

Como funciona a apresentação de recursos a tribunais superiores no Reino Unido

Fonte: Judiciary of England and Wales – Tribunals Judiciary

Link: <http://www.judiciary.gov.uk/>

Appeals process

For those who do not win their case, there is normally a right of appeal. However, this is based purely on the decision reached in the case.

How to appeal

If you are unhappy about the decision made by the judge in your case, you may be able to appeal against the decision to a judge in a higher court.

There must be proper grounds for making an appeal and there are strict time limits within which to do so.

It is not possible for court staff or other government officials to review a judgment made by the courts. This is because the judiciary are entirely independent and must be free to decide the outcome of cases without fear of interference from Government or its administration.

Magistrates

There are several ways in which you may challenge magistrates' decisions. The most appropriate method will depend upon the type of case and its particular circumstances. Before you lodge an appeal, you are strongly urged to seek legal advice as to the procedure, merit and cost.

Appeals against the decision of the magistrates' court in criminal cases are heard by the Crown Court. The appeal is made to the magistrates' court and the papers sent by the magistrates' court staff to the Crown Court.

Crown and county courts

For Crown and county courts you can appeal both civil and criminal cases, but it would be necessary to seek permission or 'leave' from a judge before an appeal can be made against a conviction in a criminal case.

Applications to appeal, and for leave to appeal against decisions made by the Crown Court are dealt with by the Court of Appeal Criminal Division.

Appeals against the outcome of a hearing in a county court or a High Court are mostly dealt with by the Court of Appeal Civil Division.

Although HMCS court staff will be happy to offer procedural guidance, they are not permitted or trained to give legal advice or discuss whether you can or should appeal. For legal assistance a solicitor should be contacted. Alternatively, you may prefer to contact a Citizen's Advice Bureau or other advice agency, where advice is generally provided free of charge.

Court of Appeal

The Court of Appeal is an appellate court, meaning that it deals with appeals from the 'lower' courts.

It is divided into two Divisions, criminal and civil, and is based at the Royal Courts of Justice in London. The judges of the Court of Appeal are the Lord Chief Justice, the Master of the Rolls, the President of the Queen's Bench Division, the President of the Family Division, the Chancellor of the High Court and 37 Lord or Lady Justices.

Criminal

The Criminal Division, headed by the Lord Chief Justice and the Vice-President of the Criminal Division, hears appeals in criminal matters from the Crown Court.

In the Criminal Division the bench usually consists of a Lord or Lady Justice and usually two High Court judges.

Civil

The Civil Division of the Court of Appeal – headed by the Master of the Rolls, currently Lord Neuberger - hears appeals from all Divisions of the High Court and, in some instances from the County Courts and certain tribunals.

Bringing an appeal is subject to obtaining ‘permission’, which may be granted by the court below or, more usually, by the Court of Appeal itself. Applications for permission to appeal are commonly determined by a single Lord Justice, full appeals by two or three judges. The Civil Division of the Court Appeal also deals with family cases.

Other appellate courts

The Supreme Court

In October 2009, The Supreme Court replaced the Appellate Committee of the House of Lords (the Law Lords) as the highest court in the United Kingdom.

The Supreme Court’s 12 Justices, which include the former Lord Chief Justice, Lord Phillips of Worth Matravers, are now – for the first time – officially separate from both Government and Parliament.

The Court hears appeals on points of law of the greatest public importance, for the whole of the United Kingdom in civil cases, and for England, Wales and Northern Ireland in criminal cases.

Additionally, it hears cases on devolution matters under the Scotland Act 1998, the Northern Ireland Act 1988 and the Government of Wales Act 2006. This jurisdiction was transferred to the Supreme Court from the Judicial Committee of the Privy Council.

The Supreme Court sits in the former Middlesex Guildhall, on the western side of Parliament Square.

Judicial review

Judicial review is a type of court proceeding in which a judge reviews the lawfulness of a decision or action made by a public body.

In other words, judicial reviews are a challenge to the way in which a decision has been made, rather than the rights and wrongs of the conclusion reached.

It is not really concerned with the conclusions of that process and whether those were 'right', as long as the right procedures have been followed. The court will not substitute what it thinks is the 'correct' decision.

This may mean that the public body will be able to make the same decision again, so long as it does so in a lawful way.

If you want to argue that a decision was incorrect, judicial review may not be best for you. There are alternative remedies, such as appealing against the decision to a higher court.

Examples of the types of decision which may fall within the range of judicial review include:

- Decisions of local authorities in the exercise of their duties to provide various welfare benefits and special education for children in need of such education;
- Certain decisions of the immigration authorities and Immigration Appellate Authority;
- Decisions of regulatory bodies;
- Decisions relating to prisoner's rights.