

The Court of Appeal granted an extension of time for the Guernsey Competition and Regulatory Authority to appeal, finding the brief delay excusable given the complexity of the case and absence of prejudice. Directions were issued for personal service of the notice of appeal and timely setting down of the appeal.

IN THE GUERNSEY COURT OF APPEAL

Court of Appeal Case No: 598

[2026]GCA001

6th January 2026

**ON APPEAL FROM THE ROYAL COURT OF GUERNSEY
(ORDINARY DIVISION)**

Before: Michael Furness KC JA

Between:

THE GUERNSEY COMPETITION AND REGULATORY AUTHORITY

Appellant

-and-

**(1) BTC SURE GROUP LIMITED
(2) SURE (GUERNSEY) LIMITED
(3) JT GROUP LIMITED
(4) JT (GUERNSEY) LIMITED**

Respondents

Furness JA, sitting as a single judge of the Court of Appeal

1. On 9 October 2025 I handed down judgment granting the proposed Appellant (“GCRA”) permission to appeal on some of the Grounds set out in its draft Notice of Appeal. That judgment did not, however, deal with a point taken by the First and Second Respondents (“Sure”) that the application for permission to appeal to this Court was filed one day later than the time permitted in the rules. GCRA’s draft notice of appeal did include an application for an extension of time, but, as GCRA admits, it did not advance any reason for the delay. Sure places reliance on the judgment of Anderson JA *GCRA v The Medical Specialist Group LLP*, [2023] GCA031. At paragraph 15 Anderson JA stated:

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"Any party seeking leave to appeal should be mindful that the 28-day period provided for by Rule 3 may be required to cover both the preparation of the original application and, potentially, the filing of a renewed application following rejection by the Royal Court. If that period is exceeded, an extension of time must be requested and will be granted only if a relevant reason for the delay can be shown and the court, after consideration of all the circumstances, considers an extension to be the appropriate course".

2. I respectfully agree with Anderson JA that in all cases a relevant reason ought to be shown before an extension is granted. I think that a requirement needs to be insisted on even where the delay is only brief – to do otherwise, and to allow brief failures to comply to go by the board without explanation, would effectively extend the period laid down by the rules by a short, but uncertain, additional period. So, I think GCRA were wrong not to give any explanation for their failure to comply with the rules, even by one day. For that reason, I directed that GCRA should supply its reasons if it wished to obtain the Court's permission to serve its application to this Court out of time.
3. Before looking at GCRA's reasons I should explain how the failure to comply with the period came about. The judgment of the Royal Court against which GCRA wishes to appeal was handed down on 7 March 2025. Under Rule 3 of The Court of Appeal (Civil Division) (Guernsey) Rules, 1964 a notice of appeal must be served within 28 days of the date of the judgment being appealed. That 28 day period was therefore set to expire on 4 April 2025. The application for leave to appeal was served on 2 April, two days before the expiry of the 28 day period. That application sought an extension of the time for serving the notice of appeal until 14 days after the permission application was determined. The effect of making the permission application was that time ceased to run until the application was determined. Judgment in the permission application was handed down by the Royal Court on 4 June 2025, but the Royal Court declined to make an order for an extension of time, leaving that decision to this Court. Once the judgment was handed down time for serving a notice of appeal started to run again and expired on 5 June 2025. The present application for permission was then served on 6 June – one day after the expiry of the 28 day period.
4. In addition to noting that the present application was filed outside the original 28 day period, two other points are worth making at this stage. The first is that GCRA did in fact act promptly in filing its renewed application for permission within 2 days of the refusal of its original

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application. The second is that where permission to appeal is needed, and particularly where it proves necessary to apply to this Court, the 28 day period provided for in rule 17 will very often need to be extended, even if the prospective appellant acts with reasonable diligence. 28 days is not a very long period in which to file the application for permission to the Royal Court, to make the renewed application to this Court and (if this Court gives permission) to file the final form of the notice of appeal. This point was accepted by this Court in the case of *Fort Trustees & Balchen Management Ltd v ITG Ltd & Bayeux Ltd* [2021] GCA 29 by McNeill JA at paragraph 9. McNeill JA, in a passage relied on by GCRA, went on to say:

“It seems to me, therefore, that as with any application for extension of time, the matter is at large for the court under Rule 17. Being at large, the whole circumstances ought to be taken into account but, in essence, time having started on the handing down of the judgment below and interrupted by the application below, it is the whole period from initial application to date of the making of the renewed application which must be considered, the period of the proceedings below being excised. This exercise will vary with circumstances but, whilst an applicant is, in a sense, entitled to use the whole month before serving below, there is certainly no reason for an assumption that a further month should be available within which to make the renewal.”

5. *Fort Trustees* was cited by Mountfield JA in *Guernsey Financial Services Commission v Domaille and Ors* [2023] GCA 030, where she said this (at paragraph 20):

“[the court’s] discretion as to whether to grant leave to appeal out of time is at large, and factors which I consider to be relevant are the length of the delay, the reasons for it, whether it causes the Respondent prejudice or the public interest in ensuring an appeal is lodged in a timely manner and without delay has been harmed, and finally, the strength of the prospective grounds of appeal and any public interest in its being heard.”

6. In its submissions Sure places reliance on the passage from *The Medical Specialist Group Case* quoted above, and also observations of this Court in *E v E* [2007-08] GLR 133 about the importance of adhering to time limits in the Court of Appeal Rules. They also cite *Gaudion v Weardale Limited* (1997) 24 GLJ 83 as laying down the correct approach for this Court to take. The Court said this at page 93D:

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"In deciding whether to exercise its discretion to extend time for lodging notice of appeal, the Court has to consider the following matters:-

1. Whether [the Appellant has] a sufficiently arguable appeal against the [the judgment under appeal];

2. Whether as a matter of discretion an extension of time should be granted.

This in turn involves a consideration of –

i. the explanation given by [the appellant] for their failure to lodge notice of appeal in due time and their subsequent delay in so doing;

ii. any prejudice to [the respondent] as a result of the late service of notice of appeal and the consequent delay in the hearing of the appeal; and

iii. any other relevant factors."

7. Sure also relies on the reasoning of McNeil JA on the facts of the *Fort Trustees* case, although as those facts differ significantly from the facts of this case, I do not, with respect, derive much assistance from that reasoning.

8. Turning now to the submissions advanced by GCRA as to the reason why an extension of time should be granted, they rely on the facts that:

(1) The delay between the expiry of the 28 day limit and the service of their renewed application for permission was only one day.

(2) No prejudice has been suffered as a result of that delay (as Sure fairly admits)

(3) There were reasons why the extension was necessary – the size and complexity of the case meant it was reasonable for GCRA to use most of the 28 days in preparing for its application for permission to the Royal Court. That left a very short period of time following the dismissal of that application in which to issue a renewed application.

(4) The public interest in having the appeal heard in a timely manner has not be prejudiced by the short delay

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- (5) This Court has ruled that in respect, principally of Ground 1 there is a reasonable prospect of success, so in the circumstances it would be unjust not to grant an extension.

To those reasons I would add a further one, namely the public interest in the appeal being heard. While I would not have granted permission to appeal on public interest grounds alone, without finding a reasonable prospect of success, it seems to me that granted the existence of a reasonable prospect of success there is a public interest in having the Grounds on which I have given permission considered by the Court of Appeal.

9. I have considered Sure's submissions to the contrary, but to my mind, had GCRA given these reasons when it made its application for leave to appeal, an extension would readily have been granted to cover the one day of delay. This was a large and complex case. It was reasonable for GCRA to take most of the 28 day period in preparing its grounds of appeal and its leave application to the Royal Court. I do not think it is reasonable for it then to be expected to lodge its application to this Court within one day of permission being refused by the Royal Court. This is one of those cases where it is almost inevitable that an extension will be required if the appellant has to take its leave application to the Royal Court.
10. That is not, however, quite the end of the matter. In their email dated 17 November 2025, Carey Olsen, on behalf of Sure, raise two other issues. The first is that they say that GCRA's notice of appeal has not yet been validly served. The second is that they say that GCRA was late in setting down its appeal.
11. The contention that GCRA has not yet served its notice of appeal arises out of the fact that the notice of appeal was served only on Carey Olsen, and was not served personally on Sure (whose registered office is outside Guernsey). Sure submits, and it appears to be the case, that Sure never expressly specified Carey Olsen's address as its address for service of the notice of appeal, and there was no order for substituted service. Rule 18 of The Court of Appeal (Civil Division) (Guernsey) Rules, 1964 provides that after the service of the Notice of Appeal a non-Guernsey respondent must give an address for service in Guernsey. Sure's point is that they were not required to give a Guernsey address for service, and did not so, for the notice of appeal itself. That means that rule 19 (which requires personal service) applied to the notice of appeal.
12. GCRA's response makes the following points:

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- (a) the notice of appeal was served on Carey Olsen within the time limit set by the Court.
- (b) No contemporaneous objection was taken by Sure that it had not been properly served.
- (c) Service by email on Carey Olsen had been the means of service adopted at all stages in the proceedings before the Royal Court.
- (d) GCRA reasonably assumed that Sure would not therefore insist on personal service for the notice of appeal itself.
- (e) Sure has suffered no prejudice, because it has been well aware of the notice of appeal ever since it was served on Carey Olsen.

13. It is clear from email exchanges between the parties that, as one would expect, service of documents during the Royal Court proceedings were effected by email. That arrangement also extended to the applications for leave to appeal made to the Royal Court and this Court. As recently as June 2025 Carey Olsen were seeking confirmation that the agreement to serve by email would apply to its reply submissions to GCRA's submissions for leave made to this Court. It is against that background that GCRA served the notice of appeal by email on Carey Olsen. It is arguable whether the email exchanges in June 2025 amounted to a waiver of Sure's right to be personally served with the Notice of Appeal. But what is clear, I think, is that it was reasonable for GCRA to assume that Sure would not insist on personal service of the notice of appeal, which would have been a wholly pointless exercise in the circumstances. That said, GCRA should of course have sought that confirmation rather than proceed on a basis of an assumption.

14. Sure did not take any steps to disabuse GCRA of the idea that it objected to email service until the email of 17 November 2025. GCRA's position is that it is willing and ready to effect personal service if the Court considers it is obliged to do so. That seems to me to be a reasonable line for them to have taken in the circumstances.

15. Turning to the failure to set down the appeal on time, this occurred four days later than it should have done, on the basis that the service of the notice of appeal was effected on 31 August, as GCRA assumed it was. Rule 4(1) requires the appeal to be set down within 7 days after service of the notice of appeal. In fact, no application to set down was made until 11 November. This

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was a straightforward failure to comply with the time limit. Of course, as GCRA point out, if Sure is correct that no service of the notice of appeal has occurred then the time for setting down has not yet run. That is not, however, an explanation that really addresses the point being made, although it does show that, in a sense, the failure to serve the notice of appeal and the failure to set it down on time are, on Sure's case, two aspects of the same issue.

Conclusions

16. I have already decided that GCRA had good grounds for an extension of time necessary to cure the fact that the time for appealing had expired the day before the date on which it served its application for permission to this Court. Nor do I think that the failure to serve the notice of appeal personally should be visited with the consequence of striking out the appeal, having regard to the mitigating circumstances outlined above. Being four days late in setting down the appeal is regrettable but is clearly not an offence of such magnitude that it should preclude the appellant from proceeding with its appeal. However Sure's case is that all of these defaults should be viewed in the round, as a cumulative failure to abide by the rules, so that I should exercise my discretion to decline to give the necessary permissions for the time limits in the rules to be exceeded, with the consequence that the appeal as against Sure would be dismissed.
17. I have weighed up these submissions but have decided on balance that the correct course is to permit the appeal to proceed. The case for granting the necessary extension to the original 28 day period for appeals is strong. The failure to serve the notice of appeal personally (on the assumption that Sure had not waived its right to insist on that formality) was excusable. The delay in setting down is regrettable but not a major factor in the overall scheme of things.
18. For these reasons I am content to grant the extension requested to the original appeal period. In view of the doubt over the proper service of the notice of appeal, I give the following further directions:
 - (1) That GCRA effect personal service of the notice of appeal on the Sure Respondents within 7 days of the date on which this judgment is handed down, unless in the meantime the Sure Respondents state, through their Advocates Carey Olsen that they waive the right to personal service.
 - (2) That within 7 days of effecting service of the notice of appeal or, as the case may be, within 7 days of the date on which the Sure Respondents waive the right to personal service, GCRA set down the appeal.

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