

COURT OF APPEAL
PRACTICE DIRECTION NO 1/2025
(Advance Copies of Judgments)

1. Introduction

- 1.1 This Practice Direction is made by the President with the concurrence of the Judges of the Court of Appeal and concerns the issuing of advance copies of judgments of the Court of Appeal prior to their delivery and publication.
- 1.2 Cognisant of the need for timely delivery of its judgments as well as the need to ensure that judgments are accurate and complete in their final form, the Court of Appeal will, in appropriate cases, issue advance copies of judgments to counsel involved in those cases.
- 1.3 The contents of this Practice Direction are informed by the practices, practice directions and judicial decisions on the subject emanating from the Judicial Committee of the Privy Council, the House of Lords (now the United Kingdom Supreme Court), the Caribbean Court of Justice and the Court of Appeal and High Court of England and Wales.
- 1.4 In this practice direction:
- 'counsel'** means the attorney(s)-at-law who appear on record for a party and any attorney-at-law authorised by the court to receive an advance copy of a judgment;
- 'court'** means the Court of Appeal; and
- 'Registrar'** means the Registrar of the Court of Appeal.
- 1.5 This Practice Direction takes effect immediately.

2. Purpose of issuing advance copies of judgments

- 2.1 The purpose of issuing advance copies of judgments is to:
- (i) invite the assistance of counsel in identifying clerical and typographical mistakes, apparent errors and omissions;
 - (ii) facilitate submissions for the determination of costs in appropriate cases.

- 2.2 The issuing of advance copies of judgments is **not** for the purpose of allowing counsel to reargue the matter (see **R (on the application of Edwards and another) v Environment Agency and others** [2008] UKHL 22, [2008] 1 WLR 1587, paras. 66 and 74, attached in the Appendix to this Practice Direction).

3. Issuing of advance copies of judgments

- 3.1 Where the court has reserved judgment or has delivered judgment with the promise that written reasons will follow, the registry will notify the parties of the date of delivery of the judgment or the written reasons for judgment, as the case may be.
- 3.2 The court may provide an advance copy of the judgment to counsel involved in the matter seven days before the judgment is to be delivered (or such other date as the court may direct).
- 3.3 An advance copy of a judgment issued under this Practice Direction does not take effect or bind the parties as a judgment of the court.

Conditions

- 3.4 Advance copies of judgments are provided to counsel in the strictest confidence and are issued under embargo.
- 3.5 Unless the court directs otherwise, counsel to whom advance copies of judgments are issued must not:
- (i) disclose advance copies of judgments or their content to any other person; or
 - (ii) use or publish advance copies of judgments or their content in the public domain

before the judgment is delivered by the court.

- 3.6 No step must be taken in pursuance of an advance copy except as authorised by this Practice Direction.

Errors and corrections

- 3.7 Upon receipt of an advance copy of a judgment, it is the duty of counsel to check it for any clerical or typographical mistakes, errors or omissions and to notify the court of same within the time specified.

3.8 In the case of apparent error or ambiguity in advance copies of judgments, counsel is to inform the court and opposing counsel as soon as possible or within the time specified by the court.

3.9 Notification to the court shall be sent by email to the court's registry at advancecopy@courtofappeal.gov.jm.

Reserved powers of the court

3.10 The court retains the inherent jurisdiction and discretion to make any changes to the substance and form of its judgments before delivery, as deemed appropriate, including any changes which were not brought to the court's attention by counsel.

3.11 The issuing of an advance copy of a judgment does not fetter the court's power pursuant to the Court of Appeal Rules 2002 to correct clerical mistakes and errors arising in a judgment from any accidental slip or omission after the judgment is delivered.

4. Breach of this Practice Direction

4.1 Counsel to whom advance copies of judgments have been issued are responsible for ensuring compliance with this Practice Direction and any order issued by the court regarding compliance with it.

4.2 In the event of breach or suspected breach of the directions and restrictions contained in paragraphs 3.5 and 3.6 of this Practice Direction, counsel shall take all reasonable steps to:

- (i) investigate the breach or suspected breach with care and urgency;
- (ii) immediately notify the Registrar and all other counsel in the matter, and provide them with all the relevant particulars of the breach or suspected breach; and
- (iii) where possible, take reasonable steps to address the breach or suspected breach and mitigate its consequences.

4.3 Failure to comply with the directions and restrictions contained in paragraphs 3.5, 3.6 and 4.2 of this Practice Direction may amount to contempt of court or result in disqualification from receiving advance copies in future matters, referral to the

Disciplinary Committee of the General Legal Council or the imposition of any other sanction the Court deems appropriate.

5. Conclusion

- 5.1 The court intends to keep this Practice Direction under close review and to make such adjustments as experience dictates.


Marva McDonald-Bishop, OJ, CD
President of the Court of Appeal
26 May 2025

APPENDIX

R (on the application of Edwards and another) v Environment Agency and others [2008] UKHL 22, [2008] 1 WLR 1587

Per Lord Hoffman (para. 66)

“Postscript

66. *On 23 January 2008 the hearing in this appeal was concluded. On Friday 4 April 2008, after the members of the Appellate Committee had prepared drafts of the speeches which they proposed to deliver, the solicitors to the parties were notified that judgment would be given on 9 April. In accordance with the practice of the House, copies of the draft speeches were provided in confidence with a request that counsel check them for ‘error and ambiguity’. On Monday 7 April the appellant’s solicitors notified the Judicial Office that they proposed to submit a memorandum pointing out errors in the judgments but that it could not be submitted until the following morning. Judgment therefore had to be postponed until 16 April. The memorandum when it arrived, consisted of 27 paragraphs of closely typed submissions referring to three directives which had not been mentioned in the appellant’s lengthy submissions to the House and repeating other arguments which had already been considered. It contains nothing which causes me to wish to change the views expressed in my draft speech. In my opinion the submission of such a memorandum is an abuse of process of the procedure of the House. The purpose of the disclosure of the draft speeches to counsel is to obtain their help in correcting misprints, inadvertent errors of fact or ambiguities of expression. It is not to enable them to reargue the case.”*

Per Lord Hope of Craighead (para. 74)

“77. *I should like to add that I am in full agreement with the postscript to Lord Hoffmann’s speech. The appellant’s solicitors took the liberty of making further submissions after the hearing was concluded and while the case was awaiting judgment. They, and the comments on them by the other parties, were considered before the judgment was finalised. Direction 38.1 of the House of Lords Practice Directions applicable to Civil Appeals provides for this. The opportunity to submit further arguments is at an end when the parties are provided with copies of the draft speeches under direction 20.3. Counsellors are expected to inform the Judicial Office of any apparent error or ambiguity in the speeches as soon as possible: direction 20.4. The memorandum, which was submitted, purported to be devoted to the correction of errors and ambiguities. But in substance, it was an attempt to resubmit submissions already made and to make new submissions. It was an abuse of the procedure.”*