

# Special circumstances arising on appeals

## Withdrawal of appeals

[See CAP Bulletin 03/08]

- 5000 An appellant, or a person accepted as acting on their behalf, can withdraw their appeal at any time before the tribunal make their decision.
- 5001 If the appellant or their representative withdraws an appeal before the TS are informed about the appeal, the withdrawal **must** be notified in writing. The withdrawal is recorded on the appropriate appeals recording system and no further action is taken. The TS do not need to be informed. Send the appellant DL/CAP35.
- 5002 If an appeal:
- has already been sent to the TS, **and**
  - the appellant or their representative notifies the appropriate Agency **in writing** that they are withdrawing the appeal,
- send the notification to the TS on form LT203C. The TS will then take the appropriate action.
- 5003 Withdrawal of an appeal may be notified direct to the TS. DWP Agencies will have no action to take where the appeal has already been referred to the TS. In the event the TS receives a withdrawal notification, but the appeal has not yet been referred to the TS, the notice of withdrawal will be referred to the appropriate DWP Agency and action should continue in accordance with para 5001.
- 5004 If the withdrawal is made at the appeal hearing, it does **not** have to be made in writing. The Chairman will note the records that the appellant has withdrawn their appeal.
- 5005 The TS will notify all PTPP that the appeal has been withdrawn.

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## Withdrawal unclear

- 5050 If the appeal submission has not been sent to the TS and the appellant's intention is not clear, e.g. there is more than one decision involved in the appeal, the appellant's intention must be clarified. The appellant or their representative must be asked to confirm in writing whether they want to withdraw the appeal against all the decisions or just specific ones.
- 5051 If the appeal has been sent to the TS and the appellant's intention is not clear, e.g. there is more than one decision involved in the appeal, the TS will either confirm that the appeal should be withdrawn or decide that the appellant does not wish to withdraw the appeal. The TS will notify all PTPP where it is confirmed that an appeal has been withdrawn.

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## Suspected fraud cases

- 5100 If an appeal is withdrawn on a suspected fraud case, notify the FIS immediately.

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## Appellant changes address

### General

- 5150 If the appellant notifies a change of address after the submission is sent to the TS, telephone the following immediately:
- the tribunal clerk **and**
  - if appropriate, IPC/LPC/NPC **and**
  - any other DM involved in the appeal.
- 5151 Tell them the new address and the date of change, and if necessary confirm the telephone call in writing.

### New address outside tribunal area

- 5152 If the appellant moves to a different area and their case is transferred to another office, check whether the appeal needs to be transferred to a different tribunal.

5153 If the submission has already been sent to the TS, the tribunal clerk will notify the appellant if the case has to be processed at a different location.

5154 If the appellant notifies that they have changed their address before the submission is sent to the TS:

Step	Action
1	note the AT37 that the address has changed and also indicate which office will now be dealing with the appeal.
2	send the appeal submission to the appropriate tribunal clerk
3	transfer the file to the new office
4	clear the appropriate method of recording appeals as normal.

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### Adjourned appeals

5160 Where the appellant:

- changes their address, **and**
- moves to an area covered by a different DWP office, **and**
- the appeal is adjourned,

the original office must send all the relevant documentation to the new DWP office. The new office must take any further necessary action.

5161 In most cases, where an appeal is adjourned the TS will arrange a new hearing date immediately. In this case the notification will normally be sent to the original referring area and must be sent on to the new area without delay.

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### Appeal received after file has been transferred

5170 If an appeal is received:

- after the appellant has changed address, **and**
- responsibility for the benefit case has been transferred to a new office location, **and**

5171 - 5249

- any action on the transferred benefit case has been taken at the new office

the appeal should be sent urgently to the appropriate benefit DM at the new location. In this case, the new location will take all the appropriate action on the appeal, and the original office location should not make any entries on the appropriate method of recording appeals. If the new office location has not taken any action on the transferred benefit case the original office location will retain responsibility for processing the appeal.

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### **Appeal received against DM's decision at previous office**

- 5180 If an appeal is received against an outcome decision made at the previous office location and responsibility for the case has been transferred to the new office, the new office must process the appeal. Contact the previous office by telephone or minute if any further information is needed and if necessary, return the case to the previous office for further investigation.

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### **Appellant dies before the hearing**

- 5200 If the appellant dies before the hearing, inform the clerk to the tribunal of the death. Tell the clerk whether the S of S has appointed a person to act for the deceased so that the appeal can proceed.

#### **See DMG Chapter 06 if the S of S does not appoint someone to act**

- 5201 If no one can be found to act for the appellant, the TS should be informed. The clerk to the tribunal will "abate" the appeal and notify the parties to the appeal that this has been done.

<b>Step</b>	<b>Action</b>
<b>1</b>	complete the appropriate method of recording appeals
<b>2</b>	advise any other DMs associated with the appeal that it is abated
<b>3</b>	file the documents
<b>4</b>	take normal destruction action after 12 months of death if no one is appointed.

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## Striking-out appeals

5250 The TS can strike out an appeal for the following reasons:

- the TAS1 has not been returned, **or**
- the appellant fails to proceed with the appeal, **or**
- the appeal is outside jurisdiction, **or**
- there has been a failure to comply with a direction.

**See DMG Chapter 06.**

5251 If the TS strikes out an appeal, they will notify the appellant and the Department.

5252 When the strike out notification is received:

Step	Action
1	complete the appropriate method of recording appeals
2	take no further action on the appeal, but deal with any outstanding issues.

5253 If the customer applies to have the appeal reinstated, they should do so within one month of the date the decision was made to strike out the appeal.

5254 If the TS decides to reinstate the appeal, they will notify all PTTP.

5255 When the reinstatement notification is received:

Step	Action
1	<p>proceed with the case as for a normal appeal, depending on the stage the case had reached when it was struck out, i.e.</p> <ul style="list-style-type: none"> <li>• if the appeal was struck out because it was considered to be outside the tribunal's jurisdiction and was then reinstated, the referring Agency must issue the submission to the TS, and the appropriate TAS1 and submission to the appellant/other PTTP</li> </ul>

5256 - 5309

	<p>annotate the AT37 "Reinstated appeal" and include the date the TAS1 was sent to the appellant (this will give the appellant a further 14 days to return the TAS1),</p> <ul style="list-style-type: none"> <li>• if the appeal submission and the appropriate TAS1 have already been sent to the appellant and the appeal was struck out for non-return of the pre-hearing enquiry form, and was reinstated because the appellant did not receive a copy of the form or submission, the referring Agency must reissue a copy of the submission to the appellant. The TS will issue a new enquiry form to the appellant.</li> </ul> <ul style="list-style-type: none"> <li>- annotate the AT37 "Reinstated appeal",</li> <li>- issue a new AT37 to the TS if the original AT37 is not available, completing the identifying details only. Send the duplicate AT37 to the TS.</li> </ul> <p><b>Note:</b> if the TS reinstates an appeal because the appellant maintains that they returned the pre-hearing enquiry form, but the TS did not receive it, the TS will inform the referring Agency that the appeal has been reinstated. The referring Agency will not reissue any further documents to the appellant. The TS will issue a new enquiry form to the appellant.</p>
2	<p>re-enter the case on the appropriate method of recording appeals, using as the date of lodgement the date when notification was received that the case had been reinstated. If the appeal is reinstated it will be entered again in order to track its progress.</p>

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## Appellant living outside Great Britain - attendance at hearing

### Representative nominated

5300 If the appellant is living outside GB, the case will proceed as normal if the appellant nominates a representative to take their place at the hearing.

5301 The representative may not live in the area covered by the Regional Tribunal Centre that the appeal papers are initially sent to. In this case the TS will transfer the papers to the appropriate tribunal centre and notify the particular DWP Agency. Send any further details about the appeal to the new tribunal centre location.

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## **Representative not nominated**

### **Appeal held over**

- 5310 If the appellant wants the appeal held over until their return to GB, the clerk will notify all parties that there is a delay in the appeal hearing. Appeals staff may consider noting this on the appropriate method of recording appeals.
- 5311 When the appellant returns to GB, the clerk will notify all parties and the hearing will proceed as normal.

### **No delay**

- 5312 If the appellant does not nominate a representative but does not want the hearing held over, action proceeds as normal.

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