

DE NOVO APPEAL	APPEAL ON THE RECORD	APPEAL AGAINST ERROR	APPEAL ON POINT OF LAW ¹	JUDICIAL REVIEW
No regard to decision of first-instance body.	No regard to decision of first-instance body.	Regard to decision of first-instance body which must in some way have erred.	<p>¹ Generally equated to a Case Stated – see <i>Tully</i>.</p> <p>Regard to decision of first-instance body which must have erred as a matter of law (1) in its determination, and/or (2) its process of determination.</p> <p>By conferring a right of appeal on a point of law, Oireachtas presumed to have intended greater degree of review than in context of judicial review.</p>	Not an appeal. Looking to procedural or substantive lawfulness (as opposed to correctness) of challenged decision.
Appeal body to come to own conclusions on materials properly available to it.	Appeal body to come to own conclusions on materials properly available to it.	No interference with first instance findings of fact, unless no sustainable basis or finding clearly in error. Court entitled to form own view on proper inferences to be drawn (but not on primary facts). Curial deference to first-instance body due.	<p>No interference with first instance findings of fact unless no evidence to support them. As to mixed questions of fact and law, court: (1) may reverse interpretation of documents; (2) can set aside for misdirection in law or mistake in reasoning if conclusions from primary facts could not reasonably be drawn; (3) must set aside if conclusions show wrong view of law adopted.</p> <p>Heightened curial deference to first-instance body due. (<i>Fitzgibbon</i>). Reduced curial deference to first-instance body possible. (<i>Doyle</i>).</p>	
Default position is that everything re-presented	Evidence and materials to be relied upon are those which were before the first instance body			
Caveat: what happened at first instance not necessarily irrelevant or inadmissible	Caveat: may not be practicable to reach conclusions by reference to first instance record without regard to first instance		Caveat: If no mistake in law or misinterpretation of documents, can set aside where inferences drawn at first instance from primary facts could not reasonably be drawn by any such first-instance body.	

Table 1. *Fitzgibbon*: Types of Appeal, Role of Appellate Court, and Judicial Review.