

## GUIDANCE NOTE: CHALLENGING A JUDGMENT

Tribunal judgments, decisions, directions or orders may be changed only:

- if the Tribunal decides, at the request of either party or on its own initiative, to **reconsider** a judgment; or
- after an **appeal** by one of the parties.

This Guidance Note sets out the procedures which you must follow if you:

- want to ask the Tribunal to reconsider a judgment, decision, direction or order; and
- wish to appeal against a Tribunal judgment, decision, direction or order.

If you want to ask the Tribunal to reconsider a decision to reject a claim form or a response form, please refer to [Guidance Notes on Rejected Pleadings](#).

## RECONSIDERATION OF A JUDGMENT

### WHEN CAN I ASK THE TRIBUNAL TO RECONSIDER A JUDGMENT?

You can request that a Tribunal reconsiders any judgment, decision, direction or order (in this Guidance Note referred to as “Judgment”) of the Tribunal in the following circumstances:

- that the judgment was wrongly made as a result of an administrative error;
- that a party did not receive notice of the proceedings leading to the judgment;
- that the judgment was made in the absence of a party;
- that new evidence has become available since the conclusion of the Tribunal hearing to which the judgment related, the existence of which could not have been reasonably known of or foreseen at the time;
- that the interests of justice require a reconsideration.

In cases where the Tribunal has issued an Article 12 judgment in circumstances where a Respondent has failed to present a response (also known as a ‘default judgment’), the party

making the application must show a good reason why the Tribunal's judgment should be varied or revoked.

The Tribunal has the power to:

- refuse to reconsider the judgment;
- confirm the judgment;
- vary the judgment; or
- revoke the judgment.

### **WHAT SHOULD MY REQUEST FOR RECONSIDERATION INCLUDE?**

If you wish to ask for a reconsideration, your application must set out the reason/s why the original judgment should be reconsidered. Your reasons must fall within the list of circumstances where a Tribunal may reconsider a judgment (see above). Please note that 'interests of justice' does not mean that a judgment will be reconsidered just because you disagree with it. Something must have gone wrong at or in connection with the hearing or something must have happened since the hearing which makes the judgment unjust. If you apply for a reconsideration based on new evidence you must explain why the evidence was not available before and include a full statement of the evidence which you want to introduce.

### **WHAT IS THE DEADLINE FOR ASKING FOR RECONSIDERATION?**

You can apply to have the judgment reconsidered orally at the end of a hearing or **within 7 days of the date on which the decision, judgment, direction or order was given**. Therefore, if the Tribunal sent the judgment to you on Thursday 1 March, you must ensure that the Tribunal receives your application for a reconsideration by midnight on Thursday 8 March.

You should note that time limits are strictly enforced and it will only be in exceptional circumstances that the Tribunal will accept an application for a review outside the normal time-limit.

### **WHERE SHOULD I SEND MY REQUEST FOR A RECONSIDERATION?**

You should send your request for reconsideration to the Tribunal's offices. The Tribunal prefers to receive applications by email unless circumstances make this difficult:

Employment and Discrimination Tribunal  
1<sup>st</sup> Floor  
International House  
41 The Parade  
St Helier  
Jersey  
JE2 3QQ  
Email: [RegistrarTribunalService@gov.je](mailto:RegistrarTribunalService@gov.je)

Office hours are 9.30am to 4pm.

**You must also send copies of your application to all other parties to the proceedings.**

### **WHAT HAPPENS ONCE I HAVE SENT MY REQUEST FOR RECONSIDERATION?**

The Tribunal will acknowledge receipt of your application for a reconsideration and will confirm to the other parties that an application has been submitted. Your application will then be passed to the Chair to consider and to reach a decision. Wherever possible, a reconsideration will be carried out by the Chair who made the original judgment or, as the case may be, who chaired the full Tribunal which made the judgment.

If the Chair considers that there is no reasonable prospect of the original judgment being varied or revoked, your application will be refused and the Tribunal Registrar will inform the parties of that refusal. Otherwise, the Tribunal will send a notice to the parties which will:

- set a time-limit for the other parties to respond to the application for a reconsideration;
- ask for the parties' views on whether the application may be determined without a hearing.

Once replies are received, the Chair will decide whether your application for a reconsideration requires a hearing. If it does, you will be notified when to attend in due course.

**An application for reconsideration does not change the time-limit for making an appeal and you may appeal while waiting for the result of the reconsideration application.**

# APPEALS

## WHEN CAN I APPEAL AGAINST A JUDGMENT?

It is only possible to appeal against a judgment on a point of law; you cannot appeal simply because you disagree with the Tribunal's judgment or with its findings of fact.

If you believe that the Tribunal made a legal mistake in your case, you can ask for permission to appeal against that judgment. Therefore, you could appeal if the Tribunal:

- got the law wrong;
- did not apply the correct law;
- did not follow the correct procedures and this affected the judgment;
- had no evidence to support its judgment;
- was unfairly biased towards the other party

## WHAT IS THE DEADLINE FOR APPEALING?

The usual rule is that your Notice of Appeal and supporting documentation must be received by the Tribunal **no later than midnight on the 28<sup>th</sup> day after the date on which the Tribunal sent you the judgment, decision, direction or order**. Therefore, if the Tribunal sent the judgment to you on Thursday 1 March, you must ensure that the Tribunal receives your Notice of Appeal and supporting documentation by midnight on Thursday 29 March.

You should note that time limits are strictly enforced and it will only be in exceptional circumstances that the Tribunal will accept an application for permission to appeal outside the normal 28-day time limit.

## WHAT IF I HAVE ASKED THE TRIBUNAL TO RECONSIDER ITS ORIGINAL JUDGMENT?

If you have requested a reconsideration (see above) but you also wish to appeal on a point of law, you must still ensure that you submit your Notice of Appeal within the normal 28-day time-limit. **You should not await the Tribunal's judgment on the reconsideration or you risk missing the appeal time-limits.**

## **WHAT DOCUMENTS SHOULD I SEND TO THE TRIBUNAL?**

If you wish to appeal, you must send the following documents to the Tribunal within the 28 day time limit:

- a Notice of Appeal, ensuring that you set out your reasons for appealing the Tribunal's judgment;
- a copy of the judgment, direction or order against which you are appealing;
- a copy of the Claim Form;
- a copy of the Response Form; and
- if you have asked the Tribunal to reconsider its original judgment, a copy of your application for a reconsideration (and Tribunal's judgment if available).

## **WHERE SHOULD I SEND MY APPEAL**

You should send your Notice of Appeal and supporting documents to the Tribunal's offices. The Tribunal prefers to receive applications by email, unless circumstances make this difficult:

Employment and Discrimination Tribunal  
1<sup>st</sup> Floor  
International House  
41 The Parade  
St Helier  
Jersey  
JE2 3QQ  
Email: [RegistrarTribunalService@gov.je](mailto:RegistrarTribunalService@gov.je)

Office hours are 9.30am to 4pm.

**You must also send copies of your Notice of Appeal to all other parties to the proceedings.**

## **WHAT HAPPENS ONCE I HAVE SENT MY NOTICE OF APPEAL?**

The Tribunal will acknowledge receipt of your Notice of Appeal and will confirm to the other party that an application for permission to appeal has been submitted. Your application will then be passed to a Chair to consider and to reach a decision on whether to give you permission to appeal the judgment to the Royal Court.

You will usually receive the Chair's decision within six weeks of the date on which the Tribunal receives the application. If this is not possible, the Tribunal will contact you and will keep you informed.

### **WHAT IF MY APPLICATION FOR PERMISSION TO APPEAL IS REJECTED?**

If a Chair rejects your application for permission to appeal (usually because the Chair does not consider that your appeal is about a legal mistake), you may then apply to the Royal Court to grant you permission to appeal. If you decide to apply to the Royal Court, you must ensure that the Assistant Judicial Greffier receives that application within 14 days of the date on which the Tribunal rejected your application.

You should send your appeal and supporting documents to the Assistant Judicial Greffier at:

The Judicial Greffe  
Royal Court Building  
Royal Square  
St Helier  
JE2 1JG

within 14 days of the decision for the Tribunal to refuse permission.

The Tribunal will have no further involvement in your case and, from this point, all enquiries must be directed to the Assistant Judicial Greffier or as otherwise advised by the Greffe.

### **WHAT IF MY APPLICATION FOR PERMISSION TO APPEAL IS SUCCESSFUL?**

If your application is successful and the Tribunal grants you permission to appeal to the Royal Court, you will have 14 days in which to send your appeal to the Royal Court.

Your appeal should be sent to the Assistant Judicial Greffier at:

The Judicial Greffe  
Royal Court Building  
Royal Square  
St Helier,  
JE2 1JG.

The Tribunal will not be involved any further in the process of your appeal and from this point, all enquiries must be directed to the Assistant Judicial Greffier or as otherwise advised by the Greffe.

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