors and minor inaccuracies. In the case of apparent error or ambiguity in the judgment, counsel are requested to inform the Court as soon as possible. This should be done by email to the judgments clerk, in line with the deadline provided. The purpose of disclosing the judgment is not to allow counsel to re-argue the case and attention is drawn to the opinions of Lord Hoffmann and Lord Hope in R (Edwards) v Environment Agency [2008] UKHL 22, [2008] 1 WLR 1587 ~~(28)~~.

6.7.5 Accredited members of the media may, with the express permission of the Board, be given a copy of the judgment in advance. The contents of this document are subject to a strict embargo, and are not for publication or broadcast before judgment has been delivered. The documents are issued in advance on the strict understanding that no approach is made to any person or organisation about their contents before judgment is given.

6.7.6 The Registrar will prepare a draft of the order, which will normally be sent to counsel for comment. If parties have been able to agree the order for costs, the Registry should be informed.

[Back to top](#)

Intervention

6.8.1 A person who is not a party to an appeal may apply in accordance with rule 27 for permission to intervene.

6.8.2 An application should be made in the general form of application, Form 2, (see paragraph 7.1 of [Practice Direction 7](#)), and should state whether permission is sought for both oral and written interventions or for written intervention only. The application should be filed [electronically](#) with the prescribed fee and confirmation of the consent of the appellants and respondents in the appeal. If their consent is refused, the application must be endorsed with a certificate of service on them, with a brief explanation of the reasons for the refusal.

6.8.3 The application should explain the intervener's interest in the proceedings, and any prejudice which the intervener would suffer if the application were refused. It should summarise the submissions to be advanced if permission is given, and explain why those submissions will be useful to the court and different from those of the parties. If permission is sought for an oral intervention, the application should explain why oral intervention is necessary in addition to written intervention. If an intervener wishes to support the submissions to the Court with a witness statement and exhibits, permission to do so must be sought from the Court.

6.8.4 Applications for permission to intervene should be filed at least ~~10(31)~~ weeks before the date of hearing of the appeal. Failure to meet this deadline may increase the burden on the parties in preparing their cases, and may delay the hearing of the appeal. If permission is given, written submissions must be filed [electronically](#) and also given to the appellants and respondents. They should avoid repeating material that is in the parties' written cases. They should concentrate on the particular points that the intervener wishes to raise and should normally not exceed 20 pages of A4 size.

6.8.5 Permission is not given as a matter of course, even if no party objects. The fact that a person was allowed to intervene in the court below does not entitle a person to intervene in this Court. Permission will be given only for interventions which will provide the Court with significant assistance over and above the assistance it can expect to receive from the parties, and only where any cost to the parties or any delay consequent on the intervention is not disproportionate to the assistance that is expected.

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

6.8.6 Interventions will be allowed in writing only, unless compelling reasons are shown for the allowance of oral intervention. If oral intervention is allowed, the time allocated to an intervener will normally come out of the time allowed to the party with whose case the intervener's submissions are aligned. In considering applications to intervene, the Court will be mindful of the need to maintain a balance between the arguments before it, and the importance of the appearance, as well as the reality, of an equality of arms. It will also have regard to the matters mentioned in paragraphs 6.8.5 above and 6.8.8 below.

6.8.7 If permission is given, written submissions must be filed [electronically](#) and also given to the appellants and respondents for incorporation into the core volumes at least 6 weeks ~~(40)~~ before the hearing. They should normally not exceed 20 pages of A4 size, inclusive of any supplementary documents, other than authorities. Permission should be sought if that limit is to be exceeded.

6.8.8 Interveners' submissions, whether written or oral, should focus on advancing the intervener's argument on a legal issue before the court. They should avoid repeating material that is in the parties' written cases. They should not challenge findings of fact. They should not ordinarily seek to introduce new evidence, especially where that would cause procedural unfairness to a party or undermine the basis on which the legal issues were considered by the courts below. They should not introduce new legal issues or seek to expand the case.

6.8.9 All counsel instructed on behalf of an intervener with permission to address the Court should attend the hearing unless specifically excused.

6.8.10 Subject to the discretion of the Judicial Committee, interveners bear their own costs and any additional costs to the appellants and respondents resulting from an intervention are costs in the appeal.

[Back to top](#)

[Annex ~~Annex \(32\)~~](#)

Video-link hearings

These are the requirements which have to be met if an appeal is to be heard via a video-link.

1. Premises must be identified that have excellent internet access (50 Mbps minimum); this must be an ethernet cable connection and not Wi-Fi.
2. Skype (not Skype for Business) will be used for the hearing as this is the only platform that the Board supports. It is freely available to access and the Skype login ID should be provided to the JCPC's IT team at the earliest opportunity.
3. The premises must be professional and quiet. Small, modern meeting rooms are recommended as they provide the best acoustics. The room must be open to the public or the proceedings live-streamed to a place which is accessible to members of the public.
4. The technical setup should be kept as simple as possible: a laptop/desktop connected to an external camera and microphone work best. The cameras must be positioned so that counsel are looking at the members of the Board and so that the members of the Board can see the whole room.

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

5. Integrated room microphones are not recommended as they can create issues with software sound limiting.
6. Approximately six to four weeks prior to the hearing, the JCPC IT team will contact the party overseas to carry out testing.
7. The test will be used to check connection settings and should NOT be used to configure microphone and monitoring levels; that should be completed independently prior to testing.
8. It is imperative that all testing is completed in the room that will be used for the hearing: failure to do this could result in the Board being advised that the hearing cannot go ahead on technical grounds.
9. Parties must confirm approximately eight weeks before the hearing date that steps 1 and 2 have been achieved.
10. Sitting times have to be agreed, taking into account the time difference between the country concerned and the Board in London. Please note that the hearing should end at 16:15 UK time if possible.
11. If further technical information is required, please contact the JCPC IT team: +44 20 7960 1981 or +44 20 7960 1982 or email ICT@supremecourt.uk.

[Back to top](#)

Hearing protocol ~~(33)~~

- If counsel wish to stand, make sure the microphones are positioned so counsel speaks directly into the microphone
- If counsel are seated, make sure they speak up and into the microphones
- Counsel should speak clearly and not too quickly as there is a time lag
- Counsel should make it clear when they have finished dealing with a point
- The microphone will pick up any rustling or handling of papers etc. so all papers should be kept as still as possible. The microphones must be kept completely clear of papers, books etc; they must not be covered in any way
- Counsel should not move out of the range of the camera or microphone
- If a member of the Board wishes to interject, they will say 'stop' and hold up a hand
- If it is necessary for counsel to interject, they should say 'My Lord/Lady, please' and hold up a hand
- If counsel have to refer to a document which is not in the court bundle, it should be emailed to registry@jcpc.uk so it can be forwarded to the members of the Board in the courtroom.

[Back to top](#)

Footnotes

2. ~~Amended Oct 2020.~~ [Return to footnote 1](#)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

- 1.—Amended Apr 2015. [Return to footnote 2](#)
- 1.—Amended Nov 2018. [Return to footnote 3](#)
- 1.—Amended Oct 2020. [Return to footnote 4](#)
- 1.—Amended Apr 2015. [Return to footnote 5](#)
- 1.—Amended Oct 2020. [Return to footnote 6](#)
- 1.—Amended Jan 2012. [Return to footnote 7](#)
- 1.—Amended Oct 2020. [Return to footnote 8](#)
- 1.—Amended Oct 2020. [Return to footnote 9](#)
- 1.—Amended Oct 2020. [Return to footnote 10](#)
- 1.—Amended Oct 2020. [Return to footnote 11](#)
- 1.—Amended Oct 2020. [Return to footnote 12](#)
- 1.—Amended Oct 2020. [Return to footnote 13](#)
- 1.—Amended Oct 2020. [Return to footnote 14](#)
- 1.—Amended Oct 2020. [Return to footnote 15](#)
- 1.—Amended Nov 2018. [Return to footnote 16](#)
- 1.—Amended Apr 2015. [Return to footnote 17](#)
- 1.—Amended Nov 2018. [Return to footnote 18](#)
- 1.—Amended Oct 2020. [Return to footnote 19](#)
- 1.—Amended Nov 2018. [Return to footnote 20](#)
- 1.—Amended Nov 2018. [Return to footnote 21](#)
- 1.—Amended Dec 2015. [Return to footnote 22](#)
- 1.—Amended Jan 2012. [Return to footnote 23](#)
- 1.—Amended Apr 2015. The protocol ensures that certain types of proceedings and some aspects of proceedings such as private discussion between parties and their advisers are not recorded, televised or filmed. It also regulates the use of extracts of proceedings and prevents their use in certain types of programmes (such as party political broadcasts) and in any form of advertising or publicity. [Return to footnote 24](#)
- 1.—Amended Oct 2020. [Return to footnote 25](#)
- 1.—Amended Oct 2020. [Return to footnote 26](#)
- 1.—Amended Apr 2015. [Return to footnote 27](#)
- 1.—Amended Apr 2015. [Return to footnote 28](#)
- 1.—Amended Apr 2015. [Return to footnote 29](#)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

2.—Amended Apr 2015. [Return to footnote 30](#)

2.—Amended Oct 2020. [Return to footnote 31](#)

2.—Added Nov 2018. [Return to footnote 32](#)

2.—Added Nov 2018. [Return to footnote 33](#)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Practice Direction 7

Applications

7.1.1 Applications are governed by rule 31. An application should be made as soon as it becomes apparent that an application is necessary or expedient.

7.1.2 An application must be made in Form 2 (see [Annex 1](#)) to this Practice Direction) and should be served on all the other parties before it is filed: rule 31(1)(3).

7.1.3 An application must state what order the applicant is seeking and, briefly, why the applicant is seeking the order: rule 31(2). Certain applications (e.g. for security) should be supported by written evidence. Although there may be no requirement to provide evidence in support, it should be borne in mind that, as a practical matter, the Judicial Committee will often need to be satisfied by evidence of the facts that are relied on in support of or for opposing the application. Evidence must be filed as well as served on the respondents.

7.1.4 A party "who wishes to oppose an application must, within 14 days after service, file notice of objection" in Form 3 and "must (before filing) serve a copy on the applicant and any other parties": rule 30(3). (For Form 3 see [Annex 1](#) to this Practice Direction.)

7.1.5 The parties to an application for a consent order must ensure that they provide any material needed to satisfy the Judicial Committee that it is appropriate to make the order.

7.1.6 Applications will be dealt with without a hearing wherever possible. Unless the Registrar directs otherwise, opposed incidental applications are referred to a Panel and may be decided with or without an oral hearing.

7.1.7 The original⁽¹⁾ application must be filed in electronic form⁽²⁾, with the prescribed fee. The original application must bear a certificate of service on the other parties and must clearly indicate whether the other parties consent or refuse to consent to the application. The original⁽³⁾ notice of objection must be filed in electronic form⁽⁴⁾, with the prescribed fee. The original notice must bear a certificate of service on the other parties. Hard copies of these documents are not required unless requested by the Registry⁽⁵⁾.

7.1.8 If the Panel orders an oral hearing, the parties may seek permission to ~~adduce~~[file electronically](#) affidavits, witness statements and such other documents as they may wish. ~~Eight copies are required.~~ Copies of such documents must be served on the other parties before the oral hearing. Authorities are not normally cited before the Panel.

[Back to top](#)

Documents

Preparation

~~7.2.1 All formal documents for the Judicial Committee must be produced on A4 paper, securely bound on the left, using both sides of the paper.~~

7.2.1 The Judicial Committee has moved to a system under which the vast majority of documents are to be provided in electronic form only. Only the key documents bundle is required in hard copy (see [Practice Direction 6, paragraph 6.3.12](#)). No other document should be filed in hard copy unless specifically requested by the Registrar. It is essential that duplication of material is avoided particularly where two or more appeals are heard together.

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

7.2.2 Documents which are not legible or which are not produced in the authorised form or which are unsatisfactory for some other similar reason will not be accepted.

Number of documents required

7.2.3 The following table shows the numbers of documents usually required for the hearing of an appeal. Actual requirements must be subject to agreement and depend on the number of parties, counsel and agents concerned, and on the special circumstances of each appeal. Copies for the use of the party originating the documents are not included in the numbers indicated.

The appellants must provide:

Document	For Registry	For other side
Notice of appeal	Original and 1 copy(6) on filing	One on service
Statement of facts and issues	The original and 1 copy	As arranged(7)
Case	Original and 1 copy no later than eight weeks (8) before the hearing(9)	As arranged(10)
The Record	Original and 1 copy(11)	As arranged(12)
Key documents bundle(13)	One for each member of the Board no later than four weeks before the hearing(14)	As arranged(15)
Primary volume of Authorities (16)	2 (17) no later than four(18) weeks before the hearing	As arranged(19)

The respondents (and any interveners) must provide:

Document	For Registry	For other side
Case	Original and 1 copy (20) no later than six weeks(21) before the hearing	As arranged
Respondents' additional documents (if any)	2(22)	As arranged

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

7.2.3 One hard copy of the key documents bundle must be provided for each member of the Board no later than four weeks before the hearing. **Form of documents**

7.2.4 Reference should be made to the following Practice Directions for the form of documents -

- For Statement of facts and issues: see [Practice Direction 5](#) paragraph 5.1.7
- For the Record: see [Practice Direction 5](#) paragraphs 5.1.3
- For Cases: see [Practice Direction 6](#) paragraph 6.3.1
- For ~~volumes of the~~ authorities: see [Practice Direction 6](#) paragraph 6.4.1.

Disposal of documents

7.2.5 All forms and supporting documents which are filed become the property of the Judicial Committee. ~~No documents submitted in connection with an application for permission to appeal can be returned. Certain documents submitted in connection with an appeal may be returned, on application to the Registrar within 14 days of judgment in the appeal, and will not be returned.~~ Original documents are retained.

[Back to top](#)

Forms

7.3.1 Rule 4 provides for the forms which are to be used in the Judicial Committee.

7.3.2 The following forms are set out in [Annex 1](#) to this Practice Direction.

- [Form 1](#) (PTA) Application for permission to appeal ([23](#))
- [Form 1](#) (Appeal) Notice of Appeal ([24](#))
- [Form 2](#) Application form
- [Form 3](#) Notice of objection/acknowledgement by respondent

[Back to top](#)

Orders

Draft order

7.4.1 After the Judicial Committee has given judgment, the Registrar will send a draft order to all parties who filed a case. The drafts must be returned to the Registrar within 14 days of the date of receipt (unless otherwise directed), either approved or with suggested amendments. If amendments are proposed, they must be submitted to the agents for the other parties, who should indicate their approval or disagreement both to the agents submitting the proposals and to the Registrar.

Final order

7.4.2 A copy of the final order is sent to the agents for the successful parties and copies of the final order are sent to the agents for all parties who have filed notice in Form 3 under rule 19. The original order will be sent to the Registrar or office of the court below.

[Back to top](#)

Cross-appeals

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

7.5.1 A respondent who wishes to argue that the order appealed from should be upheld on grounds different from those relied on by the court below, must state that clearly in his written case but need not cross-appeal: rule 25(1). A respondent who wishes to argue that the order appealed from should be varied must obtain permission to cross-appeal except in cases where an appeal lies as of right: rule 25(2). Except in those cases, applications for permission to cross-appeal should be made by the respondents directly to the Judicial Committee.

7.5.2 Where permission to cross-appeal is required, an application for permission may only be filed after permission to appeal has been granted to the original applicant for permission to appeal. ~~The original and 3 copies of the~~The application for permission to cross-appeal must be filed within 42 days of the grant by the Board of permission to appeal (25). Where permission to cross-appeal is granted by the Judicial Committee, the application for permission to cross-appeal will stand as the notice of appeal and the appellant must then comply with rule 17 and paragraph 3.3.17 of [Practice Direction 3](#).

7.5.3 If permission to cross-appeal is not required, the notice of cross-appeal must be filed with the prescribed fee within 42 days of the filing of the original appeal. ~~The original and 3 copies of the notice of cross-appeal must be filed.~~In a notice of cross-appeal, the original appellant is designated as original-appellant/cross-respondent and the original respondent is designated as original-respondent/cross-appellant.

7.5.4 A cross-appeal may be presented out of time in accordance with paragraph 4.4 of [Practice Direction 4](#).

7.5.5 Argument in respect of a cross-appeal must be included by each party in their case in the original appeal. Such an inclusive case must clearly state that it is filed in respect of both the original and cross-appeals.

7.5.6 In a cross-appeal, the cases on the original appeal must be filed 6 (26) weeks before the hearing. The cross-appellants' case for the cross-appeal must be filed 4 (27) weeks before the hearing as part of their reply to the original appellants' case. The original appellants/cross-respondents may reply to the case for the cross-appeal in their supplemental case.

7.5.7 Fees are payable in cross-appeals see the Appendix to the Rules which is reproduced at [Annex 2](#) to this Practice Direction.

[Back to top](#)

Death of a party

7.6.1 If a party to an appeal dies before the hearing, immediate notice of the death must be given ~~in writing~~ to the Registrar and to the other parties. The appeal cannot proceed until a new party has been appointed to represent the deceased person's interest.

7.6.2 Any application to substitute the new party must be filed with the prescribed fee within 42 days of the date of notice of death. It should explain the circumstances in which it is being filed. It must be endorsed with a certificate of service on all other parties.

7.6.3 If the death takes place after the case for the deceased person has been filed but before the appeal has been heard, the appellants must file a supplemental case setting out the information about the newly-added parties.

7.6.4 If a party to an application for permission to appeal dies and that party has no personal representative, immediate notice of the death must be given ~~in writing~~ to the Registrar and to the

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

other parties. The Registrar may direct that the application proceeds in the absence of a person representing the estate of the deceased or may appoint a person to represent the deceased person's interest. Any application to substitute the new party must be filed with the prescribed fee within 28 days of the date of notice of death. It should explain the circumstances in which it is being filed. It must be endorsed with a certificate of service on all other parties.

[Back to top](#)

Dispute between parties settled

7.7.1 It is the duty of counsel and solicitors in any pending appeal, if an event occurs which arguably disposes of the dispute between the parties, either to ensure that the appeal is withdrawn by consent or, if there is no agreement on that course, to bring the facts promptly to the attention of the Registrar and to seek directions. See further paragraph 7.16 below.

[Back to top](#)

Exhibits

7.8.1 Parties who require exhibits to be available for inspection at the hearing must apply to the Registrar for permission for the exhibits to be brought to the Judicial Committee before the hearing.

[Back to top](#)

Fees and security for costs

7.9.1 Fees are payable in the amounts set out in column 2 of the table in the Appendix to the Rules on the occasions described in column 1; this table is reproduced at [Annex 2](#) to this Practice Direction. Fees are payable on the taking of the step for which a fee is provided not at the conclusion of the proceedings. ~~Payments of fees and deposits of security money may be made by banker's draft or cheque. Drafts and cheques for fees must be made payable to 'Judicial Committee Fees Account'. Drafts and cheques for security money must be made payable to 'Judicial Committee Security Fund Account'.~~ For financially assisted persons see rule 38 and paragraph 7.12.1-7.12.3.

7.9.2 Normally the Judicial Committee will not make an order for security for costs in an appeal as of right where security has been provided below. An order may be made by the Judicial Committee in exceptional circumstances where the appeal appears likely to amount to an abuse of process.

[Back to top](#)

Interveners

7.10.1 A person who is not a party to an appeal may apply for permission to intervene in accordance with rule 27. See paragraph 6.8 of [Practice Direction 6](#).

[Back to top](#)

New submissions

7.11.1 If, after the conclusion of the argument on an appeal, a party wishes to bring to the notice of the Judicial Committee new circumstances which have arisen and which might affect the decision or order of the Judicial Committee, application must be made without delay ~~by letter to the Registrar~~ for permission to make new submissions. The application should indicate the circumstances and the submissions it is desired to make, and a copy must be sent to the agents for the other parties to the appeal.

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

[Back to top](#)

Financially assisted persons

7.12.1 Rule 38 enables an appellant who has been granted, or has applied for, assistance from public funds under arrangements in force in the appellant's jurisdiction, or an appellant whose means are such that payment of a prescribed fee would involve undue financial hardship, to file an application to be treated as a financially assisted person by the Judicial Committee. Any such application should be supported by sworn or credible evidence as to the applicant's means. The Registrar will certify, if the application is approved, that the appellant is to be treated as a financially assisted person.

7.12.2 Where a certificate has effect in relation to an appellant, the appellant will be entitled to remission or reduction of any liability for fees which are payable under the Rules ([28](#)).

7.12.3 Any certificate under rule 38 has effect in relation to an appellant until it is withdrawn by the Registrar; and the Registrar may withdraw a certificate in relation to an appellant if-

- a. assistance from public funds is not granted or is withdrawn in the appellant's jurisdiction;
- b. it is discovered that the appellant's financial position was incorrectly stated; or
- c. there is a material change in the appellant's financial position.

7.12.4 Rule 38 and paragraphs 7.12.1 - 7.12.3 apply to respondents as they apply to appellants with such modifications as may be necessary ([29](#)).

[Back to top](#)

Specialist advisers

7.13.1 Any party to an appeal may apply ~~in writing to the Registrar~~ for specialist advisers to attend the hearing: rule 36. Such advisers provide assistance to the Judicial Committee and are strictly independent of the parties to the appeal.

[Back to top](#)

Stay of execution

7.14.1 The filing of a notice of appeal or an application for permission to appeal does not in itself place a stay of execution on any order appealed from. A party seeking such a stay must apply to the court appealed from, not to the Judicial Committee: rule 39.

[Back to top](#)

Transcription

7.15.1 See paragraph 6.5.6 of [Practice Direction 6](#) for transcriptions.

[Back to top](#)

Withdrawal of appeals and applications

7.16.1 Attention is drawn to the provisions of rule 33.

Applications for permission to appeal

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

7.16.2 An application for permission to appeal may be withdrawn by ~~writing to the Registrar, application~~ stating that the parties have agreed how the costs should be settled. ~~The respondents should notify the Registrar of their agreement.~~

Appeals

7.16.3 An appeal that has not been listed for hearing may be withdrawn by ~~writing to the Registrar, application~~ stating that the parties to the appeal have agreed the costs of the appeal. The nature of the agreement should be indicated. Where appropriate, the letter should also indicate how any security money should be disposed of. ~~Written notification must also be given to the respondents who must notify the Registrar of their agreement to the withdrawal of the appeal and who must confirm that the costs have been agreed.~~

7.16.4 An appeal that has been listed for hearing may only be withdrawn by order of the Judicial Committee on application. (See paragraph 7.1 of [Practice Direction 7](#) for applications.) An application for such an order should include submissions on costs and, where appropriate, indicate how any security money should be disposed of. ~~The application must be submitted for their consent to those respondents who have filed an acknowledgement. The application should be filed with the prescribed fee.~~

[Back to top](#)

Application for order that an agent has ceased to act (30)

7.17.1 An agent may apply for an order declaring that he has ceased to be the agent acting for a party.

7.17.2 Where such an application is made

1. the application must be served on the party for whom the agent is acting, unless the Registrar directs otherwise; and
2. the application must be supported by evidence.

7.17.3 Where the Registrar makes an order that an agent has ceased to act a copy of the order must be served on every party to the proceedings and the order takes effect when it is served.

[Back to top](#)

References under section 4 of the Judicial Committee Act 1833 (31)

7.18.1 Rules 56 to 59 provide the procedure where a reference is made to the Judicial Committee under section 4 of the Judicial Committee Act 1833 (32).

7.18.2 In cases where a reference is made, the use of Form 1 may be inappropriate and, in those circumstances, a document should be filed which contains the information set out in [Annex 3](#) to this Practice Direction (33).

[Back to top](#)

Annex 1

- [Form 1](#) - Application for permission to appeal
- [Form 1](#) - Notice of appeal (34)
- [Form 2](#) - Application form

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

- [Form 3](#) - Notice of objection/acknowledgement by respondent

[Back to top](#)

Annex 2- Fees to be taken (35)

Number and description of fee	Amount of fee		
	Appeal value up to £100,000	Appeal value up to £100,000 - £500,000	Appeal value over £500,000
1. On filing an application for permission to appeal	£150	£500	£1000
On filing notice under rule 17(1)	£100	£800	£1600
On filing a notice of appeal	£100	£800	£1600
2. On filing a notice of objection by a Respondent	£160	£160	£160
On filing an acknowledgement by a Respondent	£160	£160	£160
3. On filing an incidental application	£100		
On filing a notice of objection to an incidental application	£70		
On filing an application to appeal the Registrar's decision	£100		
4. On filing a case	£400	£2500	£5000
5. On request for a copy of a document			
(a) for 10 pages or less	£5		
(b) for each subsequent page	50p		
6. On filing a request for an assessment of costs		2.5% of the sum claimed + 2.5% of the sum allowed	
7. On an appeal against a decision made on an assessment of costs	£150		
8. Certified documents	£20		

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

[Back to top](#)

Annex 3 - References to the Judicial Committee

1. Where a reference is made to the Judicial Committee, the provisions of the Rules and the Practice Directions which supplement the Rules, are to be applied with such variations or modifications as may be required by the particular circumstances of the reference: see rule 56.

2. ~~The reference must be produced on A4 paper, securely bound on the left using both sides of the paper.~~ A reference must be served in accordance with the Rules before it is filed. Notice of the filing of a reference should be given to those persons and bodies who have an interest in, or who are affected by, the reference. ~~Ten copies of the reference should be filed.~~

3. The person at whose request the reference is made ("the applicant") must

a. provide the Registrar with the name and address of any person or body who was served with the reference ("the respondent") and the dates when service was effected;

b. supply the Registrar with the names, addresses and contact details of the applicant's legal representatives and (if known) of the respondent's legal representatives;

c. inform the Registrar of any person or body who has been notified of the making of the reference, providing the names, addresses and contact details of that person or body and their legal representatives.

4. A respondent who wishes to take part in the reference must notify the Registrar and provide the names, addresses and contact details of his legal representatives.

5. (1) At least 8 weeks before the hearing (or within such period as may be specified by the Registrar), the applicant must file ~~12 copies of~~ an appendix of the essential documents which are necessary for consideration of the reference.

(2) The appendix must be submitted to, and agreed with, every respondent before being filed.

(3) The applicant and every respondent must sequentially exchange and then file ~~12~~ copies of their written cases at least 2 weeks before the hearing.

[Back to top](#)

Footnotes

1. Amended Oct 2020. [Return to footnote 1](#)

2. Amended Oct 2020 [Return to footnote 2](#)

Amended Oct 2020 [Return to footnote 3](#)

3. Amended Oct 2020 [Return to footnote 4](#)

4. Amended Oct 2020 [Return to footnote 5](#)

5. Amended Oct 2020 [Return to footnote 6](#)

6. Amended Oct 2020 [Return to footnote 7](#)

7. Amended Oct 2020 [Return to footnote 8](#)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

8. Amended Oct 2020 [Return to footnote 9](#)
9. Amended Oct 2020 [Return to footnote 10](#)
10. Amended Oct 2020 [Return to footnote 11](#)
11. Amended Oct 2020 [Return to footnote 12](#)
12. Amended Oct 2020 [Return to footnote 13](#)
13. Amended Oct 2020 [Return to footnote 14](#)
14. Amended Oct 2020 [Return to footnote 15](#)
15. Amended Nov 2018 [Return to footnote 16](#)
16. Amended Oct 2020 [Return to footnote 17](#)
17. Amended Oct 2020 [Return to footnote 18](#)
18. Amended Oct 2020 [Return to footnote 19](#)
19. Amended Oct 2020 [Return to footnote 20](#)
20. Amended Oct 2020 [Return to footnote 21](#)
21. Amended Oct 2020 [Return to footnote 22](#)
22. Amended Nov 2018 [Return to footnote 23](#)
23. Amended Nov 2018 [Return to footnote 24](#)
24. Amended Apr 2015. [Return to footnote 25](#)
25. Amended Apr 2013. [Return to footnote 26](#)
26. Amended Apr 2013. [Return to footnote 27](#)
27. Amended Apr 2013. [Return to footnote 28](#)
28. Amended Apr 2013. [Return to footnote 29](#)
29. Amended Jan 2012. [Return to footnote 30](#)
30. Amended Apr 2013. [Return to footnote 31](#)
31. Amended Apr 2013. [Return to footnote 32](#)
32. Amended Apr 2013. [Return to footnote 33](#)
33. Amended Nov 2018. [Return to footnote 34](#)
34. Amended Apr 2013. [Return to footnote 35](#)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Practice Direction 8

Section 1

1. Introduction

1.1 This Practice Direction relates to the costs incurred in proceedings before the Judicial Committee. Detailed assessments of costs in the Judicial Committee may be conducted by the Registrar or a Costs Judge of the Senior Courts Costs Office. Under section 15 of the Judicial Committee Act 1833 the Judicial Committee may appoint a person or persons other than the Registrar to tax or assess costs and the Costs Judges have been appointed under this provision. A Costs Judge sits alone when assessing costs.

1.2 Detailed assessments are conducted in public.

1.3 The assessment of costs is governed by the relevant provisions of the JCPC Rules supplemented by this and the other Practice Directions issued by the Judicial Committee. To the extent that Rules and Practice Directions do not cover the situation, the rules and Practice Directions relating to Parts 44 to 47 of the Civil Procedure Rules are applied by analogy at the discretion of the Costs Officer, with appropriate modifications for appeals from foreign jurisdictions. The legal principles applied are those also applicable to assessments between parties in the High Court and Court of Appeal in England and Wales.

1.4 In this Practice Direction references to

- "the JCPC Rules" or "Rules" mean the Judicial Committee (Appellate Jurisdiction) Rules 2009 (as amended)
- "the Costs Officer" mean the Registrar or a Costs Judge appointed to carry out the assessment of costs on behalf of the Judicial Committee
- "bill of costs" mean a claim for costs in [Form 5](#) filed in accordance with Rule 45 of the Judicial Committee (Appellate Jurisdiction) Rules 2009.
- "legal representative" mean a person authorised to conduct litigation

[Back to top](#)

2. Entitlement to costs

2.1 Costs are in the discretion of the Board and it "may make such orders as it considers just in respect of the costs of any appeal, application for permission to appeal, or other application to or proceeding before the Judicial Committee" (rule 43(1)).

2.2 A bill of costs in [Form 5](#) (see Section 2 of this Practice Direction) may be filed in the Registry for assessment where costs are payable by appellants, respondents or other persons under an order for costs made by an Appeal Panel or by the Board.

[Back to top](#)

3. Basis of assessment

3.1 Costs in the Judicial Committee are ordered to be assessed on the standard basis or on the indemnity basis in accordance with rules 47 and 48 of the JCPC Rules. The Board will not allow costs which have been unreasonably incurred or which are unreasonable in amount.

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

3.2 The assessment of costs in the Judicial Committee shall be limited to costs incurred in the United Kingdom except that fees for work done outside the United Kingdom in advising on an appeal to the Privy Council, preparing an application for permission to appeal to the Privy Council, preparing a case on an appeal and preparing for a hearing are treated as having been incurred in the United Kingdom.

[Back to top](#)

4. Costs of preparing applications for permission to appeal or notices of objection

General

4.1 Where a party applies for costs in accordance with paragraph 3.5.3 of [Practice Direction 3](#) (that is, in circumstances where an application for permission to appeal is refused) the application is made by filing and serving [Form 5](#).

4.2 As a general rule the Registrar does not grant the application where:

- a. the application for permission was not served on the respondent making the application for costs; or
- b. the respondent making the application did not file a notice of objection to the application for permission; or
- c. the application is made by one of two or more parties and the Registrar is not satisfied that the applicant had an interest in the application for permission to appeal that required separate representation.

4.3 Where an unsuccessful application for permission to appeal is determined without an oral hearing, costs may include the reasonable costs of preparing and filing respondent's objections and attending the client, counsel or other parties.

4.4 If an application for permission to appeal is dismissed after an oral hearing, the costs of the hearing are allowable in addition to the costs at 4.3 above.

4.5 The costs of a successful application for permission to appeal become costs in the appeal unless the Board orders otherwise.

Counsel's fees

4.6 The general rule is that a fee for one junior counsel is allowed for preparing an application for permission to appeal or a notice of objection. A fee will be allowed for King's Counsel instead of or in addition to junior counsel if this is held to be necessary because of the difficulty or complexity of the case or other good reason.

4.7 For guideline figures for fees on application for permission to appeal, see paragraph 13.

[Back to top](#)

Filing

5.1 A claim for costs in [Form 5](#) must be filed within three months of the date of the relevant costs order and must be served on the other parties.

5.2 All documents must be filed electronically as follows:

- a. the bill of costs ([Form 5](#));

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

- b. counsel's fee notes (which must be receipted) and, where counsel's fees exceed the guideline rates in paragraph 13, a detailed note explaining why; and
- c. receipts or other evidence of disbursements of £500 or more

5.3 The certificate of service (in Part 7 of [Form 5](#)) must include the details of all parties entitled to be represented at the detailed assessment.

5.4 The certificates in part 7 of [Form 5](#) must be completed where appropriate. The completed certificate of discharge is accepted as evidence of payment of disbursements under £500, but may, subject to any direction by the Costs Officer, be challenged by the paying party.

5.5 Other papers on which the parties intend to rely must be filed before the hearing and in consultation with the costs section of the Registry. Where a bill is complex or large any papers the Costs Officer need to pre-read must be filed electronically at least 7 days before the hearing.

Points of dispute to bill of costs

5.6 Points of dispute under rule 45 may, and if the bill is above £5,000 must, be filed at the Registry and served on the receiving party within 21 days of service of the bill of costs. The receiving party may within 14 days from service of the points of dispute respond to the points if they think it appropriate to do so. Any request for an extension of time to file points of dispute or replies must be made within the relevant time period or, after expiry of that limit, by application made in Form 2. (For applications see [Practice Direction 7](#).)

5.7 Where the paying party does not file points of dispute a provisional assessment will be conducted (see paragraph 7 below).

Fees

5.8 The fee payable on filing a bill of costs is 2.5% of the amount claimed (including VAT).

5.9 The fee payable on assessment of a bill of costs is 2.5% of the amount allowed (including the costs of assessment and VAT).

5.10 The filing fee and the assessment fee are costs of the detailed assessment. Parties must not include the filing fee when calculating the assessment fee.

5.11 Where a bill of costs is agreed less than 21 days prior to assessment the assessment fee is payable on the amount agreed between the parties. . Agreement must be notified to the court by email as soon as possible.

5.12 Drafts and cheques for fees are payable to the 'Judicial Committee Fees Account'.

5.13 The fees payable under the Rules are set out in Annex 2 to [Practice Direction 7](#).

Completing Form 5

5.14 [Form 5](#) (including Part 6B) must be completed and returned to the costs section along with the assessment fee within one month of the assessment.

5.15 If a paying party refuses to sign [Form 5](#), the signature of the receiving party will be sufficient, provided the Registrar is satisfied that the paying party has refused to sign without good reason.

[Back to top](#)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Extension of time and filing out of time

6.1 Any request for an extension of the three-month period for filing a bill must be copied to the other parties. If such an extension is agreed by the parties that should be made clear.

6.2 An application to file a bill of costs out of time made after the expiry of the three month period must be made in Form 2. In deciding whether to grant an application the Registrar takes into account all the circumstances, including:

- a. the interests of the administration of justice;
- b. whether the failure to file in time was intentional;
- c. whether there is a good explanation for the failure to file in time;
- d. the effect which the delay has had on each party; and
- e. the effect which the granting of an extension of time would have on each party.

6.3 See [Practice Direction 7](#) for applications.

[Back to top](#)

7. Provisional assessment

7.1 A provisional assessment (carried out without a hearing on the papers provided by the parties) is conducted:

- a. where one of the parties requests such an assessment (see rule 46(3));
- b. where the costs claimed are £75,000 or less; and
- c. where the paying party fails to file points of dispute (for points of dispute see paragraph 5.7 above)

7.2 If a party is dissatisfied with the result representations should be filed within 14 days of receipt of the assessed bill. If points of disagreement cannot be resolved in correspondence, a detailed assessment will be carried out.

7.3 A detailed assessment in these circumstances proceeds on the basis of the original claim for costs and any points of dispute and replies, any of which may be amended in light of the provisional assessment.

[Back to top](#)

8. Attendance and detailed assessment

8.1 The Registrar gives 14 days notice of the date and time of the assessment.

8.2 Parties may be represented by their legal representative (including but not limited to a solicitor, costs lawyer or costs draftsman, or counsel).

8.3 The receiving party or their legal representative must attend the assessment.

Counsel

8.4 For counsel's fees of attending the detailed assessment see paragraph 13.

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Detailed assessment of papers

8.5 The Registrar may, at the request of a party or if the circumstances justify it, direct that a detailed assessment be carried out on the papers⁽¹⁾.

[Back to top](#)

9 Costs Officer's discretion

9.1 The Costs Officers have discretion as to the amount to allow. In exercising this discretion they bear in mind the terms "reasonably incurred" and "reasonable in amount" in rule 48 of the JCPC Rules.

The factors considered include:

- a. to what extent an item assisted the Board in determining the appeal;
- b. the length of a hearing;
- c. the complexity of the issues as indicated by the judgments delivered by the Board, and
- d. the general level of fees sought and allowed in the lower courts.

9.2 In the case of applications for permission to appeal, a major consideration is whether the application gave rise to a point of public importance.

9.3 The Costs Officer will reduce or disallow claims in respect of documents (including electronic documents) provided by a party where those documents were excessive, inadequate or proved unhelpful to the Board or the Appeal Panel.

9.4 For guideline figures for agents and counsel see paragraph 13 below.

[Back to top](#)

10. Review of Costs Officers' decision

Application for a review

10.1 Any party to an assessment who is dissatisfied with all or part of a decision of the Costs Officer may apply in accordance with rule 51 for that decision to be revised by the Judicial Committee. The application must be made in Form 2 and served on the other parties. For applications see [Practice Direction 7](#).

10.2 An application may be made only on a question of principle and not in respect of the amount allowed on any item.

10.3 Any application must be made within 14 days of the end of the detailed assessment or such longer period as may be fixed by the Costs Officer or by the Registrar.

10.4 An application for a review must include written submissions stating concisely the grounds of the objections and must be served on the other parties.

10.5 A party who objects to the application may, within 14 days of service or such longer period as may be fixed by the Costs Officer or by the Registrar, file a notice of objection in Form 3, which must be served on the other parties.

Reference to a Single Justice

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

10.6 The matter is then referred to a member of the Board nominated by the senior member of the Board who heard the appeal or application for permission to appeal.

10.7 The nominated member of the Board will decide whether the matter should be referred to the Judicial Committee and, before he makes a decision, he may consult the other members of the Board who heard the appeal or application. If the nominated member of the Board is of the opinion that the matter should not be referred the decision of the Costs Officer is affirmed.

Referral to the Judicial Committee

10.8 The Judicial Committee decides the matter with or without an oral hearing.

[Back to top](#)

11. Assessment certificates

11.1 When the assessment fee has been paid, an assessment certificate for the costs allowed will be sent to the receiving party, except in the case of respondents whose costs can be wholly satisfied from money deposited as security for costs (see rules 37, 50 and 52).

Default costs certificate

11.2 Where a party fails to file or serve points of dispute within 14 days, or such other period as may be fixed by the Registrar, the receiving party may apply for a default costs certificate. Such a certificate will normally certify all the costs claimed in the bill of costs but the Registrar may reduce costs which appear to be unreasonably incurred, unreasonable in amount or disproportionate (2).

[Back to top](#)

12. Interest

12.1 Interest is payable on costs assessed between the parties. The rate of interest is in accordance with the provisions of the Judgments Act 1838, as amended, and interest accrues from the day on which the costs order is made or such other date as the Judicial Committee may specify unless the Costs Officer exercises his discretion to vary the period for which interest is allowed.

[Back to top](#)

13. Guidelines on fees allowed

13.1 The Costs Officers will have regard to the hourly rates generally allowed in the relevant jurisdiction for the costs of attorneys/solicitors based outside the United Kingdom.

13.2 The Judicial Committee adopts the guideline rates issued by the Senior Courts Costs Office for summary assessment and the rates are the starting point for all assessments for the costs of solicitors based in England and Wales. These are consolidated figures that include a mark-up for care and attention. [Form 5](#) must be completed using a consolidated figure for the hourly rate. If a rate is charged that exceeds the guideline rate an explanation must be given under the heading 'Fee earners and hourly rates' in part 1 of [Form 5](#).

13.3 Consolidated rates based on those permitted in the respective jurisdictions are allowed for solicitors practising in Scotland or Northern Ireland.

13.4 The following table sets out the current hourly rates and localities:

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Grade of fee earner	A	B	C	D
London 1	£512	£348	£270	£186
London 2	£373	£289	£244	£139
London 3	£282	£232	£185	£129
National 1	£261	£218	£178	£126
National 2/3	£255	£218	£177	£126

An explanation of the grades and details of localities is set out in section 3 below. If the rates set by the Civil Justice Council Costs Committee have been amended the Costs Officer will allow the amended rates in lieu of those in this table. Fees for work done overseas for the purpose of proceedings before the Judicial Committee are treated as having been incurred in England (see paragraph 3.2).

13.5 Where agents have charge of producing large documents such as the authorities, it will not usually be appropriate for a higher grade rate to be applied. Time spent photocopying is not recoverable (although the cost of the photocopying is). See also paragraph 9.3 above for documents.

13.6 The Costs Officer may under this head allow reasonable costs of travelling from overseas, particularly the reasonably incurred travel costs of counsel engaged in the courts below who are instructed to present the case before the Judicial Committee.

13.7 Letters and telephone calls are allowed at one tenth (1/10) of the hourly rate.

Counsel

13.8 The following guideline figures are used in assessing payments to counsel at the application for permission to appeal stage:

Applications for permission to appeal	Junior	KC
Settling application	£1250	£1750
Advice for legal aid provider	£500	£800
Preparing respondents' objections	£800	£1100
One conference	£250	£500
Attending oral hearing by Appeal Panel	£1600	£2100

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Applications for permission to appeal	Junior	KC

13.9 A claim for an increase on any of the above items or claim for any other item must be explained in a detailed note from counsel.

13.10 The general rule is that only one counsel's fees is allowed on assessment for work at the application for permission to appeal stage (but see paragraphs 4.6 and 4.7).

13.11 The following guideline figures are used in assessing payments to counsel at the appeal stage:

Appeals	Junior	KC
Notice of appeal (where Board has granted permission)	£150	£150
Notice of appeal (where permission is not required)	£1250	£1750
Statement of facts and issues	£2250	£4500
Authorities	£900	£1800
Conferences (each, up to a maximum of six)	£600	£1200
Advice	£1000	£2000
Brief (based on a 1 day hearing)	£7500	£15000
Brief (based on a 2 day or longer hearing)	£10000	£20000
Refresher (from day two of the hearing)	£1625	£3250

13.12 Counsel's fees are assessed in respect of each item of work counsel has undertaken. It is essential that this approach is reflected by those completing [Form 5](#). It should be borne in mind that the number of hours spent by counsel in preparation is rarely of assistance to the Costs Officer when assessing the amount of counsel's fees at any stage of the proceedings.

13.13 Counsel for an appellant generally commands a higher fee than counsel for a respondent.

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

13.14 The brief fee includes all work **on the brief, the written case, counsel-only conferences and the first day of attendance.**

13.15 The Costs Officer exercises discretion in instances where junior counsel has undertaken most of the work on a particular item.

13.16 For settling a notice of appeal where the Board has granted permission, only one counsel's fee is permitted.

13.15 These fees are intended as a guide. If counsel seek higher fees, they must provide an explanation in a detailed note.

[Back to top](#)

14. Conditional fee agreements

14.1 Privy Council costs practice does not allow for the recovery of after-the-event premiums or success fees under conditional fee agreements: *Seaga v Harper*, No 90 of 2006 [2009] UKPC 26.

[Back to top](#)

15. Costs of litigants in person

15.1 The amount allowed to a litigant in person may not exceed the loss actually sustained or, where no loss has been sustained, £19 for each hour reasonably spent, subject in either case to a maximum for any particular item of two thirds of the sum which in the opinion of the Costs Officer would have been allowed for that item if the litigant had been represented by an agent. The two thirds limit does not apply to out-of-pocket expenses which would be disbursements if incurred by an agent. (For further information see CPR 46.5 and paragraph 3 of Practice Direction 46 which supplements it.)

[Back to top](#)

16. Costs of assessment

16.1 By way of guidance for smaller claims, the following sums are usually justified for completing [Form 5](#):

Amount of bill	Amount allowed
Bills assessed at up to £2000 (excluding VAT)	£300
Bills assessed at £2001 to £5000 (excluding VAT)	£500
Bills assessed at £5001 to £10000 (excluding VAT)	£700

16.2 For a larger bill the amount allowed for time reasonably spent in drafting the bill is calculated as a multiple of the relevant hourly rate for a Grade D fee-earner (unless a claim for a higher grade is justified).

16.3 The parties must prepare costs schedules for the consideration of the Costs Officer after detailed assessment.

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

16.4 Counsel may not claim a brief fee for attending detailed assessment on their own behalf but may do so if briefed in respect of the entire bill.

[Back to top](#)

Section 2

Form 5 - Bill of Costs

- [Form 5 - Bill of Costs \(DOC\)](#)

[Back to top](#)

Section 3

Guideline Hourly Rates for agents

Solicitors' hourly rates: England and Wales

1. The guideline rates set out in paragraph 13 for agents are broad approximations. Rates include care and attention.
2. The grades of fee earner are those that have been agreed between representatives of the Senior Courts Costs Office, the Association of District Judges and the Law Society.

The categories are as follows:

- a. Solicitors with over eight years' post qualification experience including at least eight years litigation experience.
 - b. Solicitors, employed barristers and legal executives with over four years' post qualification experience including at least four years litigation experience.
 - c. Other solicitors, legal executives and fee earners of equivalent experience.
 - d. Trainee solicitors, para legals and fee earners of equivalent experience.
3. "Legal Executive" means a Fellow of the Institute of Legal Executives. Those who are not Fellows of the Institute are not entitled to call themselves legal executives and in principle are therefore not entitled to the same hourly rate as a legal executive.
 4. Unqualified clerks who are fee earners of equivalent experience may be entitled to similar rates and in this regard it should be borne in mind that Fellows of the Institute of Legal Executives generally spend two years in a solicitor's office before passing their Section 1 general examinations, spend a further two years before passing the Section 2 specialist examinations and then complete a further two years in practice before being able to become Fellows. Fellows therefore possess considerable practical experience and academic achievement. Clerks without the equivalent experience of legal executives will be treated as being in the bottom grade of fee earner i.e. trainee solicitors and fee earners of equivalent experience. Whether or not a fee earner has equivalent experience is ultimately a matter for the discretion of the court.

The National 1 rates apply to:

- Aldershot, Farnham, Bournemouth (including Poole)
- Birmingham Inner

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

- Bristol
- Cambridge City, Harlow
- Canterbury, Maidstone, Medway & Tunbridge Wells
- Cardiff (Inner)
- Chelmsford South, Essex & East Suffolk
- Chester
- Fareham, Winchester
- Hampshire, Dorset, Wiltshire, Isle of Wight
- Kingston, Guildford, Reigate, Epsom
- Leeds Inner (within 2 kilometres radius of the City Art Gallery)
- Lewes
- Liverpool, Birkenhead
- Manchester Central
- Newcastle - City Centre (within a 2 mile radius of St Nicholas Cathedral)
- Norwich City
- Nottingham City
- Oxford, Thames Valley
- Southampton, Portsmouth
- Swindon, Basingstoke
- Watford

The National 2 rates apply to:

- Bath, Cheltenham and Gloucester, Taunton, Yeovil
- Birmingham Outer
- Bradford (Dewsbury, Halifax, Huddersfield, Keighly & Skipton)
- Bury
- Chelmsford North, Cambridge County, Peterborough, Bury St E, Norfolk, Lowestoft
- Cheshire & North Wales
- Coventry, Rugby, Nuneaton, Stratford and Warwick
- Cumbria
- Devon, Cornwall
- Exeter, Plymouth

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

- Grimsby, Skegness
- Hull (City)
- Hull (Outer)
- Kidderminster
- Leeds Outer, Wakefield & Pontefract
- Leigh
- Lincoln
- Luton, Bedford, St Albans, Hitchin, Hertford
- Manchester Outer, Oldham, Bolton, Tameside
- Newcastle (other than City Centre)
- Northampton & Leicester
- Nottingham & Derbyshire
- Preston, Lancaster, Blackpool, Chorley, Accrington, Burnley, Blackburn, Rawenstall & Nelson
- Scarborough & Ripon
- Sheffield, Doncaster and South Yorkshire
- Shrewsbury, Telford, Ludlow, Oswestry
- South & West Wales
- Southport
- Stafford, Stoke, Tamworth
- St Helens
- Stockport, Altrincham, Salford
- Swansea, Newport, Cardiff (Outer)
- Teesside
- Wigan
- Wolverhampton, Walsall, Dudley & Stourbridge
- Worcester, Hereford, Evesham and Redditch
- York, Harrogate

Grade of fee earner	A	B	C	D
London 1	£512	£348	£270	£186

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Grade of fee earner	A	B	C	D
London 2	£373	£289	£244	£139
London 3	£282	£232	£185	£129
National 1	£261	£218	£178	£126
National 2/3	£255	£218	£177	£126

[Back to top](#)

Footnotes

1. Amended Oct 2016. [Return to footnote 1](#)
2. Amended Oct 2016. [Return to footnote 2](#)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

Practice Direction 9

Introduction

9.1 The Judicial Committee intends to take full advantage of the opportunities offered by modern information technology and rules 6(1)(d) and 7(1)(d) of the Judicial Committee (Appellate Jurisdiction) Rules 2009 provide for the service and filing of documents "(with the consent of the party to be served or at the direction of the Registrar) by electronic means in accordance with the relevant practice direction". This Practice Direction makes the necessary provision.

Filing of documents

9.2.1 Subject to paragraph 9.4.6, all documents must be filed electronically at the same time as hard copies are sent to the Registry. See rule 7(3) which provides that:

"Except with the consent of the Registrar, the contents of documents

- a. filed in hard copy must also be provided to the Registry by electronic means, and
- b. filed by electronic means must also be provided to the Registry in hard copy."⁽¹⁾

Other parties should be notified by the filing party that filing has taken place ⁽²⁾.

9.2.2 Each electronic document must be named in accordance with the file naming convention published by the Registrar.

9.2.3 In the event of a mistake being made, the Registry should be notified immediately.

Submission of electronic documents to the Registry

9.3.1 Unless otherwise directed or permitted by the Registrar, or where the circumstances in paragraph 9.5.5 apply, the means of submitting electronic documents to the Registry is via registry@jcpc.uk. Documents larger than 10MB should be submitted via SharePoint see the Annex to this Practice Direction⁽³⁾.

9.3.2 While the quality of scanned documents that are incorporated into the bundles is important, they should not be scanned at such a high quality as to increase the size of the bundle beyond reasonable levels. As a guide; an average page to file size ratio of approximately 35 kb per page is considered reasonable. On this basis a bundle of 2,500 pages should be around 90 Mb in size. Additionally bundles should not exceed 700 Mb in total, pdf compression should be used where necessary⁽⁴⁾.

General provisions

9.4.1 A document is not filed until the transmission is received and accepted by the Registry, whatever time it is shown to have been sent.

9.4.2 The time of receipt of a transmission will be recorded electronically on the transmission as it is received.

9.4.3 If a transmission is received after 4pm -

1. the transmission will be treated as received; and
2. any document attached to the transmission will be treated (if accepted) as filed, on the next day the Registry is open.

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

9.4.4 A party sending an e-mail is responsible for ensuring that the transmission or any document attached to it is filed within any relevant time limits.

9.4.5 The Registry will normally reply by e-mail where -

1. the response is to a message transmitted electronically; and
2. the sender has provided an e-mail address.

9.4.6 If a document transmitted electronically requires urgent attention, the sender should contact the court by telephone. [\(5\)](#)

Format of electronic documents for the hearing

9.5.1 Electronic documents for use at the hearing must be prepared in accordance with the following provisions and the parties are encouraged to co-operate in their preparation. **The electronic document (which must be identical to the hard copy) should be contained in a single pdf and must be numbered in ascending order throughout.** Pagination should begin with the first page of the Record (i.e. the cover sheet [\(6\)](#)) and should be continued throughout the entire series of documents. New pagination must not be used for separate documents or folders within the single pdf. When referring to documents, counsel should first refer to the page number on the electronic version. It will also be necessary, where this is different, to refer to the hard copy bundle number. The hard copy bundles should bear the same page numbering as the electronic document as well as any internal page numbering. This should appear at the foot of the page on the right.

9.5.2 The default display view size on all pages must be 100%. Text on all pages must be in a format that will allow comments and highlighting to be imposed on the text. Bookmarks must be labelled so as to identify the document to which each refers. The bookmark should have the same name or title as the actual document. The index page must be hyperlinked to the pages or documents to which it refers. A sample bundle will be available for Court users from the Registry.

9.5.3 Unless otherwise directed or permitted by the Registrar, the record and ~~volumes of the~~ authorities must be filed as a single pdf document and bookmarked in accordance with the index so that each individual document can be accessed directly by hypertext link both from the index page and from bookmarks on the left-hand side. Please see the example core volume and accompanying instructions on the Judicial Committee's website at <http://www.jcpc.uk/procedures/electronic-bundle-guidelines.html>. [\(7\)](#).

9.5.4 Documents within [\(8\)](#) the record and within ~~volumes of the~~ authorities and otherwise filed with the Registry must be converted to pdf from their original electronic versions rather than scanned as images. Where documents are only available in hard copy and have to be scanned, the resultant pdf files must [\(9\)](#), be subjected to a process of optical character recognition (OCR). This is to enable the documents to be text searchable and annotatable by the Board. Please see the example core volume and accompanying instructions on the Judicial Committee's website at <http://www.jcpc.uk/procedures/electronic-bundle-guidelines.html>. [\(10\)](#).

9.5.5 Where electronic volumes or other individual documents exceed 10 megabytes in size they must be submitted through the Court's SharePoint system [\(11\)](#). The volumes should include, in the following order,:

1. the index to the electronic bundles
2. the Record of Proceedings, (including the index)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

3. the notice of appeal
4. the notice of acknowledgment
5. précis
6. the statement of facts and issues
7. chronology
8. the Appellant's case
9. the Respondent's case
10. index to [the](#) authorities
11. the authorities.

The memory sticks(5) should be filed no later than two weeks before the hearing.

9.5.6 The Registrar may permit filing in a different or additional format (e.g. Excel) for good reason.

Hypertext linking within documents

9.6.1 The Judicial Committee directs parties(12) to employ hypertext links within documents. In particular, it would be helpful if hypertext links were introduced at the time the record is produced to link:

1. the statement of facts and issues to documents in the record,
2. written cases to documents in the record and to the authorities,
3. cases to the relevant law reports and to the index of [the](#) authorities.
4. from the bundle index to the relevant documents within the bundle(13).

Special directions

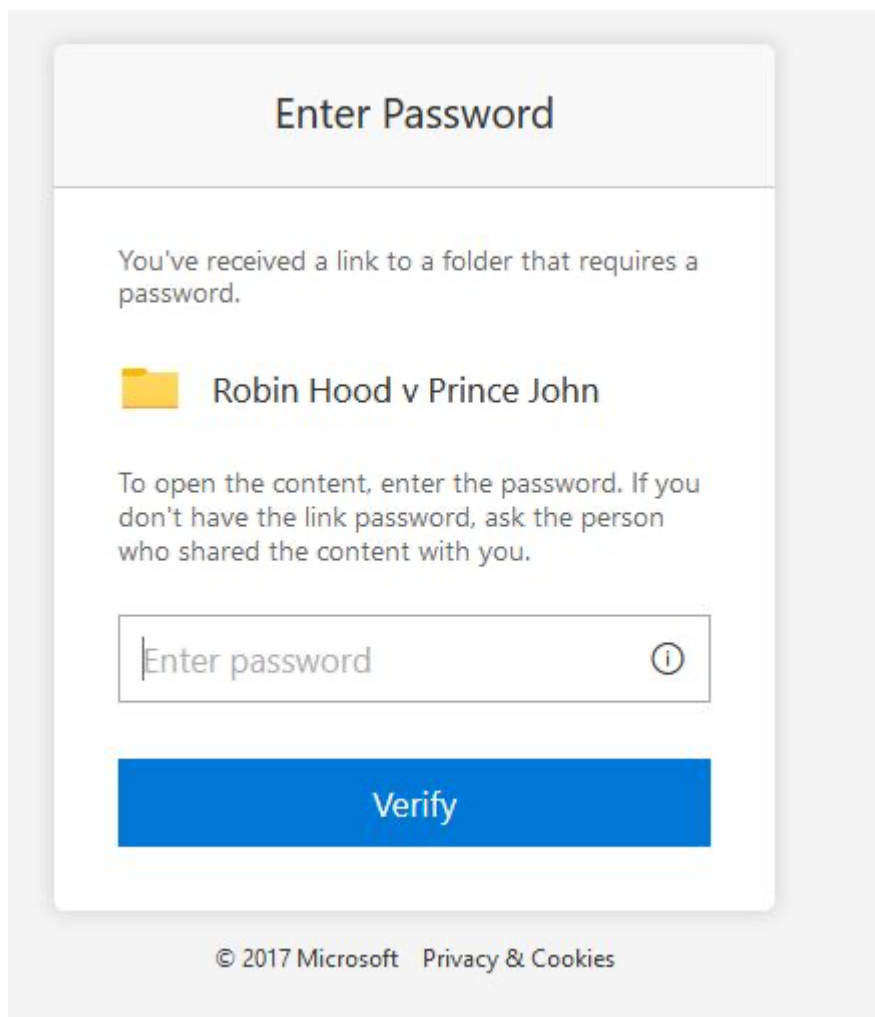
9.7 The Registrar may give special directions for the filing of electronic documents to meet the requirements of particular cases or by way of experiment.

Annex to Practice Direction 9(14)

Filing papers electronically via SharePoint

When you have papers to lodge that are too large to email (over 10 MB) please contact the Registry to ask them to give you access to our upload area. They will ask you for an email address to which they will send access permissions and also agree a password for the folder they will create for you.

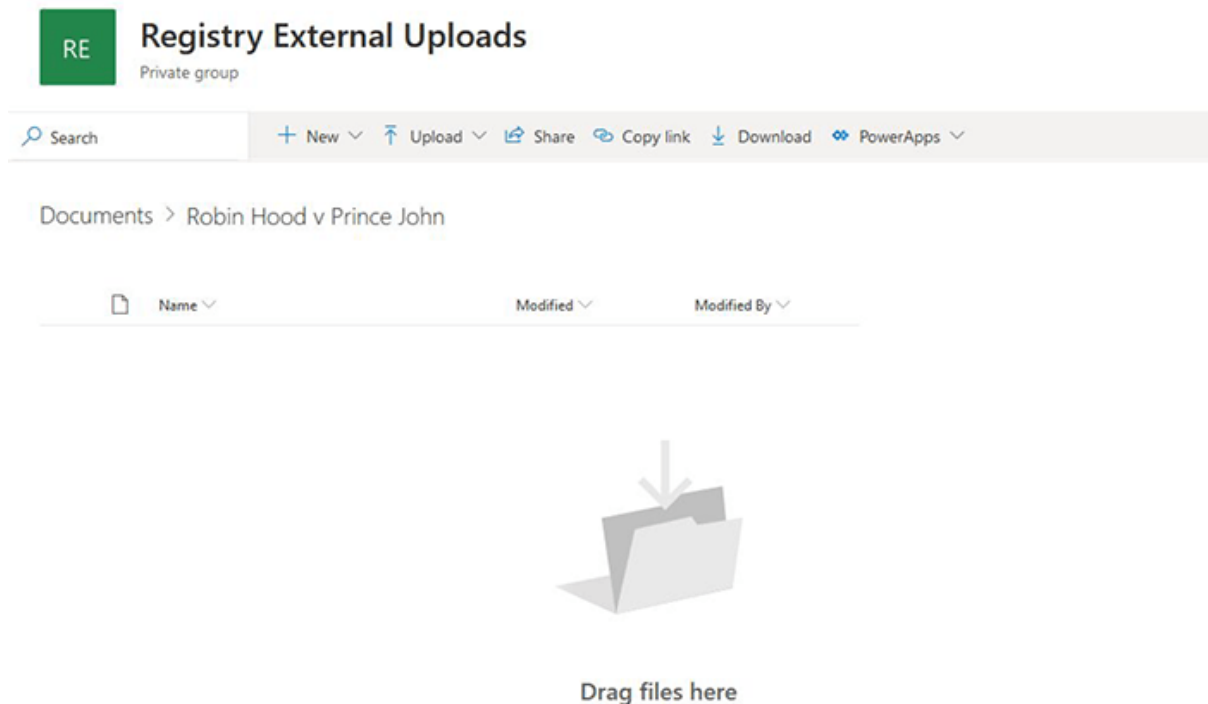
You will receive an email with a link that takes you to a page that looks like this:



Pease enter the password you previously agreed with the Registry.

That will take to a page similar to the below.

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL



Here you can upload your files either by clicking the upload button, or, if supported by your browser, you can drag and drop. Once you have finished uploading your files please inform Registry who will then take the files and close the access area. Should you need to lodge further papers you must request a fresh link.

***Important Note**

If you have an existing Office 365/SharePoint account on your system you may find it does not let you connect to our system. Rather than having to change your system settings we have learned that copying the original link into an Incognito or Private Window within your web browser allows you access.

How to open an Incognito window in:

[Internet Explorer](#)

[Firefox](#)

[Chrome](#)

[Edge](#)

Footnotes

1. The provision of electronic versions of documents is not at present mandatory. [Return to footnote 1](#)
2. Amended Apr 2015. [Return to footnote 2](#)
3. Amended Jan 2012. [Return to footnote 3](#)

THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

4. Amended Jan 2012. [Return to footnote 4](#)
5. Amended Apr 2015. [Return to footnote 5](#)