

## **PRACTICE DIRECTION 20B – ALLOCATION OF APPEALS**

*This practice direction supplements Part 20 of the Court of Protection Rules 2017*

### **General**

1.1 Rule 20.4 provides for a practice direction to set out the destination of appeals from decisions of judges of the Court of Protection.

1.2 Rule 2.1 and Practice Direction 2A set out which judges of the Court of Protection are Tier 1 Judges, Tier 2 Judges and Tier 3 Judges

### **Appeals to the Court of Appeal**

2.1 Rule 20.4(1) provides that an appeal from a judge of the Court of Protection lies to the Court of Appeal where—

- (1) the appeal is from a decision of a Tier 3 Judge; or
- (2) where the appeal is from a decision which was itself made on appeal (“a second appeal”).

### **Other Appeals**

3.1 Rule 20.4(2) provides that subject to any alternative provision made by the relevant practice direction the general rule in relation to other appeals is that—

- (1) an appeal from a decision of a Tier 1 Judge lies to a Tier 2 Judge; and
- (2) an appeal from a decision of a Tier 2 Judge lies to a Tier 3 Judge.

### **Alternative Route of Appeal from Tier 1**

3.2 Notwithstanding rule 20.4(2), an appeal from a Tier 1 Judge may be heard by a Tier 3 Judge where—

- (1) the Tier 1 Judge whose decision is being appealed; or
- (2) a Tier 2 Judge; or
- (3) a Tier 3 Judge

has directed that the appeal should be heard by a Tier 3 Judge. The judge making a direction under this paragraph need not be:

- (a) the same judge who grants permission to appeal; or
- (b) the judge who hears the appeal.

3.3 A direction under paragraph 3.2 may only be made if:

- (1) the appeal would raise an important point of principle or practice; or

(2) there is some other compelling reason for a Tier 3 Judge to hear the appeal.

### **Alternative Route of Appeal from Tier 2**

3.4 Notwithstanding rule 20.4(2), an appeal from a Tier 2 Judge may be heard by the Court of Appeal where a Tier 3 Judge has directed that the appeal should be heard by the Court of Appeal. The judge making a direction under this paragraph need not be the same judge who grants permission to appeal.

3.5 A direction under paragraph 3.4 may only be made if:

- (1) the appeal would raise an important point of principle or practice; or
- (2) there is some other compelling reason for the Court of Appeal to hear the appeal.

3.6 Paragraph 3.4 does not allow an application for permission to appeal from a decision of a Tier 2 Judge to be made to the Court of Appeal.

### **No Further Appeal**

3.7 No appeal shall lie against a refusal by a judge to make a direction under paragraph 3.2 or 3.4.

### **Tables**

4.1 The following tables set out the destination of appeals from decisions of judges of the Court of Protection.

**Table 1 Appeals from a decision of a Tier 1 Judge**

<b>Appeal lies to</b>	<b>In the following circumstances</b>	<b>Permission to appeal may be granted by</b>
Tier 2 Judge	This is the usual destination for appeals from a Tier 1 Judge	(1) The Tier 1 Judge whose decision is being appealed (2) A Tier 2 Judge (3) A Tier 3 Judge

Tier 3 Judge	It is certified by a judge listed in column 3 that— (a) the appeal would raise an important point of principle or practice; or (b) there is some other compelling reason for a Tier 3 Judge to hear the appeal	(1) The Tier 1 Judge whose decision is being appealed (2) A Tier 2 Judge (3) A Tier 3 Judge
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**Table 2 Appeals from a decision of a Tier 2 Judge**

<b>Appeal lies to</b>	<b>In the following circumstances</b>	<b>Permission to appeal may be granted by</b>
Tier 3 Judge	This is the usual destination for appeals from a Tier 2 Judge (other than second appeals)	(1) The Tier 2 Judge whose decision is being appealed (2) A Tier 3 Judge
Court of Appeal	It is certified by a Tier 3 Judge that— (a) the appeal would raise an important point of principle or practice; or (b) there is some other compelling reason for the Court of Appeal to hear the appeal	A Tier 3 Judge
Court of Appeal	The appeal is a second appeal	The Court of Appeal

**Table 3 Appeals from a decision of a Tier 3 Judge**

<b>Appeal lies to</b>	<b>In the following circumstances</b>	<b>Permission to appeal may be granted by</b>
Court of Appeal	This is the usual destination for appeals from a Tier 3 Judge (other than second appeals)	(1) The Tier 3 Judge whose decision is being appealed (2) The Court of Appeal
Court of Appeal	The appeal is a second appeal	The Court of Appeal