

PRACTICE DIRECTION 20B – ALLOCATION OF APPEALS

This Practice Direction supplements Part 20 of the Court of Protection Rules 2007

General

1.1 Rule 171A provides for a practice direction to set out the destination of appeals from decisions of judges of the Court of Protection.

1.2 Rule 6 and Practice Direction 3B 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 171A(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 171A(2) provides that 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.

3.2 Notwithstanding rule 171A(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.

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

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

Appeal lies to	In the following circumstances	Permission to appeal may be granted by
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

Table 2 Appeals from a decision of a Tier 2 Judge

Appeal lies to	In the following circumstances	Permission to appeal may be granted by
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	The appeal is a second appeal.	The Court of Appeal

Table 3 Appeals from a decision of a Tier 3 Judge

Appeal lies to	In the following circumstances	Permission to appeal may be granted by

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