

From 1<sup>st</sup> October 2012, the Registrar of Criminal Appeals will require advocates to provide a list of authorities upon which they wish to rely in their written or oral submissions before the Court of Appeal (Criminal Division). This list should be annexed to but not form part of the grounds of appeal/appeal notice or respondent's notice. If exceptionally, it has not been annexed to the appeal notice or respondent's notice it should be annexed to any skeleton argument. When considering what authorities to rely on, advocates would be wise to consider the comments of the Lord Chief Justice in R v Erskine; R v Williams 2009 EWCA 1425, 2009 2 Cr. App. R 29

“The essential starting point, relevant to any appeal against conviction or sentence, is that, adapting the well known aphorism of Viscount Falkland in 1641: if it is not *necessary* to refer to a previous decision of the court, it is *necessary* not to refer to it. Similarly, if it is not *necessary* to include a previous decision in the bundle of authorities, it is *necessary* to exclude it. That approach will be rigidly enforced.

It follows that when the advocate is considering what authority, if any, to cite for a proposition, only an authority which establishes the principle should be cited. Reference should not be made to authorities which do no more than either (a) illustrate the principle or (b) restate it....

Advocates must expect to be required to justify the citation of any authority. In particular where a definitive Sentencing Guidelines Council guideline is available there will rarely be any advantage in citing an authority reached before the issue of the guideline, and authorities after its issue which do not refer to it will rarely be of assistance. In any event, where the authority does no more than uphold a sentence imposed at the Crown Court, the advocate must be ready to explain how it can assist the court to decide that a sentence is manifestly excessive or wrong in principle.”

Should an advocate require a list be changed or added to before hearing then a new complete list should be prepared and lodged in substitution so that there is only one definitive list. The list of authorities should contain the name of the applicant or appellant and the CAO number where known. Where a judgment is reported in the Official Law reports published by the Incorporated Council of Law reporting or the Criminal Appeal Reports or the Criminal Appeal Reports(Sentencing) then it is sufficient to provide the law report reference **and** the neutral citation. The paragraph numbers referring to the part upon which reliance is placed should also be given.

Where exceptionally reference is to be made to a case that is not reported in the Official Law reports, the Criminal Appeal Reports or the Criminal Appeal Reports (Sentencing) then the advocates should provide **three** copies with the grounds of appeal/ appeal notice, respondent's notice or skeleton argument. The relevant passages should be clearly identified. Copies of authorities of reported in the Official Law Reports of Criminal Appeal Reports need not be copied.

Advocates should no longer fax copies of their list of authorities to the head usher. This fax number will no longer be manned.

A suggested (but not mandatory) format for the list of authorities is as follows:

<b>Name of Appellant or Applicant</b>		<b>CAO number (if known)</b>	
Name of authority	Law Report or Cr. App. R reference	Neutral Citation	Relevant paragraphs