



## Appealing a conviction or sentence to the Court of Appeal - help for applicants

### Is the Court of Appeal Criminal Division the right court for me?

#### Appealing against a conviction

You can only appeal your conviction to the Court of Appeal if you were convicted at a **Crown Court**. You might have pleaded guilty or been convicted after a trial by a jury. You can only appeal **once**. If you were convicted in the Magistrates' Court you should speak to them about how you appeal.

#### Appealing against a sentence

If you were sentenced at the Crown Court, you can appeal against your sentence to the Court of Appeal. You can only appeal **once**. You can also appeal against a confiscation order imposed in the Crown Court. A confiscation order has its own right of appeal as a confiscation order usually comes after you have been sentenced.

### What should I do if I think I might want to appeal?

#### Can you get legal advice?

If you had a barrister or solicitor representing you, they must give you advice (in writing if you ask for it) about whether you have good reasons for an appeal against a conviction or sentence. If they think you have an arguable (good) case they will lodge (send) an application for you. If you paid privately for your barrister or solicitor you need to speak to them about whether they would be willing to do this.

If you have already had advice from your barrister or solicitor saying there are no grounds for appeal, you cannot normally get public funding to ask a different barrister or solicitor.

In some rare circumstances (such as where new evidence has come to light), it may be possible for new legal representatives to be given public funding from the Legal Aid Agency (LAA) to give you advice.

The new solicitor you approach has to hold a criminal legal aid franchise. This means they are allowed to do criminal legal aid work (not all solicitors can). For help finding a new solicitor the Law Society has a 'find a solicitor' facility on its website ([www.lawsociety.org.uk](http://www.lawsociety.org.uk)) or if you do not have access to the internet you can call them on 020 7320 5650. They can give the telephone numbers of up to three sets of solicitors.

If you are not in custody, you could also speak to Citizens Advice. Find your local office on their website [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

You can pay privately to get advice from another firm of solicitors or another barrister. Some barristers work under 'direct access' which means you can use them without a solicitor. For more information on this you can visit the Bar Council website at [www.barcouncil.org.uk](http://www.barcouncil.org.uk)

If you do not want legal advice or your representatives have told you there are no grounds of appeal but you still want to appeal, you can apply yourself.

Do not delay making an application because you are representing yourself and you are worried about how to do it. Many applications to the Court of Appeal are made by Litigants in Person (people representing themselves).

## How do I lodge an application myself and what should it look like?

### What forms do I need to use and how do I get the right form?

You need a **Form NG**.

There is a different Form NG for each type of application and you should complete the form for the application you want to make. See **the section 'What application should I make?'**

If you are in custody, you can get the right form from a prison officer (ask them to download the form for you).

If you are not in custody and you have access to the internet, you can download the form here: [www.justice.gov.uk/courts/procedure-rules/criminal/forms](http://www.justice.gov.uk/courts/procedure-rules/criminal/forms) (Go to Part 39 Appeal to the Court of Appeal - conviction or sentence)

There is an Easy Read Form NG for [conviction](#) and [sentence](#) applications which is designed to be used by people who are representing themselves and do not have a lawyer to help them.

For more help in getting the right form, you can also contact us directly:

**Customer Service Officer**  
**Criminal Appeal Office**  
**Royal Courts of Justice**  
**Strand**  
**London WC2A 2LL**

Phone: 020 7947 6011

Email: [generaloffice@criminalappealoffice.justice.gov.uk](mailto:generaloffice@criminalappealoffice.justice.gov.uk)

## How do I complete the form properly if I am in prison?

If you do not have a lawyer helping you, you can use the Easy Read Form to appeal your conviction or sentence. These forms are designed for non-lawyers.

Complete the form as best you can and write clearly. If there are some parts of the form you cannot fill in leave them blank. It is important that you sign and date the form. This must be your signature and another person cannot sign for you (unless they are your legal representative).

## What are the declarations on the form and what is a loss of time order?

If an applicant applies to the Court of Appeal, and the court thinks that the applicant has wasted their time, it can order the applicant to pay costs or make an order that time spent in custody as an applicant does not count. That means that an applicant might have to serve longer in prison.

The court does this so that it has more time for appeals that do have a good chance of succeeding.

In order to decide which cases are the ones which have a good chance of succeeding, a judge will look at the application to see if it is arguable and make a decision (the Section 31 stage).

You will get a copy of the decision and if the judge says your case has no merit, you may be at risk of a costs order or a loss of time order if you then renew that application to the court (see stages of an appeal later on in this booklet).

You are asked to sign the declarations on Form NG to show that you know about these orders.

## Which application should I make?

### Conviction

You should make a [conviction application](#) if you want to challenge your conviction because you think it is **unsafe**. That could be for many reasons. Below are some examples:

- something went wrong at your trial
- the trial judge made a mistake about the law in a ruling
- the trial judge made a mistake in directing the jury at the end of the case (the summing-up)
- because you have fresh (new) evidence that was not known by the jury.

These are just examples to help you. The reasons why you think your conviction is unsafe are called your **grounds of appeal against conviction**.

To help you, an effective ground of appeal against conviction could look a bit like this:

“1. The judge wrongly let the prosecution tell the jury about my previous convictions. These were very old and I think it was very unfair because I was a different person back then.”

The Court of Appeal will not re-try your case or start investigating it. The court only looks at your grounds of appeal and so these are very important. You must be clear what your grounds are. You cannot just say “I am innocent” or “the witnesses lied”.

You should try and number your grounds by using the boxes provided in the Easy Read Form NG (Conviction). That Form also gives more examples to help you. Make sure you write clearly and not too small. Sign and date your grounds at the end.

### **Can a complaint about my lawyers be a ground of appeal against conviction?**

Yes, it can. But you should think very carefully about this. If you make a complaint about your lawyers it will mean the complaint will need to be investigated in a way that you might not like and it might not help your case generally (see the section on ‘**Complaints made about your lawyers**’). There is also a section in the Easy Read conviction form that explains this.

### **Sentence**

You should make a [sentence application](#) if you think your sentence was too long or the wrong sort of sentence was imposed (for example a prison sentence instead of a community sentence).

You should not make a sentence application because you think you have been wrongly convicted.

Reasons why a sentence could be too long could include:

- the judge not giving you enough credit for pleading guilty, or your personal mitigation (such as your poor health or the fact that you are caring for someone)
- the judge wrongly applied the Sentencing Guidelines
- the judge sentenced you for more than one offence and overall your total sentence was too long (totality).

The reasons why your sentence is wrong or too long are called your **grounds of appeal against sentence**.

You should try and number your grounds by using the boxes provided in the Easy Read Form NG (Sentence). That Form also gives more examples to help you. Make sure you write clearly and not too small. Sign and date your grounds at the end.

### **Do I need an extension of time?**

You have **28 days** to appeal to the Court of Appeal. In conviction cases, time starts to run from the date you were convicted. In sentence cases, time starts to run from the date you were sentenced.

If you need more than the 28 days allowed, you need to ask for an extension of time.

There is a box on Form NG to do this which you should tick if your application is late.

You then need to attach your reasons why your application is late. You can call these '**Extension of time reasons**'. These do not need to be very long. If you think it is not your fault that your application is late, it is important that you tell the court why that is.

Some applications fail because there is no good reason to give an extension of time.

## **What other applications can I make?**

### **Legal aid**

If you want to apply for legal aid for a lawyer to represent you at the appeal hearing (if the judge gives you permission to appeal), you should tick the Representation Order box on Form NG.

### **Bail**

If you want to ask for bail before your appeal is heard, you need to tick the box on Form NG and fill in [Form B](#) and attach it to your application. If you decide to apply for bail after you have sent off your Form NG, you can send it directly to the Criminal Appeal Office later.

It is difficult to get bail in the Court of Appeal unless your sentence is very short or there is a **very** strong chance that your appeal will succeed.

### **Calling a witness**

If you have new evidence that needs a witness to appear in court for your appeal because they can give new evidence about something which the jury or judge did not hear about, you need to tick the Witness box on Form NG and fill in [Form W](#). You should send this with your Form NG if you can.

## **What should I do with my application now?**

### **If you are in custody**

Give your completed Form NG, your grounds of appeal and any other forms, to a prison officer.

The prison officer will do the rest for you.

### **If you are not in custody**

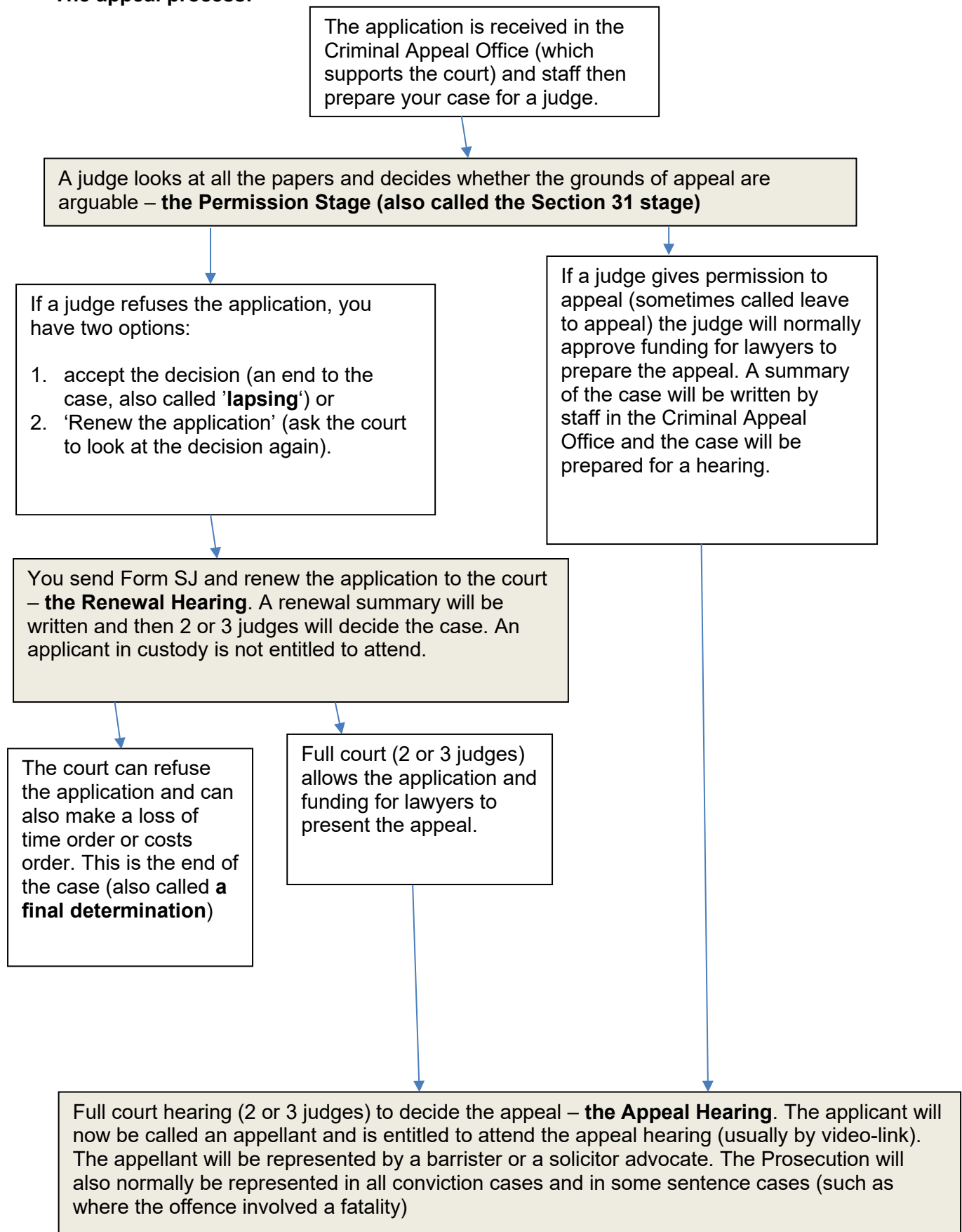
You should send your completed Form NG, your grounds of appeal and any other forms directly to the Court of Appeal. You can email them to: [applications@criminalappealoffice.justice.gov.uk](mailto:applications@criminalappealoffice.justice.gov.uk)

If you do not have access to an email account, then you should send your application by post to:

The Registrar  
Criminal Appeal Office  
Royal Courts of Justice  
Strand  
London  
WC2A 2LL

## What happens next?

### The appeal process:



## **How does the Criminal Appeal Office work?**

We have to act within a framework of legislation and rules (the Criminal Procedure Rules). We must follow the law and these rules when dealing with your case. The Registrar is a judge who is in charge of the office and it is their job to make sure that these rules and the law are followed properly by the staff in the office.

## **What stages does my appeal have to go through?**

### **We receive the form at the Criminal Appeal Office**

We will send you written confirmation that we have received your application. We will also give your case a reference number which might look something like this: 202109022B1. When dealing with the Criminal Appeal Office you should always quote this reference number, as it will help us to identify your case quickly.

The file then goes to one of our casework sections. We will assign a case officer to make sure that someone is responsible for managing and progressing your case. In conviction cases the case officer will normally be a qualified lawyer if you are a Litigant in Person (representing yourself).

The office has a team of lawyers and administrative staff who all help the Registrar to manage cases properly. Our case-officers can also help to explain things to you, but they cannot advise you on the merits of your case, as their main job is to help the court.

Sometimes the case-officer will write to you (or a case worker on their behalf), if there is something else you need to do. It is important that you follow the instructions given to you, particularly if the Registrar directs you to do something. These instructions are given to help you to present your case properly, to make sure the rules are complied with and to help the court.

### **Transcripts**

Transcripts are a typed-up record of what happened at the relevant time at the Crown Court. In conviction cases which are not privately funded, transcripts of the trial judge's summing up are obtained by the Registrar as matter of course. In sentence cases, transcripts of the prosecution opening of facts on a guilty plea and the judge's observations on passing sentence are normally obtained. If the Registrar thinks any further transcripts are needed to assist the judge, they will also be obtained by the case-officer.

### **The casework section prepares the papers to send to a judge**

The casework section will make sure they have all the papers the judge will need to make a decision whether or not to give permission to appeal. This may take some time. They may need to get further papers from the Crown Court or your solicitors or barrister. If the appeal is against a conviction, they may have to send a copy of the transcript to your barrister (if you have one) for them to 'perfect' the grounds of appeal by referring to the transcript.

## **Complaints made about your lawyers**

If your grounds of appeal include a complaint about the way you were represented at trial by your barrister or solicitors, the Registrar may ask you to 'waive privilege' (that means you agree to give up your right to confidentiality between you and your legal representatives at the Crown Court) so that your complaints may be investigated.

You should think very carefully about whether you want to make complaints about your lawyers and waive privilege because your previous lawyer can then comment about anything in your case.

An example of where a complaint might succeed in a conviction case would be where you pleaded guilty because your lawyer told you something that was wrong in law.

If you do waive privilege, there is a section on the Easy Read Form NG (conviction) to do this or we will send you a waiver. After a signed waiver is received we will usually ask your legal representatives at trial to comment on your complaints. If they do make these comments, we will send these to you and you can respond. All this correspondence will be included with the papers sent to the judge.

If you do not waive privilege, the judge may conclude that you do not want the complaint to be investigated or you can ask that the complaint be withdrawn (that means you no-longer want to rely on that ground of appeal).

## **The Prosecution**

Occasionally, it will be necessary to ask the Crown Prosecution Service (or the prosecutor if it was not the CPS) or their barrister to comment on your grounds of appeal before they are sent to a judge. This is called a Respondent's Notice. If there is one in your case, a copy will be sent to you.

## **The permission stage (also called the Section 31 stage)**

We will send you a letter telling you when your case is ready to be sent to a judge. We will also send the papers to our List Office, which deals with allocating all papers to judges.

The judge may or may not give you the right to appeal. Sometimes the judge might refer a case to the Full Court of Appeal without having decided either way. A referral is usually prepared for the court in the same way as if permission had been granted.

## **If permission to appeal is granted or referred**

If the judge gives you permission to appeal or the case is being referred to the Full Court of Appeal, a representation order is usually granted by either the judge or the Registrar. This will give you public funding for a barrister to represent you while you continue with the appeal (unless you are paying privately). We will send a copy of the decision to you and we will supply

a copy of all of the relevant case papers to your barrister.

A summary will then be written by the Criminal Appeal Office to help the judges at the full hearing of the appeal. If your case is very complicated it can take some time to complete the summary. The summary provides an overview of the facts of the case and the evidence that is relevant to your grounds of appeal. We will send a copy of the summary to your barrister or to you if you don't have a barrister acting for you. Once the summary has been written and the papers prepared for the court, the List Office will set a hearing date and they will send you a letter telling you when your hearing is.

### **If permission to appeal is refused**

If permission is refused, we will send you a copy of the judge's decision and a form (Form SJ). If you want to **renew** your application, you need to complete Form SJ. It is important that you sign and date it. You then need to hand the form to a prison officer or return it to us within **14 days of receiving it**. If you renew your application you are asking the Court of Appeal to look at the decision of the judge again and to consider whether you should be given permission to appeal.

If you miss this deadline you need to give reasons why you have sent the application in late. If you are in custody the 14 days starts when you receive the Form SJ and stops when you sign it saying you want to renew and hand it to a prison officer. If you are not in custody, time stops when the signed form reaches us.

If the judge has refused permission, they may also have initialed a box on the form which says that if the application is renewed the court should definitely consider making an order for loss of time in your case. That is a very strong warning to you and a judge will do this if they think that your grounds of appeal have no merit at all (see the section 'What are the declarations on the form and what is a loss of time order?').

On the renewal form you can write why you think a loss of time order should not be made. However, the court can make a loss of time order whether or not the judge has initialed the box on the form. The court can also make a costs order which would include the cost of any transcript and sometimes even the prosecution's costs (if there are any).

If you do not renew your application, we will arrange for the case to be closed and we will write to you confirming this. It is a decision for you whether to renew or not and we cannot help you with this.

### **What happens once I have sent the renewal form back?**

You do not have a right to public funding for a barrister to represent you if your application is being renewed. You may be able to find a barrister who will represent you for free (pro bono) or you may be able to pay a barrister privately to represent you. If you think this could be an option for you, start looking into this straight away and tell the court immediately if you have a barrister that is willing to act for you.

If you do not have a barrister, you can still renew and the court will still consider your case by looking at all the papers and then making a decision, which they will announce in open court (see below).

Before the case is listed, a summary will be written by the Criminal Appeal Office, which sets out an overview of your case (this will be copied to you if you do not have a barrister) and the papers will be copied for the judges before we send the case details to our List Office for them to set a hearing date.

### **Setting a hearing date**

The List Office will contact your barrister if you are being represented at the hearing. They will try to set a hearing date as quickly as possible. It can take longer to list cases if they are very complex and if witnesses are required to attend (that would be very unusual though).

We will send you a letter telling you the date which has been set.

### **The hearing**

This will usually be at the Royal Courts of Justice in London in open Court – in other words a courtroom open to the public. There will usually be three judges to decide an appeal against conviction, but an appeal against sentence or an application for permission to appeal may be heard by two or three judges.

If you have been given permission to appeal and you are in custody you have a right to attend the hearing of the appeal (but not any other proceedings such as a Directions Hearing). If you do not want to attend, you should write to the Criminal Appeal Office to say so. Usually the court will arrange your attendance through a video-link.

If permission to appeal has not been granted and the court is considering your renewed application for permission, you do not have a right to attend but this is still a public hearing.

### **The decision of the court**

If permission to appeal has been given, the court will either allow or dismiss the appeal. This decision is final. If permission to appeal has not been granted by a judge, the court will either grant permission to appeal (see below) or refuse it, in which case the decision is final.

If the judge refused permission to appeal but the court gives permission, they will usually allow you public funding for a barrister to represent you and will ask for another hearing date to be set. Occasionally, the court may decide your case there and then if your appeal is against your sentence and the judges feel that your sentence should be reduced. If you are represented at the hearing, your representative will be asked to agree that the court should proceed immediately to hear the appeal and the court's decision on the appeal is final even though you did not attend the hearing.

If you were not represented, you will be sent a copy of the court's decision (the Court Order) and told what your options are.

## After the hearing

Whether or not you were at the hearing, a copy of the Court Order will be sent to you.

If the court has dismissed your appeal or refused permission to appeal, your appeal is at an end (**a final determination**). If you have matters which you did not raise at your appeal, you can apply to the Criminal Cases Review Commission (CCRC), asking for your case to be referred back to the Court of Appeal. The CCRC's address is:

**23 Stephenson Street  
Birmingham  
B2 4BH**

Their phone number is 0121 233 1473. You can also find information on their website at [www.ccrcc.gov.uk](http://www.ccrcc.gov.uk)

If you had an appeal and it was dismissed (you must have been granted permission to appeal to have had an appeal), you can ask the Court of Appeal to confirm that a point of law of general public importance was involved in the decision and ask for permission to appeal to the Supreme Court.

You cannot appeal to the Supreme Court unless the Court of Appeal confirms that there is a point of law of general public importance involved – that is, a point that the Supreme Court needs to consider because it would affect lots of cases, not just your case. If you want to appeal to the Supreme Court, you need to use Form SC which you can get from us.

## What can affect how long my appeal takes?

**Length of sentence** – we will try to get your case heard in court before your release date but this is not always possible. For appeals against a sentence, we generally deal with cases with a shorter sentence more quickly than cases with a longer sentence.

**Complexity** – if a case is very complicated, it will usually take longer.

**Co-appellants** – if your appeal is linked to someone else's, it may take longer. For example, if there are some issues in their case file which are not proceeding as quickly as would be expected.

**Your personal characteristics** – we will take these into account if appropriate, for example, if you are very young or old or suffering from a serious illness.

## I want to abandon my appeal. How do I do this?

If you decide at any stage that you do not want to continue with your appeal or want to give up on part of your appeal, you must confirm this by filling in and sending us [Form A](#). It is not enough just to send a letter or speak to someone on the phone. You should think carefully before doing this as completing Form A will end your case in the same way as a decision by the court dismissing your case.

## How do I complain?

You can phone us and ask for a copy of our complaints procedure. Speak to one of our customer service officers on 020 7947 6011 or write to:

Customer Service Officer  
Criminal Appeal Office  
Royal Courts of Justice  
Strand  
London  
WC2A 2LL.

Or, you can send an email to: [generaloffice@criminalappealoffice.justice.gov.uk](mailto:generaloffice@criminalappealoffice.justice.gov.uk)