

Appeals

If a claim has failed or a defence has been unsuccessful, our experienced Litigation team can advise you on the viability of an appeal and where appropriate seek permission of the court to appeal.

An appeal may only be brought if the decision of the lower court falls within one of the following two grounds:

- It was wrong; or
- It was unjust because of a serious procedural or other irregularity in the proceedings.

For a decision to be deemed 'wrong' it must be shown that the judge made a mistake in law, fact or in the exercise of his discretion i.e. that the decision fell outside the generous ambit of a reasonable range of decisions.

When considering whether or not the lower court was unjust because of a serious procedural or other irregularity in the proceedings the courts will reflect on whether the irregularity created an injustice.

If with the benefit of legal advice you wish to pursue an appeal, we will seek permission of the court on your behalf. Permission to appeal is required in nearly all cases normally being requested orally at the hearing at which the decision to be appealed was made. If the lower court refuses permission or permission of the lower court is not sought (for example because judgment was reserved and later given in writing), an application notice can be made to the relevant appeal. This must be done within 21 days from the date of the decision to be appealed.

Permission to appeal may only be given where the court considers that the appeal would have a realistic prospect of success with the prospects being more than just fanciful or where there is some other

compelling reason why the appeal should be heard for example where the appeal raises:

- A question of generic principles to be decided for the first time;
- A question of public importance on which it would be useful to have an appeal court decision; or
- A new point of law on which no binding authority currently exists.

For further information please contact:

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