

**Civil Procedure Rule Committee Consultation: Appeals to the Court of Appeal:
proposed amendments to Civil Procedure Rules and Practice Direction, May 2016**

Appendix 4: Summary of impact of proposed reforms on the work of the Court of Appeal

1. Backlog: 46,812 hours

Total judicial time required to determine all the cases outstanding and ready to refer to an LJ or to list, as at 31/1/16 (having included a deduction for the annual settlement rate for PTAs and full appeals at 50% of the annual settlement rate, to reflect the fact that there will still be future settlements of cases in the Backlog but also to allow for the fact that part of the annual settlement rate will already have been achieved in relation to the cases that end up sitting there).

2. Annual shortfall: 9,482 hours

Total judicial time required to determine all cases filed in the year to 31/1/16 (having deducted the total number of cases that settled during the year) minus the total judicial time spent determining cases in that year.

3. Savings from family routes of appeal reform: 2056 hours

All appeals from a Circuit Judge in private law child and divorce cases will divert to the High Court under this reform. It is assumed that PTA for appeals to the High Court will be granted at the same 30% rate as currently applies in the CA and that the CA will itself receive PTA applications from one side or the other in 70% of those cases (this reflects the high incidence of LiPs). To calculate the time savings for the CA, it has been assumed that 5% of appeals diverted will be leapfrogged to the CA and 5% of appeals diverted will return as *full* second appeals. Of the PTAs which will still reach the CA from the diverted caseload, it is assumed that they will take 30% less time to determine (whether at paper or oral stage) because they are second appeals. It has been assumed that PTAs refused on paper will be renewed at the same rate as the CA average over the last 5 years. The savings have been adjusted to take account of the proportion of cases which are determined other than by a LJ (e.g. settlements, no jurisdiction, dismissal by a Master etc.)

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4. Savings from County Court routes of appeal reform: 3347 hours

Appeals from all County Court decisions will be to the next level of judge under this reform. Therefore, appeals from “final decisions” in Part 7 multi-track cases in the County Court will divert away from the CA. It is assumed that PTA for appeals to the next level of judge will be granted at the same 30% rate as currently applies in the CA and that the CA will itself receive PTA applications from one side or the other in 50% of those cases. To calculate the time savings for the CA, it has been assumed that 5% of appeals diverted will be leapfrogged to the CA and 5% of appeals diverted will return as *full* second appeals. Of the PTAs which will still reach the CA from the diverted caseload, it is assumed that they will take 30% less time to determine (whether at paper or oral stage) because they are second appeals. It has been assumed that PTAs refused on paper will be renewed at the same rate as the CA average over the last 5 years. The savings have been adjusted to take account of the proportion of cases which are determined other than by a LJ (e.g. settlements, no jurisdiction, dismissal by a Master etc.)

5. Savings from Oral Renewal reform: 2929 hours

This figure is separate from, i.e. additional to, the savings at 3 and 4 above. The calculation recognises that without a right of oral renewal the time to deal with some paper PTAs is likely to increase (a 10% uplift in time across the *whole* current paper PTA population has been included) and that there will be a rate of call-ins (a rate of 10% across all the relevant categories of case has been assumed). The saving is therefore calculated as 90% of (the total time required to determine all oral PTAs filed in the year minus the time for all oral PTAs in the diverted County Court and Family business covered by the ‘in the pipeline’ reforms at 3 and 4 above) MINUS 10% of the total time required to determine all paper PTAs filed in the year (i.e. including the paper PTAs in the categories which will be diverted under the ‘in the pipeline’ reforms at 3 and 4 above). The MINUS element overstates the additional time for consideration of paper PTAs under the oral renewal reform, but that has to be set off against an element of additional oral PTA hearings returning under the County Court and

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Family routes of appeal reforms; and for modelling purposes these are assumed to cancel each other out.

6. Savings from 2 LJ courts

We currently sit an average of eight 3 LJ courts every week.

Scenario 1: Sit four 3 LJ courts and four 2 LJ courts every week. The time saving has been calculated by assuming this will free up 4 LJ per week consisting of a 40 hour week minus the average weekly admin time spent by a “standard” LJ and minus the average time spent on paper PTAs.

Scenario 2: Sit six 3 LJ courts and two 2 LJ courts every week. As above but assuming this will free up 2 LJ per week.

Scenario a): It has been assumed that before the oral renewal reform has been introduced and the benefits in time this will bring, LJ sitting in 2 LJ courts will require two extra reading days every 3 weeks.

Scenario b): After the oral renewal reforms have been introduced, the time savings have been calculated without allowing for additional reading/judgment writing days for judges in 2 LJ courts.

Scenario 1 (4 x 3LJ courts + 4 x 2LJ courts):

a) 4011 hours (before oral renewal reform)

b) 4619 hours (after oral renewal reform)

Scenario 2 (6 x 3LJ courts + 2 x 2LJ courts):

a) 2006 hours (before oral renewal reform)

b) 2310 hours (after oral renewal reform)

7. Savings from second appeals test being introduced for EAT appeals: 774 hours

The time saving has been calculated using the numbers of EAT cases filed in the year to 31/1/16 i.e. not taking account of any of the above reforms. It has been assumed that paper and oral PTAs will take 30% less time because they are second appeals. It is also assumed that

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because of the more stringent PTA test, there will be 40% less EAT
appeals.

Notes:

All figures above are in judicial hours.

All unit figures include hearing time and exclude linked cases.

All Recap figures are for year 1/2/15 – 31/1/16.