PUMP COURT

CHAMBERS

ENFORCEMENT AND APPEAL

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Appeals – civil framework

- Provisions in CPR 52 and PD 52A to 52E.

- An appeal against a decision made by the lower court will only be allowed by a higher court where "***the lower court's decision was wrong or was unjust because of a serious procedural or other irregularity***". (CPR 52.21)

- Decisions in TLATA/cohab. cases will require permission to appeal. Two ways to obtain permission, (a) ask the lower court for permission at the time they give the judgment; (b) make an application to the appeal court in writing.

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Appeals – civil framework

- If the lower court refuses permission, you can renew the application by applying for permission to the appeal court: CPR 52.3.

- If permission was declined by the lower court/ not sought, the application must be made to the appeal court by filing an Appellant's form (Form N161) by the date the lower court has directed, or if no such date has been directed, **21 days from the decision appealed**.

- If appeal late, the appellant must seek permission to appeal out of time.

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Appeals – civil framework

- When will permission be granted? Per CPR 52.6: Permission will only be granted where the court considers:

  "(a) that the appeal would have a real prospect of success; or

  (b) that there is some other compelling reason why the appeal should be heard…"

- Prospects must be "realistic" and not fanciful.

- Permission does not operate as a stay.

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Appeals – civil framework

- In TLATA/cohab. cases, an appellant is required to serve a sealed copy of the appellant notice on each respondent (a) as soon as practicable and (b) in any event no later than 14 days after it is sealed: CPR 52.12 (3).

- The application for permission will normally be considered by the appeal court on the basis of the papers alone and without an oral hearing.

- Where the appeal court is the Court of Appeal, the default position is that applications for PTA will be determined on the papers, unless the judge considers that the matter should be dealt with orally: CPR 52.5.

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Appeals – civil framework

- If the appeal court is the County Court/ High Court, if the paper application is refused, the appellant may request within 7 days after service of the notice refusing permission that decision be reconsidered at an oral hearing: CPR 52.4.

- Certain judges may determine that the appeal is "totally without merit" – and refuse an oral hearing.

- There is an equivalent document for the Respondent of an appeal to complete, Form N162. CPR 52.13: a respondent's notice must be filed and served by a respondent who is:

  (a) seeking permission to appeal from the appeal court; or

  (b) wishes to ask the appeal court to uphold the order of the lower court for reasons different from or additional to those given by the lower court.

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Appeals – civil framework

Routes of Appeals:

- County Court District Judge ➤ County Court Circuit Judge
- County Court District Judge dealing with insolvency ➤ High Court Judge
- County Court Circuit Judge ➤ High Court Judge
- High Court Master ➤ High Court Judge
- High Court Judge ➤ Court of Appeal
- Court of Appeal ➤ Supreme Court
- PD52A also designates which level of judge can hear which type of appeal.

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Appeals – civil framework

- CPR 52.23: a court lower than the Court of Appeal may transfer a first appeal directly to the Court of Appeal where:

  a) the appeal will raise an important point of principle or practice; or

  b) there is some other compelling reason for the Court of Appeal to hear it.

- This is used rarely.

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Appeals – civil framework

- You have obtained PTA...

- Per CPR 52.21: The general rule is that an appeal will be limited to a review of the decision of the lower court, unless:

  (a) a practice direction makes different provision; or

  (b) in the circumstances of the appeal '*it would be in the interests of justice to hold a re-hearing*'.

- Unless the appeal court orders otherwise, it will not receive evidence which was not before the lower court: CPR 52.21(2)

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Appeals – civil framework

- You have obtained PTA...

- Per CPR 52.21: The general rule is that an appeal will be limited to a review of the decision of the lower court, unless:

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- Unless the appeal court orders otherwise, it will not receive evidence which was not before the lower court: CPR 52.21(2)

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Appeals – civil framework

- CPR 52.20(1) states that, in relation to an appeal, the appeal court has all the powers of the lower court.

- Per CPR 52.20(2): Specifically, the appeal court has power to:

(a) affirm, set aside or vary any order or judgment made or given by the lower court;

(b) refer any claim or issue for determination by the lower court;

(c) order a new trial or hearing;

(d) make orders for the payment of interest;

(e) make a costs order

- Or it can dismiss the appeal!

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Appeals – family framework

- **Governing rules:** FPR 30.3 & Practice Direction 30A but note that appeals from a High Court Judge to the Court of Appeal are governed by CPR Part 52.

- The structure mirrors the civil route almost exactly. Use Form N161, but if appealing to the Family Division of the High Court, use Form FP161.

- Family appeals are also generally a review, but the court can order a re-hearing more readily where the child's welfare or fairness requires it: FPR 30.12(1).

- The time limits for family appeals are the same as those in civil (21 days) save for case management decisions *where you only have 7 days*.

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Appeals – family framework

- Permission to appeal required. Per FPR 30.3(7): Permission will only be granted where the court considers:

  "(a) that the appeal would have a real prospect of success; or

  (b) that there is some other compelling reason why the appeal should be heard…"

- Appeal court will only allow an appeal where the "***the lower court's decision was wrong or unjust because of a serious procedural or other irregularity***" (FPR 30.12).

- At the substantive hearing, the appeal court has all the powers of the lower court and may affirm, set aside or vary the lower court's order, or remit for reconsideration: FPR 30.11.

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Enforcement
Execution of Documents

- Court has power to execute documents on party who neglects/ refuses to: s.39 SCA 1981:

  "*Where the High Court [or family court] has given or made a judgment or order directing a person to execute any conveyance, contract or other document, or to indorse any negotiable instrument, then, if that person—*

  (a)neglects or refuses to comply with the judgment or order; or

  (b)cannot after reasonable inquiry be found,

  that court may, on such terms and conditions, if any, as may be just, order that the conveyance, contract or other document shall be executed, or that the negotiable instrument shall be indorsed, by such person as the court may nominate for that purpose."

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Enforcement
Execution of Documents

- No limitation on class of documents to which the power might be invoked.

- There must be a clear order directed at party requiring that they shall execute a specific document by a specific time/date.

- Procedure set out in ***Welch v Welch*** **[2017] EWFC B32** (per HHJ Hess):

  - Send the draft document to the other party and invite signature.
  - Other party refuses/neglects to sign.
  - Make on notice application supported by a statement evidencing other party's failure. Court will order that the other party executes by a certain date, and if not done…
  - A without notice application is made, and the court makes a second order authorising execution.

- Debate as to whether anticipatory order can be made. There is support (including HHJ Hess) for anticipatory orders and the standard template orders provides for this.

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Enforcement
Schedule 1

- FPR Part 33 sets out enforcement rules for orders under Sch. 1 of CA 1989 (Part 33 incorporates relevant CPR rules into family proceedings).

- Methods of enforcement:

- **Third party debt order** (FPR 33.24): Where debtor is owed money (e.g. sums in a bank account held to their credit or debts otherwise owed to them), a TP order changes the obligation from payment to the debtor, to payment to the creditor. Apply using Form N349, with statement in support.

- **Charging order** (FPR Part 40): Where debtor owns real property, shares/securities or funds in court, such an order secures the sums owed against those assets. Creditor can then apply for an order for sale of the asset charged. Apply using Form N379 (land) or Form N380 (securities).

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Enforcement
Schedule 1

- **Attachment of earnings order** (FPR Part 39): Requires the employer to deduct periodic amounts from the debtor's earnings and pay sum into court for onward payment to creditor. Use Form FE15 with statement in support.

- Court will assess income/outgoings and fix: "normal deduction rate"; and "protected earnings rate".

- **Writ/warrant of control** (FPR FPR 33.1(2)): Where debtor has valuable personal items, e.g. paintings, valuable antique furniture, watches, cars…items may be removed by bailiff and sold at auction. Use Form N323 (Family Court) or Form PF86A (High Court) with statement showing amount due and how arrived at.

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Enforcement
Schedule 1

- **Appointment of a receiver** (FPR 33.22): A receiver is an officer of the court, steps into the debtor's shows and tries to extract payment for the creditor by managing debtor's property and taking over affairs.

- **Judgment summons** (FPR 33.9 – 33.17 and FPR Part 37): Where debtor in breach *of order to pay money* (PPs or lump sum), and Court is satisfied beyond reasonable doubt debt or has or had since the date of order the means to pay and has refused/neglected to pay, court can commit to prison (up to 6 weeks) for contempt.

- **Committal**: where there is order to do/not to do something (other than payment of money), order can be enforced by way of committal (must be endorsed with penal notice).

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Enforcement
Schedule 1

- **Other considerations for cohabitants**:
  - Enforcement via the CMS if there are arrears of child support per CMS assessment.
  - *Hadkinson* orders – where a party is in breach, the court can limit their participation in proceedings.
  - Injunctions – if assets need to be frozen in the interim.
  - Para 12(1) Sch. 1 CA 1989 - any person "under an obligation to make payments in pursuance of any order for the payment of money….under this Act, shall give notice of any change of address as may be specified in the order…". Failure to do so is a criminal offence.

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"An absolute class act. She can grapple with complex matrimonial finance work in a heartbeat. She is a confident and calm practitioner with gravitas, technical ability and professionalism far beyond her year of call"
-Legal 500 (2025)(Tier 1)

" Jennifer is everything you would want in counsel. She has exceptional attention to detail coupled with a firm but fair approach to the opposition.
-Chambers & Partners (2025)

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Jennifer is a family law barrister with particular expertise in complex financial remedies. Consistently top ranked in the legal directories, she is described as '*a fierce and outstanding advocate'* with '*exceptional attention to detail*', '*a complete powerhouse'* and '*an absolute class act'*. She is instructed in HNW cases concerning inherited wealth, family businesses, nuptial agreements and trusts, many of which involve tax complications and international elements, such as the validity of overseas marriages/divorces or claims in multiple jurisdictions. '*A very dynamic operator'*, she works strategically with her global network of other professionals to achieve the best outcome.

Jennifer co-leads the International Team in chambers and has appeared in high-profile reported financial remedy decisions, most notably in ***Veluppillai* [2015] EWHC 3095 (Fam) (High Court); *LFL v LSL (McKenzie Friends & Breach of Court Orders)* [2017] EWFC B62; *N v N (Afghanistan: Validity of overseas marriage)*[2020] EWFC B55; and BC v SC [2023] EWFC 307 (B).**

Jennifer retains a niche practice in modern families/surrogacy. She acted in ***R v T* [2022] EWHC 3362 (Fam)**, a High Court jurisdiction hearing involving children of a same-sex family in the UAE. She represented the successful appellant (led by King's Counsel) in the landmark Court o Appeal decision of ***Re S (Children: Parentage and Jurisdiction)* [2023] EWCA Civ 897.** Jennifer also leads the Court of Protection team and has a keen interest in capacity issues where they overlap with family law. She acted for the successful applicant in *DB v DW* [2015] EWCOP 16 (competing financial deputies).

Jennifer sits as a Fee-paid Judge of the FTT (Tax Chamber), the only family law barrister to have been so appointed. She appears as counsel in arbitrations and private FDRs, and sits as a private FDR judge. She is regularly invited to speak at seminars and to write for publications. She sits on the Financial Remedies Journal Editorial Board and is a member of the FLBA, Resolution and LAWASIA.

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