

# PIP20 Appeals

Personal Independence Payment Learning Programme

December 2018

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## Aims and Objectives

### Aims

This module aims to:

- Provide learners with the skills and knowledge to action an appeal request received from Her Majesty's Courts & Tribunals Service (HMCTS).
- Consider the result of an appeal hearing.

### Objectives

At the end of this event learners will be able to:

- Describe the responsibilities HMCTS have for making sure an appeal is valid.
- Explain the importance of and process for lapsed appeals.
- Create and maintain appeal cases on PIPCS.
- Create an appropriate response or further response (previously referred to as a submission or supplementary submission) for an appeal or reassessment appeal.
- State the action to be taken by an Appeals Writer (AW) following an appeal hearing and how to accurately input the tribunal's decision onto PIPCS.
- Recognise the difference between accidental errors, procedural errors and errors in law.

## Facilitator Preparation

Before beginning the module, it is recommended that you complete the following preparation.

These products must be used in conjunction with current operational instructions and will help support operations comply with critical processes and provide improvements to the quality of service to our customers.

Throughout this guide there are references to instructions. You may wish to familiarise yourself with these before presenting the material.

Implementation update 701 - 09/10/2018

There are four main sources of instructions for Personal Independence Payment (PIP) Appeals:

- PIP Operational instructions > Section 10 > Appeals.
- Advice for Decision Making (ADM).
- How to use the Appeals Response Tool (ART) guide.
- **Code of Appeals Procedures (CAP).**

You will need to familiarise yourself with the E-Learning for PIP Appeals Bundle Builder (OLT3381) and ensure your delegates have access also.

Ensure learners have access to the ART at the beginning of the session. They will need to use it later in the module.

Please note that the dates on the case papers for the practice cases in this module do not necessarily match the timeline for the introduction of the Decision Makers' Reasoning Template or for the removal of the mandatory explanation call.

You will need to have hard copies of the case papers (PIP2, PA4, notification letters etc.) for the following claimants:

- John Jones.
- Linda Hughes.
- James Davidson.
- Kevin Jones.

You will need several copies of the preparation proforma for each learner, so they can practice numbering the documents, checking for potentially harmful information.



## Support Material

Successful completion of this event will be measured by:

- Handouts 01 to 05a.
- Walkthrough cases – Mary Smith, John Jones.
- Practice cases – Linda Hughes, James Davidson and Kevin Jones.

## Method of Delivery

This event is facilitator led. It uses walkthrough and practice cases to illustrate the use of the ART.

It also includes:

- Simulations.
- Case Studies.
- Activities.

## Time

It will take approximately six days to complete this learning.

## Topic 01 Direct Lodgement

### The role of HMCTS

All requests for an appeal by a claimant or representative will be made directly to HMCTS. This is called Direct Lodgement.



Refer the learners to Handout 01 – Direct Lodgement for more information.

Over the next two to three years, HMCTS will implement a number of changes that will impact on their customers, their employees, their businesses and Other Government Departments (OGDs) that interact with them, including DWP.

HMCTS have created a Transformation Programme to oversee the delivery of these changes. This consists of a number of initiatives/products that aim to digitise the Social Security and Child Support (SSCS) tribunal and each of these will have a differing impact on DWP.

One of the above products is called the HMCTS Submit Your Appeal (SYA). The SYA process will enable claimants to lodge their Appeal against Personal Independence Payment (PIP) online, in addition to the current clerical process, and aims to support the creation of a digital end to end appeal journey.

HMCTS carry out all of the administrative duties that the Department for Work and Pensions (DWP) previously completed. These duties include carrying out checks to see if the appeal is valid, for example:

- Checking that a Mandatory Reconsideration Notice (MRN) is attached to the appeal request; **unless the appeal is received via SYA in which case the appellant will have been asked to validate on line details from the MRN notice.**
- Establishing if the appeal was made in the correct manner, that it is signed and the grounds for the appeal are included.
- Checking that the appeal was made in the prescribed period.

### Appeal Received Outside the Prescribed Period?

When an appeal is made outside the prescribed period, which is one calendar month from the date the reconsideration notification was issued, HMCTS must establish reasons for lateness. Once these reasons are received and are acceptable, HMCTS will then regard the appeal as compliant. The reasons for lateness will be recorded on form DL16.

If the claimant does not reply to HMCTS' request for reasons for lateness, HMCTS will strike out the appeal. There is no right of appeal against a refusal to treat a late appeal as in time. However, it is possible for a claimant to ask for a judicial review.

HMCTS will return the appeal with a notification to the claimant or their representative explaining why the appeal wasn't accepted. HMCTS will not notify DWP when they have not accepted an appeal request as no action is required by DWP.

If an appeal is late and no reasons for lateness have been provided, HMCTS may, in certain circumstances, send a Notice of Appeal to DWP without reasons. This is because the Tribunal clerk has decided to waive the requirement for reasons for lateness being provided.

A 'waiver certificate' will be provided which explains why the reasons for lateness have been waived. This could happen where, for example, a local or national postal strike had recently taken place. The clerk is only waiving the requirement for the reasons for lateness to be provided. DWP may still object to the lateness of the appeal.

There is also an absolute time limit of 13 months after the date the decision was notified and HMCTS should not accept an appeal received outside this limit.



For more information regarding lateness refer the learners to:

[DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 01 Pre response > Duly made appeal > Appeal outside the prescribed period for appealing.](#)

[Duly made appeal](#)

## Appeal Confirmed

When HMCTS have completed all their checks and accepted an appeal.

### For SYA

- HMCTS will email all of the appeal documents to DWP, including the SSCS1, a request for an Appeal Response and a waiver certificate/DL16 if appropriate.

### PIP Admin Support will:

- Retrieve HMCTS email from shared inbox, including SSC1 PDF.
- DL6 details are shown in email subject line, SSCS Appeal reference number, Appellant's surname and the last three characters of their NINo, including time stamp.
- Date received will be the date email is received in DWP.
- Upload SSCS1 and any further evidence received, if required changing format to PDF, to DRS via Single Document Upload (SDU).
- Register appeal on PIPCS including all relevant information from email, and create communication record, noting "SYA Case" and HMCTS email address for return within Appeal Notes section of the Dispute tab.
- Raise a manual task (Action Required - SSCS1 Appeal Form received) to the relevant appeals work queue (WQ) or designated individual for creation of an appeal record.



Once all actions have been taken on the received email, and documents successfully uploaded to DRS they **must** be deleted from the inbox, desktop/folders **immediately**.

### **For clerically received appeals.**

- HMCTS will send all of the appeal documents to DWP, including the MRN, SSCS1/appeal letter, a request for an Appeal Response and a waiver certificate/DL16 if appropriate. These documents will go to the Mail Opening Unit (MOU).
- In addition to using a unique document identifier, HMCTS letters will bear the HMCTS logo to enable the MOU to differentiate between the different types of documents coming into DWP and for the Workflow Team (WfT) to identify it as an appeal.
- The MOU will scan the MRN, SSCS1/appeal letter, DL6/DL16 and any associated documents into the Document Repository Service (DRS). Details will then be sent to the relevant PIP Benefits Centre (PIP BC).

### **The PIP BC WfT will:**

- create a communication record, and
- raise a manual task (Action Required - SSCS1 Appeal Form received) to the relevant appeals work queue (WQ) for creation of an appeal record.

## Further Evidence received from HMCTS

The claimant may provide further evidence with their appeal which will be forwarded on by HMCTS if received prior to the Appeal response by email.

It will be sent directly to the shared email inbox with the claimants “NINo” and the words “Further Evidence” in the subject line.

This further evidence may be received in a variety of digital formats which Admin Support will convert to a PDF file before uploading on to DRS. They will also create a manual task in PIPCS, to enable the CM to review the evidence.

## Appeal Received by DWP

If the claimant, in error, sends the appeal request to DWP the request cannot be actioned. On receipt of the request the WfT will check to see if a mandatory reconsideration has taken place or is ongoing.

If the mandatory reconsideration has taken place the WfT will return all the documents to the claimant or their representative with notification PIP.2006 advising them to lodge their appeal with HMCTS.

If additional evidence was provided, the WfT will send a task to a CM to consider the evidence. The CM may be able to use this evidence to complete a second reconsideration without the need and additional expense of the case progressing to a tribunal hearing.



Refer learners to PIP19 – Reconsiderations, for the process for completing a reconsideration.

If the mandatory reconsideration hasn't taken place the WfT will create a task for a Case Worker (CW) who must then register a reconsideration request on the Personal Independence Payment Computer System (PIPICS) as soon as possible.

The CW must also contact the claimant or their representative by issuing a PIP.2006 which will explain that their appeal request is being treated as a reconsideration request.

In addition, the CW must record the issue of the PIP.2006 in the Communications record and arrange for a copy to be saved using the Single Document Upload (SDU) process.



If learners are unfamiliar with the SDU process, refer them to the following pathway:

[DWP Homepage](#) > [Operational Instructions](#) > [Personal Independence Payment](#) > [Personal Independence Payment Instructions](#) > [01 Workflow and Task Management](#) > [06 Single Document Upload \(SDU\)](#).

[Single Document Upload](#)

PIPICS generates an automatic task to a CM with a reconsideration skill set to alert them that a reconsideration request has been registered so that they may complete a reconsideration decision.

If the mandatory reconsideration is in progress, the WfT will return the appeal letter to the claimant advising no appeal can take place until the result of the mandatory reconsideration is notified.



If any additional evidence has been provided with the appeal request, it will be tasked to the CM to consider whilst making their reconsideration decision.



Refer the learners to DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 01 Pre Response > Duly made appeal > Appeal sent to DWP in error.

[Duly made appeal](#)



Ask the learners if they have any questions on what has been covered in this topic before moving on.

## Topic 02: Creating and Maintaining an Appeal interest

### Creating an Appeal Record on PIPCS

Appeals requests records can be created by the following job roles:

- Admin Support Officer.
- Delivery Officer.
- Case Manager.

When the PIP user receives the task called **Appeal Request from HMCTS** this is an instruction to the user to create an appeal record immediately.

Once the appeal record has been created, a PIP Appeals Writer (AW) must then produce an appeal response. The AW may be the same person that registered the Appeal request.



When an appeal request is registered by an Admin Support or Delivery Officer, PIPCS generates an automatic task 'Appeal Registration Complete - Further action required' and allocates the task to a CM with an Appeals Writer skill set.

The task 'Appeal Registration Complete – Further Action Required' is not generated when an appeal request record is created by a CM with the AW skill.

This is because the CM has the appropriate level of access to PIPCS to proceed and produce an appeal response following the registration.

DWP has 28 calendar days to provide a response to HMCTS from when the request is received by the MOU.



Refer the learners to Handout 02 – Time Limits for Appeal Response.



To view the steps to register an appeal on PIPCS refer the learners to:

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 01 Pre response > Duly made appeal received from HMCTS > Creating an appeal record on PIPCS.

[Duly Made Appeal Received From HMCTS.](#)



The Operational Instructions reference above, particularly from “Appeal against a disallowance of PIP” onwards provides the learners with the information required to complete a simulated new appeal.

## Simulation – Create an Appeal



Refer the learners to PIP20 Simulation – Create an Appeal and allow time to complete this simulation.

## Populating the Appeal Screen

When the mandatory information has been input to the new Appeal Record screen, the PIP user must select the 'Save' button. PIPCS then validates the information and creates the appeal record with a status of 'Open'.



Explain to the learners that the original task to create an appeal record is then initially deferred for 10 days from the date of receipt of the appeal notification, which is recorded in the start date field in the New Appeal screen.

This deferral is so that the AW can consider if they will be able to meet the 28 calendar day time limit for preparation of the appeal response.

## Applying for an Extension

If the AW considers that the response cannot be produced within the agreed time scale when the ten day timer matures, then they must apply to HMCTS for an extension.

If the AW is unsure if the response can be produced within the agreed time scale, for example, if additional evidence is required or if queries are outstanding with the claimant, then the task must be further deferred.

The AW must defer the task for a total of 21 calendar days from when the request for a response **was received** from HMCTS. If by the time the task matures the AW has been unable to complete the response they will need to establish if the response can be produced within the agreed time scale and if not apply for an extension.

When the AW is certain the case will be late, they must apply to HMCTS on form TL1, for an extension of the time limit, stating reasons why the response is late and when they expect the response to be completed.

**By selecting the 'issue TL1' tick box within the ART, this will add an additional form within section 1 of your appeal response, for you to complete before sending to HMCTS.**



Refer the learners to instructions to view Form TL1:

**DWP Homepage > Operational Instructions >  
Personal Independence Payment > Personal  
Independence Payment Instructions > 10 Appeals >  
07 Appendices > Appendix 4 Form TL1.**

[Form TL1](#)

**The AW must also save a copy of the TL1 by uploading it to DRS via the SDU process.**

The appeal record must be updated and a communication record must be created on PIPCS to reflect the issuing of the TL1.

The AW must not wait for the task to mature to notify HMCTS if the AW knows for certain that the response will be late. For instance the AW may request further evidence a few days prior to the task maturing.

In this example the AW will know the requested evidence will not be received in time to complete the response, so HMCTS must be notified using the template immediately.



When applying for an extension, the AW can also make a request for assistance from the Tribunal if they are having difficulties obtaining information from the claimant or if the claimant is withholding relevant information vital to the appeal.

In these circumstances, the AW can put their reasons for needing this information to the Tribunal and request that the Tribunal consider issuing a direction for the release of this information.



When referring a case back to the AP or requesting further evidence the general rule of thumb is to request a 6 weeks extension.

HMCTS/judiciary will consider the request for an extension to the time limit. HMCTS/judiciary will either make a decision that the delay can be agreed administratively, or refer to a judge for direction.

DWP will have provided HMCTS/judiciary with the information required for the interlocutory referral on the TL1 form and HMCTS/judiciary will refer to a judge for direction.

If the Judge refuses to grant the time extension, then a direction will be provided detailing when the response must be submitted by.



Refer the learners to:

DWP Homepage > Operational Instructions > Personal Independent Payment > Personal Independence Payment Instructions > 10 Appeals > 01 Pre response > Applying to HMCTS for an extension.

[Applying to HMCTS for an Extension](#)

### Editing an Appeal on PIPCS

As only a minimum amount of data is recorded in the New Appeal screen, the main data is recorded using the 'Edit' function in the Appeal screen. Existing information can be edited and additional information can be added later. For example, the hearing date, further evidence requested, adjournments etc.

Only an appeal with the status 'Open' can be edited. It located on PIPCS by navigating via the Appeal List screen, which is where all the Open, Closed or Cancelled appeals specific to the claimant are listed.

The user must be in the claimant's Application Case or Benefit Delivery Case, depending on whether PIP was originally awarded or not, and have selected the Disputes tab. In the Disputes screen the user must select Appeals and PIPCS will then display the Appeal List screen.

The appeal that requires editing can be chosen and when the edit option from the List Action menu is selected, the Edit Appeal screen will display with the fields already populated with the data entered previously.

The Appeals List screen contains four headings Start Date, Decision Date, Conclusion and Status.

Next to the Start Date there is an expansion button. If the user selects this button PIPCS will display the Details Page.

Within the Details page PIPCS displays details of the associated reconsideration, progress of the appeal, lateness, adjournments, outcome and notes.

Next to the Details Tab there are two other Tabs, one is the Decision and the other is Change History.

If the user selects Decision, this will give information about the Outcome Decision if one has been made.

The Change History tab displays dates when a change occurred on an Appeal. If the appeal status is open, numerous changes could have occurred so multiple dates may be displayed. If the appeal is closed there will only be one date and this is when the appeal is cleared.



A simulation - 'Edit an Appeal' gives the learners the opportunity to practice this functionality later in the module.



## Deleting an Appeal on PIPCS

If for any reason an appeal is created in error on a claimant's account there is a facility on PIPCS to delete the appeal, although this should be rare.

From the view menu the user must identify the appeal which has been created in error. The user must then select the action button on the right hand side on the line of the relevant appeal. A drop-down menu with options of either 'Edit' or 'Delete' displays and 'Delete'.

PIPCS will display a confirmation screen where the user must confirm they wish to delete the appeal. Only Appeals with a Status of 'Open' or 'Closed' may be deleted.

If the appeal has been closed the PIP user who created the appeal initially cannot delete the appeal. This must be completed by another user.

The Appeal will remain visible in the View List but have a status of 'Cancelled'.

### Viewing and considering the appeal documents

As with all documents linked to the claimant these can be viewed in PIPCS by selecting the Attachments tab in the Person Homepage. After an appeal record has been created on PIPCS, the AW then needs to review all the information/documents received.

The evidence must be read thoroughly and carefully, including the relevant decision notification and the MRN, to check if the decision under appeal is correct or can be revised. If new evidence has been provided then this must be considered as well.

If the AW considers that the decision under appeal is incorrect and can be revised then it may be possible that the appeal will lapse.



Lapsing an appeal will be covered in the next topic.

If the decision is considered to be correct (even when new information has been provided) and therefore cannot be revised the AW must produce an Appeal Response for HMCTS.

The Appeal Response is prepared using the ART.



Tell the learners that preparing an Appeal Response is covered in detail later in this module



Ask the learners if they have any questions on what has been covered in this topic before moving on.

## Topic 03: Making a Revised Decision Prior to an Appeal Hearing



Make the learners aware of the following information before continuing with the topic.

On 9 March 2017 the Upper Tribunal (UT) handed down a judgement on PIP appeals which considered the meaning of ‘safely’ and a need for ‘supervision’. It clarified that if for the majority of days, a claimant is able to carry out an activity safely, or requires supervision to do so, a tribunal must consider whether there is a real possibility of harm occurring, even though the harmful event or the event which triggers the risk actually occurs on less than 50% of the days having regard to the nature and gravity of the feared harm. The same approach can be applied to the assessment of need for supervision i.e. where the claimant needs supervision, to prevent them from being at risk of harm.

Therefore any decisions made on or after 9 March 2017 should be made in accordance with the above considerations. If ‘safely’ and ‘supervision’ are not required to be considered whilst making the decision, the UT ruling of 9 March 2017 does not need to be taken into account’.

If an appeal has been made to the FtT but a decision is outstanding, you can revise the decision at any time. Where the effect of the UT decision could result in either PIP entitlement or a higher rate of PIP being awarded, the decision must be revised in the claimants favour, this will have the effect of lapsing the appeal.

Refer the learners to instructions by following the pathway below:



DWP Homepage > Operational Instructions > Personal Independent Payment > Personal Independence Payment Instructions > 10 Appeals > 01 Pre response > Decision to revise would be fully to claimant's advantage.

[Decision to revise would be fully to claimant's advantage](#)



Make the learners aware of the following information before continuing with the topic.

Following Appeal outcome, FtT will have considered the UT decision on all cases awarded on or after 9<sup>th</sup> March 2017 and these will have been input on PIPCS.

### Effect of OM Upper Tribunal Decision on negative determination appeals.

In November 2017 the UT handed down a further judgement dealing with the impact of accepting “good reason” following a negative determination when a claimant fails to attend an assessment.



The principles of this decision, also applies in respect of Failure To Comply (FTC); Non-return of PIP 2 and Failure to provide information pre PIP2.

Following an Upper Tribunal (UT) hearing for “OM” it was determined that where a negative determination was made for Failure To Attend (FTA) the assessment, but it is later accepted that the claimant had “good reason”. The negative determination must be set aside because the Secretary of State (SofS) had no power to make it.

Additionally any claimant, whose award of Disability Living Allowance (DLA) was terminated, following the negative determination, must have it reinstated on Disability Living Allowance Computer System (DLACS) by referring the case to a “super user”.

If the DLA record has been “archived” a full record print must be ordered and the case rebuilt by a CW to reinstate the DLA.

The claimant's Personal Independence Payment (PIP) claim will continue. The PIP application should be re-opened, “Good Reason” should be accepted in medical details evidence and the evidence applied, and appropriate action taken to ensure the claimant's PIP claim continues.

For example the claimant should be referred for another assessment via a “Manual AP assessment required” task.

The decision of the UT in OM is a “relevant determination”, SS Act98, s27, dated 23/11/2017.

### Reassessment Cases.

Prior to OM, once the Appeal Writer (AW) had been satisfied and accepted that a claimant had “good reason” for their appeal against the negative determination. They would write to the Tribunal that “good reason” had been accepted but not reinstate DLA.

This led to Tribunals directing the DLA award to be reinstated, but leaving the appeal open for further consideration once a PIP entitlement decision has been made.

Following OM, any appeals that now arise as a result of negative determinations, and it is accepted that the claimant did have “good reason”. DLA will be reinstated and the claimants PIP claim can be continued to be considered with an assessment.

As the reason for the appeal has disappeared, it becomes nugatory. In such circumstances the CM should write to HMCTS asking them to dispose of the appeal, using form OM 1, created on the ART tool.

The appeal record should not be concluded, and a PIP8025 manually issued to the claimant.

### New Claims.

This also applies to new PIP claims, with the only difference being that there is no DLA to reinstate. Again, the AW will write to the Tribunal, using form OM 1, created on the ART tool.

The PIP application should be re-opened, “Good Reason” should be accepted in medical details evidence and the evidence applied.

Then the current determination cancelled and a new determination created. The claimant should be referred for another assessment via a “Manual AP assessment required” task.

The appeal record should be concluded “new decision changed”, a negative determination reconsideration registered and a PIP8024 manually issued to the claimant

### First – Tier Tribunal.

For any appeals that are before a Tribunal in which “good reason” has not been accepted by the CM or AW, the principles of OM will also apply to Tribunals, who on finding “good reason”, should almost always:

- set aside the negative determination;
- reinstate the previous award of DLA; and
- remit the PIP assessment decision to the SofS to decide on entitlement to PIP.

In exceptional circumstances, rather than remitting the matter back to the SofS, the Tribunal has sufficient evidence before it to make a decision on entitlement to PIP. In these circumstances the Tribunal may instead:

- set aside the negative determination; and
- replace it with its own PIP decision.

DLA is reinstated for 28 days following the date of the negative determination and the PIP award backdated to begin on the next day. (The 29<sup>th</sup> day after the date of the negative determination).



Make the learners aware of the following information. 14 days of DLA will have already been paid following the initial negative determination, therefore only a further 14 days can be paid, resulting in a total of 28 days of DLA being paid.



Refer learners to instructions re actions to take.

DWP Homepage > Operational Instructions > Personal Independence Payments > Personal Independence Payment Instructions > 34 Failure to Attend.

[Failure To Attend](#)

If the AW determines that the decision under appeal can be revised, then it is possible that the appeal can lapse.



Refer Learners to Handout 03 – Question Exercise on Lapsed Appeals.



Ask the learners to work in groups of two or three, and research instructions to find out more about lapsed appeals, and then answer the questions on Handout 03 - Question Exercise on Lapsed Appeals.

Then refer them to Handout 03a – Answers on Lapsed Appeals and from information on the following pages.





More information regarding lapsed appeals and the action to take in PIPCS can be found using the following pathway:

DWP Homepage > Operational Instructions > Personal Independent Payment > Personal Independence Payment Instructions > 10 Appeals > 01 Pre response > Consider lapsing an appeal.

[Consider lapsing an appeal](#)



Allow the learners to look through the examples, and answer any questions they may have.

## Consider lapsing an appeal

The purpose of lapsing an appeal is to prevent unnecessary appeals being heard. However, it must not be used solely to prevent an appeal being heard. You must consider if lapsing may apply:

- whenever further evidence is received after an appeal has been received
- when HMCTS has referred an appeal to DWP for a response to be prepared or;
- a change of award to the claimant's advantage as a result of an UT decision.

Case Managers have the power to revise the decision at any time, should they have the evidence to support that change.

Where the effect of the UT decision could result in either a claim to PIP being awarded or a higher rate to PIP being awarded, the decision should be revised in the claimant's favour.

This change in the decision will have the effect of lapsing the appeal.

An appeal can still be lapsed if further evidence is received after the response is sent to HMCTS.



Refer learners to Implementation update #701 issued 09/10/2018 on determining the effective date when lapsing a Business as Usual Appeal.

### Further evidence received after response sent

An appeal can still lapse if further evidence is received after the response is sent to HMCTS. However, this may not always be the case if the evidence isn't compelling enough to support the decision, in which case a supplementary submission to HMCTS would be required.

For more guidance and for examples of circumstances where lapsing an appeal may be appropriate and where lapsing may be inappropriate refer to instructions by following the pathway below:



DWP Homepage > Operational Instructions > Advice for Decision Making > Advice for Decision Making (ADM) > ADM: Common Subjects chapters > ADM A3: Revision, and ADM A5: Appeals – PIP and UC only.

[ADM: A3 Revision](#)   [ADM: A5 Appeals PIP and UC](#)

In considering whether to lapse an appeal you can ask the AP for supporting medical evidence or advice if the appeal concerns disability issues, such as, the descriptors.

If further evidence is not required it must be decided if in considering whether to lapse an appeal you can:

- gather supporting evidence if the issue concerns a lay decision, for example R&P, hospital admission, or
- ask the AP for supporting medical evidence or advice if the appeal concerns disability issues, such as, the descriptors



Refer the learners to the appropriate DM instructions according to whether the decision is based on lay issues or disability issues.

### Decision to revise would be partially to claimant's advantage

If revising a decision would be to the claimant's advantage but not give them all they asked for, you must phone the claimant to discuss the new decision.

This will give the claimant the opportunity to decide if they wish to accept a decision partially to their advantage, or proceed to appeal. It must not be suggested lapsing is the only option.

A communication record must be created to record details of the phone call and details recorded in the Notes section of the Edit Appeal screen.

If the claimant still wants the appeal to go ahead, the appeal response must be prepared. This must contain details of the proposed revised decision, partially to the claimant's advantage, with an explanation as to why this cannot be implemented, i.e. to do so, would mean the appeal would lapse and the claimant would object. This information must be recorded in **Section 4** of the response.



Advise the learners that the relevant provision is Section 9(6) of the Social Security Act 1998 (SSA).

Where the claimant can't be contacted to discuss the new decision, the decision must not be revised otherwise it will lapse the appeal. The appeal must be allowed to proceed and, in the response, details should be given of the proposed revised decision.

It must be explained that this cannot be implemented because, under Section 9(6) of the SSA 1998, this would lapse the appeal.

The appeal will be treated as being against the new, less advantageous decision. The appeal response can be completed after one full calendar month, allowing for any further representations by the claimant.



Advise the learners that they don't need to contact the claimant to discuss the new decision if it is disadvantageous. In these cases the appeal can be revised (disadvantageously) without speaking to the claimant first.

If the claimant agrees the appeal can be lapsed.

### Decision to revise would be fully to claimant's advantage

If you decide the decision can be revised fully to the claimant's advantage the appeal must be lapsed.



Refer the learners to instructions on the step action to take.



DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 01 Pre response > Decision to revise would be fully to claimants advantage > Lapsing an appeal.

[Decision to revise would be fully to claimant's advantage.](#)

### Decision to revise would be less advantageous to claimant

If it has been decided that the decision can be revised but it gives the claimant a less advantageous decision the appeal doesn't lapse. The appeal will be treated as being against the new, less advantageous decision.

The action to take is as follows:

- Give the revised decision (the unfavourable decision needs to be the active decision on PCPS).
- Notify the claimant of the revised decision on PIP.2009 which is a clerical notification.
- Upload PDF copy of PIP.2009 to DRS
- Complete communication record for the issue of the PIP.2009
- The appeal record should be updated but not closed. If this is not possible then the existing appeal record must be deleted and a new one created, but any unique information must be copied from the existing appeal record before deletion

This letter will tell the claimant the appeal will continue, but it will be against the original decision as revised and they have a further month to make representations before the appeal response is sent to HMCTS.



Advise the learners that they don't need to contact the claimant to discuss the new decision if it is disadvantageous to the claimant. In these cases they can revise the appeal (disadvantageously) without speaking to the claimant first.

In these cases, as the appeal response will be delayed for further representations from the claimant ask HMCTS for an extension of the time limit for providing the appeal response.

This notification must be sent straight away and, when giving the expected date for completion of the response, this must allow for the full one calendar month for further representations then any appeal response preparation time after that.



Refer the learners to instructions on the step action to take.



DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 01 Pre response > Decision to revise would be less advantageous to claimant > Para 136

[Decision to revise would be less advantageous to claimant](#)

If, further representations aren't received by the end of one month, the response must be prepared.

If during the one month period, the claimant reports that they have nothing further to add and will not be providing further representations, this will be tasked to the user to note and prepare the response.

Where further representations are made these will be tasked to the user. They must be considered carefully and addressed in the response, unless further revision is an option.

### Decision not revised

If the receipt of further evidence doesn't lead to revision, when preparing your response it must be included in the response bundle and recorded in the Schedule of Events at Section 2 of the response.



Advise the learners that if the further evidence raises any new points this should be addressed in the appeal response.

### Appeal cannot Lapse

If the appeal can't lapse because either the claimant has indicated they are going to continue their appeal or it has not been possible to contact the claimant to discuss the revised decision then the:

- decision must not be revised,
- appeal response to HMCTS must be completed giving details of what the revised decision would be and the Tribunal informed that it cannot be implemented because to do so would cause the appeal to lapse.



A copy of the appeal response should be issued to the claimant and their representative (if appropriate).

To record this decision in the ART the AW must state in 'Section Two – Facts of the Case – Facts' that the AW telephoned the claimant on 'DATE' to discuss the decision and the claimant confirmed they wished the appeal to continue.

Alternatively if the AW was unable to contact the claimant they must record that attempts were made on 'DATES and TIMES' to contact the claimant to discuss the proposed revised decision but these attempts failed.



Details of how to incorporate an appeal that cannot be lapsed into the ART are covered later in Topic 05.

### Requesting Further Evidence

After reviewing all the evidence the AW may decide they require further evidence to determine whether or not to lapse the appeal. If the evidence required is non-medical this must be requested manually. The appeal record must be edited and the Notes section must be completed to record the request for further evidence.



Advise the learners that editing an appeal has already been mentioned and there is a simulation covering this.

The AW must consider if they will meet the deadline for preparing the response when the need for further evidence becomes apparent if they have:

- not yet prepared the appeal response, or
- in the unlikely event, prepared the response but not yet sent it to HMCTS.

Generally a claimant is given one month to provide information requested by DWP. It is therefore unlikely that the response will be prepared in time to meet the deadline. In these cases HMCTS must be asked for an extension at the outset.

The appeal record must be edited and a communication record must be created on PIPCS to reflect this. The AW must also ensure that a copy of the TL1 is uploaded to DRS using the SDU process.



To view the steps required to request evidence in PIPCS please refer the learners to:

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 01 Pre response > Obtaining Further evidence > Non – medical evidence needed.

[Obtaining further evidence](#)

## Requesting Medical Evidence

If the AW decides that medical evidence is required they may wish to discuss the case with the QAM. The QAM will discuss the case with the AP and then inform the AW of the outcome.

Following their discussion, the QAM records the conversation by entering a new note directly into Decision Assist under the “notes” tab.

The AW must consider if the appeal response can be produced within the agreed deadline, if the AP has to obtain further medical evidence and the AW:

- has not yet prepared the appeal response, or
- has prepared the response but not yet sent it to HMCTS

If the AW can't meet the deadline then they must ask HMCTS for an extension of the time limit. The TL1 must be sent as soon as it is established the response cannot be produced in time. The appeal record must be edited and a communication record must be created on PIPCS to reflect this.

The AW must also ensure that a copy of the TL1 is uploaded to DRS using the SDU process.



To view the steps required to request medical evidence in PIPCS please refer the learners to:

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 01 Pre response > Obtaining further evidence > Medical advice/evidence needed.

[Obtaining further evidence](#)

The AW must create a task for receipt of the evidence applying the appropriate deadline, taking into account the type of evidence they've requested.

The AP would have arranged for the further evidence to be returned to the MOU. When received it will be scanned and stored on DRS. A task is created and allocated to a user with an appeals skill set. The AW must consider the new evidence and decide if they can lapse the appeal. The AW may discuss the case again with the AP via the QAM but this isn't mandatory.

### Simulation – Edit an Appeal



In this scenario the learner will edit an existing appeal record to record that they have requested further evidence.



Refer the learners to PIP20 Simulation – Edit an Appeal and allow them time to complete.

## Change of Circumstances (COC) Reported

Any circumstances which change after the date of the appealed decision cannot be taken into account by the tribunal.

If the claimant reports or provides medical evidence clearly showing a COC has occurred, the AW must decide if a supersession is appropriate. If the decision under appeal is superseded before the appeal is heard, it does not mean the appeal can lapse.

The AW's decision will be based on whether or not the claimant has been awarded PIP.

## No current PIP Award

If the claimant reports a COC whilst the appeal is ongoing and they have no current award of PIP; the AW must:

- complete a further response (providing the original response has already been sent) informing HMCTS that a change has occurred but it cannot be considered as it happened after the date of claim, and
- Contact the claimant over the phone to invite them to make a new application to PIP.

## Current PIP Award

If the AW establishes that the change will not affect the claimant's award, the AW makes a decision not to supersede. The AW will select the supplementary response tick box within the ART tool and include a supplementary response for those cases where a response has already been issued to HMCTS.

The AW must also inform HMCTS that they can't consider the reported change as it occurred after the date of claim.

If the AW establishes the COC affects the claimant's entitlement to PIP, the AW must:

- Complete the supersession decision from the effective date of change.
- Complete a further response and form AT39 to inform HMCTS that the award of PIP has been changed from a certain date.
- Inform HMCTS that they can't use this evidence as the change occurred after the date of claim. They should restrict the tribunal decision to the day before the effective date of supersession.

If an overpayment has occurred the AW must refer the case for overpayment action following normal procedure.

However HMCTS may take account of evidence produced after the decision under appeal has been made where it provides information relevant to the decision under appeal.

For example if the claimant produces a medical report that shows a change in diagnosis, then this report can be considered.



### For reassessment cases:

If the claimant appeals against the PIP decision it is necessary to include an explanation about the run-on period and award extension for Rising 16s in the appeal response. This will prevent the tribunal from awarding PIP or increasing an award of PIP for a period for which DLA has already been paid.

The tribunal is told the earliest date from which PIP can be considered and the relevant legislation which is The Personal Independence Payment (Transitional Provisions) Regulations 2012 Reg.17(1)(b).

Therefore if a change of circumstances has occurred after the date of the PIP claim and before or after the end of the run-on period the tribunal must be informed that they can only award from the day after the run on period ends up to the day before the effective date of the supersession.

This is automated in the ART.

## Using Reports from Other Benefits

When a claimant disputes or appeals a decision and argues that a medical report produced for another benefit is more favourable to them, the AW must, if possible, obtain a copy of the other report and take it into account when reconsidering the decision.

For example, a claimant may highlight the fact they were awarded benefit on Employment and Support Allowance (ESA).

The ESA assessment report (ESA85) is stored on the Medical Services Referral System (MSRS).



For information on how to gain access to MSRS refer the learners to :

DWP Homepage > Operational Instructions > Working Age Benefits > Employment and Support Allowance > 01 ESA Instructions for service centre processing > 10 WCA > 09 MSRS User Guide > How to navigate and use Medical Service Referral System.

[Medical Service Referral System](#)

The AW must consider if the ESA85 contains any information which may cause them to reconsider the PIP decision. The AW may consult with the AP via the QAM. This may lead to the appeal being lapsed

If the ESA85 does not hold information that would affect the PIP decision and the appeal proceeds, a copy must be included in the appeal documents as evidence and referred to in the appeal response. The AW must ensure that the tribunal is made aware of any decision making and appeals process which may have followed the production of the report.

The AW must use the findings about the claimant's functional ability to explain how this supports the current decision or why it's no longer valid.





The AW must make it clear that this report is for a different benefit for which different entitlement conditions apply.

The AW must be aware of the 28 day limit for providing the response and whether it is necessary to apply for an extension.



Refer the learners to:

DWP Homepage > Operational Instructions > Advice for Decision Making (ADM) > Advice for Decision Making (ADM) > ADM: Common Subjects chapters > ADM A5: Appeals – PIP and UC only > Evidence A5286 – A5319 > Exchange of medical reports A5311 – A5314

[Exchange of medical reports](#)

## Topic 04: Striking Out an Appeal

### HMCTS Strikes out an Appeal

HMCTS may strike out an appeal for various different reasons



Ask the learners to find out, using the ADM and CAP instructions, the reasons why an appeal may be struck out.

The ADM reference is Chapter A5 > When is an appeal struck out A5230 – A5285 > The appellant A5230 – A5234 and The respondent A5235 – A5239.

[The appellant](#) [The respondent](#)

The CAP reference is – DWP Homepage > Operational Instructions > Working Age Benefits > View all Working Age Benefits > A to C > Code of Appeals Procedures > Code of Appeals Procedures > Code of Appeals Procedures Guide > Striking out appeals > Para 79 - 82.

[Striking out appeals](#)



The learners should be able to establish that HMCTS can strike out an appeal for any of the following reasons. These are judicial decisions and each case is considered individually.

- The appeal is outside the jurisdiction of the tribunal. This includes appeals against decisions that do not carry appeal rights (out of jurisdiction appeals are covered later in the topic). With Direct Lodgement, HMCTS will be the first to see these so will identify these.
- The claimant fails to comply with a direction. This is where, for example, the claimant fails to provide information that has been asked for and they were told that their appeal would be struck out if they did not comply.
- The claimant fails to co-operate with the tribunal to the extent that the proceedings cannot be dealt with fairly and justly.
- Late appeals and appeals made outside the absolute time limit. Late appeals, where reasons have been provided, are referred to DWP to consider.
- The tribunal considers there is no reasonable prospect of the claimant being successful.
- The strike out provisions also apply to the Secretary of State's case (the respondent) except in these cases it means that the respondent (DWP) is barred from taking part in the proceedings rather than the proceedings being struck out.

When HMCTS strike out an appeal they notify both the claimant and DWP and give details of the right of reinstatement

If an appeal is struck out then PIPCS must be updated to indicate the status of the appeal. No further action would be taken on the appeal except to deal with any outstanding issues.

## Reinstatement

If appeal proceedings have been struck out, the appellant can apply in writing to HMCTS for proceedings to be reinstated. Where the respondent has been barred from taking further part in the proceedings, then they can apply to HMCTS for the bar to be lifted. An application for reinstatement or lifting of the bar has to be made within a month of the striking out or barring being notified.

HMCTS will decide if the appeal can be reinstated and will notify DWP if they reinstate an appeal.

When a reinstatement notification is received, the appeal proceeds as normal depending on the stage the case had reached when it was struck out.

The appeal must be re-entered on PIPCS using the date HMCTS treat the appeal as having been made.

## DWP Requests the Appeal is Struck Out

Whilst it is only HMCTS who have the authority to strike out appeal proceedings, DWP will have an opportunity to request the appeal is struck out by HMCTS.



[DWP Homepage > Operational Instructions > Advice for Decision Making > Advice for Decision Making \(ADM\) > ADM: Common Subjects chapters > ADM: A5 Appeals – PIP and UC only > When is an appeal struck out > The appellant > Para A5233](#)

[The appellant](#)

## No Reasonable Prospect of Success (NRPS)

If an AW considers a case has no reasonable prospect of success, then they must return the case to HMCTS **before** writing the appeal response.

Details of the appeal must be included along with reasons why there is no reasonable prospect of success.



For full details of the action to take when NRPS is identified refer the learners to:

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 01 Pre response > Appeal received from HMCTS no reasonable prospect of success (NRPS).

[Appeal Received HMCTS no Reasonable Prospect of Success \(NRPS\)](#)



Examples of the types of case suitable for applying for strike out on the grounds of NRPS can be found at:

DWP Homepage > Operational Instructions > Advice for Decision Making > Advice for Decision Making (ADM) > ADM: Common Subjects chapters > ADM: A5 Appeals – PIP and UC only > Appendix 1

[Appendix 1](#)



This has become an issue particularly for appeals in reassessment cases because of the four week run on.

## Out of Jurisdiction Appeals

If a claimant appeals against a decision without appeal rights HMCTS will identify these appeals as an out of jurisdiction appeal. HMCTS will complete all the administrative work and they will not notify DWP they have received the appeal. DWP will not receive any out of jurisdiction appeals.

However this does not prevent the AW from referring a case back to HMCTS if the AW considers the matter outside the appeal tribunal's jurisdiction because of information they hold that HMCTS may not be aware of.



For more information refer the learners to:

DWP Homepage > Operational Instructions > Advice for Decision Making > Advice for Decision Making (ADM) > ADM: Common Subjects chapters > ADM Annex E: Decisions and Determinations that are not appealable.

[ADM Annex E](#)



HMCTS may not strike out proceedings for out of jurisdiction, failure to co-operate or no reasonable prospect of success before allowing the claimant the opportunity to make representations to the tribunal about the matter.



Ask the learners if they have any questions on what has been covered in this topic before moving on.

## Topic 05: Preparing the Appeal Response

### Background

Any decision notification (including the MRN) must provide a clear, detailed explanation of the reasons for the decision, which has been drafted in line with the Quality Assurance Framework (QAF) checklist for making a decision.



Refer the learners to :

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 19 Management and Quality Assurance Framework (QAF) checks > 02 PIP QAF Making a Decision Checklist – New Claim > 02 PIP QAF Making a Decision Checklist – New Claim.pdf.

[PIP QAF Making a Decision Checklist](#)

The notifications and evidence to support the decision are stored in DRS and full reasons for the decision are held in PIPCS.

If the claimant has requested an explanation of the decision, then a CM will have contacted them to provide the explanation. (For more information, please see module PIP18 - Explaining the Decision).

If the claimant disputes a decision, the claimant may be contacted to gather additional evidence and/or to determine the points under dispute.



An explanation of the decision may also be given at the same time. The record of these calls is held within PIPCS, not DRS.

Full details of each conversation must be recorded in the Communications record and in the format “we asked/said...the claimant said...” HMCTS have provided helpful feedback that capturing conversations will help DWP to challenge any claimant assertions to the contrary at the tribunal hearing.

When the AW has read all the relevant documents held in DRS and PIPCS and decided that the decision cannot be revised and is ready to complete their response.

The following actions will need to be taken in respect of appeals made via SYA and Bundle builder is being used.

### Bundle Builder

The bundle builder has been designed to support the appeals response process.

It will assist the AW to collate and create the appeal bundle. The bundle builder automates the retrieval of DRS documents and displays them for review as a PDF, removing the need to print paper copies.

The AW can then discard, rename and reorder pages. The whole bundle is then automatically numbered ready to be printed off. The bundle can then be uploaded to DRS.



If there are over 300 documents for a case in DRS Bundle Builder will return an error message. In these cases the Appeal Writer will need to create a manual bundle.

How to use Bundle Builder is covered later in this learning.

- Use the Bundle Builder to generate the PDF bundle, which sorts the documents into the correct order and numbers them.
- Identify any potentially harmful information.
- Prepare appeal response using the ART
- Extract the Schedule of Events txt file and add additional lines if required
- Once appeal response is complete **do not save** the ART Word document instead:
  - select “Add ins”, from the top tool bar,
  - select “Produce PDF’s”,
  - this splits the documents and saves Submission, AT38 and PIP2010 in the Document Library.
  - Upload documents to DRS as appeal outcome
  - Close PIPCS task, noting SYA case with name/date/office in the task and disputes tab.

- In circumstances where there is a representative on the case, include a repro sheet for admin support
- Email bundle to the relevant DWP SYA Shared inbox, ensuring subject line is in correct format.

Refer learners to instructions re the action to take in regard of UCB or the case is harmful via the following pathway.



DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 02 The Response > Dealing with potentially Harmful Information.

[Dealing with potentially harmful information](#)

On receipt of the appeal response within the DWP SYA shared inbox

## Admin Support:

- Will complete any actions in respect of UCB or harmful information
- Print out appeal bundle for appellant,
- Where there is representative involvement the document bundle is sent to reprographics, before referring on to appellant/representative
- Emails bundle to HMCTS originating email address from DWP shared email inbox. Including Appellants HMCTS appeal reference number and the Word response in the subject line.



Once the email has been sent to HMCTS making sure that EMAILBLOCK has been removed. It must be deleted from the sent items, and deleted items folders **immediately.**

Once HMCTS have received the Appeal Response they will schedule a hearing and notify DWP and the claimant.

Where the appeal has been made clerically the AW will complete the following steps.

- The required documents are printed from DRS.
- Any potentially harmful information is identified.
- The documents are sorted into the correct order and numbered.
- The appeal response is prepared using the ART.
- The appeal response and form AT38 must be saved on DRS using the SDU process. Additionally, a copy of the appeal response is printed from the ART.
- All the documents are sent to reprographics.
- Finally the AW follows the normal procedure to refer the case for overpayment action if appropriate.

Once HMCTS have received the Appeal Response they will schedule a hearing and notify DWP and the claimant.

## Preparing the Appeal Response Documents when appeal is received clerically

The AW must first identify all the documents that were available when the decisions were made. These must be included in the appeal bundle, along with the dates they were received.



Ask the learners where they would find the decision documents and the dates that they were received?



They can be identified by accessing the Contact tab in the Person Homepage on PIPCS and then 'Attachments' from the left hand side navigation panel.

Once identified and selected these will be printed from DRS.



For further information, refer the learners to:

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 02 The Response > Preparing the Documents.

[02 The Response](#)

Any internal advice, for example from DMA Leeds or a QAM, is not evidence and must not be disclosed to the claimant, their representative or the tribunal. The only exception to this is advice from an AP, unless it concerns potentially harmful information.



The order in which documents that make up the appeal bundle is in instructions. Refer the learners to:

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 02 The Response > Numbering the Documents.

[02 The Response](#)

The documents must be clearly and correctly numbered at the top in black ink and recorded, for easy reference, in date order in Section Two - Facts of the Case – Schedule of Events of the Appeal Response.



It is advisable to number the pages in pencil initially to avoid errors. Once the AW is sure that all the documents are complete and sequentially correct then they must ink over the numbers in black.



The appeal response should not be referred to in the list of evidence; it only needs to be included with the bundle of documents.



Ask the learners which documents we can obtain as hard copies and which we cannot obtain as hard copies.



Suggest that a list is made on the whiteboard in two columns – Available as hard copy/not available as hard copy.



Some expected answers may be:

Hard Copy Available – PIP2, PA4, Medical Evidence.

No Hard Copy Available – PIP1 (unless paper claim form requested), record of telephone calls made.

Any information obtained over the telephone is not available as hard copy so can't be included in the appeal bundle. However it should be recorded in the 'Schedule of Events' in date order.

Full details of telephone calls including explanation calls are recorded in section 2 – Facts. The information from a communication record or from a notes box can be copied from PIPCS and pasted into the ART.



Instructions on how to do this will be covered later in the module.





Taking screen prints from PIPCS to be included in the appeal bundle is not required as there is the facility to copy and paste necessary information from PIPCS.



Refer the learners to:

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 02 The Response > Documents to be included.

[Documents be included](#)

There are a number of dates required for the response, which must be obtained from PIPCS. There will be an opportunity to look at this in more detail in a simulation later in this topic.

### Potentially Harmful Evidence (PHE)

PHE is any information that if disclosed, would be detrimental to the claimant's health. PHE must be withheld if the claimant is unaware they

- are terminally ill, or
- have a poor prognosis which could be detrimental to their health if disclosed.

Once the relevant evidence for the appeal response has been collected, the AW must check to see if any documents contain a harmful marker. If any documents have a harmful marker this must be recorded on the AT38.

The AW must then complete two sets of documents, one edited and the other unedited which are both sent to HMCTS.

The edited documents must not include any of the documents which have been identified as harmful.

The unedited version includes all the documents including those containing harmful information.

Special care needs to be taken when numbering documents.



Numbering of documents for producing a response is covered in more detail later in the module.

HMCTS will then make a decision on which set of documents will be used during the proceedings.



For further information on potentially harmful evidence, refer the learners to:

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 02 The Response > Dealing with Potentially Harmful Information.

[Dealing with potentially Harmful Information](#)



Ask the learners to read through this section of the guidance and answer any questions that they may have.

### Activity - Numbering the Documents



Give the learners copies of the case papers for John Jones.

Ask them to put the documents in date order and then number them, as per the guidance, ready for writing the Appeal Response.



Please note that the Case Studies for the Appeals cases are held in a separate folder within the Appeals folder and not in the folder with the other case studies.

This is because the dates are different on the Appeals cases.



The learners will require the following information:

(Consider writing this information on a flip chart or white board.)



For non-reassessment learners:

On 14/04/2014 Mr Jones made a claim to PIP over the phone and was disallowed both components. Mr Jones requested a reconsideration but the decision wasn't changed. Mr Jones then appeals the decision.



For reassessment learners:

Mr Jones was awarded DLA lowest rate care component for three years from 29/08/2011 to 28/08/2014.

DWP wrote to Mr Jones on the 10/04/2014 to invite a claim to PIP.

On 14/04/2014 an application to PIP was made over the phone. During this call Mr Jones confirmed he didn't want evidence used for his DLA decision to be considered for PIP. After Mr Jones submitted his application he also sent us a report from his hospital and a current prescription.



Once the learners have numbered the documents for the John Jones case, ask them to put them to one side as they will be used later on for writing a response.

## The Appeal Response

The Appeal Response consists of four sections

- Section 1 – Personal and representative/appointee details and dates critical to the appeal.
- Section 2 – Facts of the case including illnesses and disabilities, schedule of events and record of facts.
- Section 3 – The Decision under Appeal
- Section 4 – Reasons for Appeal / Areas not in dispute



The information needed for each of these sections will be looked at later.

All appeal responses sent to HMCTS must be accompanied by a completed AT38 form, this along with the PIP.2010 form are automatically produced from the latest ART version tool.

A focussed appeal response addresses not only the areas of dispute, but also areas not contested by the claimant. This will include any activities of daily living the claimant says they can manage without assistance and where they say they have no problems going out.

The response must also address whether the claimant is able to manage daily activities safely to an acceptable standard as often as they need and in a reasonable time.

The reasons for the decision in the MRN must be checked to ensure they address all the issues up to the point of appeal. Any issues which have not been fully addressed must be addressed in the appeal response along with any additional points raised by the claimant in the appeal request.

All points need to be clearly addressed so the claimant and tribunal can understand why the decision cannot be changed.



The appeal response must:

- Provide assurance that the decision under appeal has been checked and found to be correct.
- Ensure issues not addressed in the MR decision are identified and clearly explained.
- Clearly identify the dispute grounds and provide a reasoned argument where the Department's and claimant's views differs, linked to the supporting evidence.
- Identify relevant facts that support the descriptors selected for a disputed activity.
- Cover aspects unrelated to activities for example care home funding.



The appeal response must also:

- Be brief and clear, personalising the response using plain English to fully address the grounds for the dispute response.
- Be easy to read with spaced paragraphs, avoiding departmental jargon.
- Address inconsistencies or discrepancies in the evidence, including the HP report.
- Make best use of paragraphs from the ART, personalised as appropriate.
- Document significant telephone contact with claimant and any relevant evidence content of the call.
- Provide a bundle of documents with a clear and complete chronology of events.
- Address relevant Disability Living Allowance (DLA) or ESA evidence.
- Set out how the aid/appliance has been considered as part of the decision, and
- Only refer to relevant legislation and case law, if required.



The appeal response is produced by the ART which provides a short, focussed response addressing the claimant/appellant's reasons for appeal.

The template collates the series of data manually input by the AW and uses this data to populate the response. Once completed, the appeal response is produced in the form of a Microsoft Word document.

### The Layout of the Appeal Response



Refer the learners to Handout 04 – Layout of the Appeal Response and go through the format with the learners.

#### Section 1

The first section of the appeal response covers the claimant's and their representative's personal information, the decision dates and the decision maker's name and address. These dates can be obtained from PIPCS or from the case papers.

#### Section 2 – Facts of the case

This is divided into three parts:

**Illnesses and disabilities** – this is pre-populated with information from PIPCS but anything that has been missed can be added.

**Schedule of Events** – this is a start to finish history of the case in date order although items that are not relevant or do not add value are not included, for example, failed to contact phone calls which are followed by a successful call.

However calls where contact is made with the claimant at significant points of the PIP journey are recorded in this section.

**Facts** – this is extra space to record evidence which does not have a supporting document. It is mainly for accounts of telephone conversations copied from PIPCS, Other Benefit Details, home visit assessments, previous PIP claims or award reviews and further PIP claims.

### Section 3 – The decision under appeal

This is the section where the decision that the claimant is appealing against is detailed. Again it is copied from PIPCS. The points scored and rates for each component are displayed.

### Section 4 – Reasons for Appeal / Areas not in dispute

This section addresses activities which the claimant, has not dispute at appeal stage and has been covered by the initial decision or the MR decision.

It then addresses activities specified in the appeal by briefly outlining the claimant's dispute followed by a personalised argument covering all aspects of the dispute.

Giving outcome as to whether the CM is upholding or changing the decision for each disputed activity.

Finally, address any other points of dispute i.e. change of circumstances. It is used to address any UT decisions, and reasons for preferred evidence.

## AT38

All appeal responses sent to HMCTS must be accompanied by form AT38, which is automatically produced by ART.

In addition to the claimant/appointee details, there is a provision for the relevant case code to be inserted which is required by HMCTS.

The code is made up of three numbers followed by two letters. The numbers show whether it is a new claim appeal, 002, or a reassessment appeal, 003. The letters denote the type of case, for example LC (lower care) where activities of daily living are at issue.

The AT38 also includes information about whether or not:

- an oral hearing is requested (requiring a Presenting Officer (PO) to attend);
- potentially harmful medical evidence is present;
- claimant has an Unacceptable Customer Behaviour (UCB) marker, or
- the case is complex.

There is also a provision to include any other information that the tribunal should be aware of in the Further Information box.



More details about completion of the further information box can be found in PIP instructions.

Refer the learners to:

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 07 Appendices > Appendix 21

[07 Appendices](#)



PIP Appeal case codes can be found by following:

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 07 Appendices > Appendix 5 PIP Appeal Case Codes and Instructions for Use

[07 Appendices](#)

## Producing Appeal Responses using the ART



The ART is a fairly complicated concept to grasp so the intention is to build up the learning in 'bite-sized chunks' starting with a straightforward case without any case papers (Mary Smith).

Next will be the case for John Jones involving using the previously numbered documents to prepare for and write the response for a more focussed and specific appeal.

Finally ordering and numbering the case papers for Jean Clarke before preparing for and writing a response for a more vague appeal.



The ART paragraphs do not always contain all the details that an appeals writer may want to include in their response as this is at the discretion of the appeals writer.

The ART paragraphs are just a starting point and additional personalisation is normally necessary.

## Mary Smith- Walkthrough Case 1



The Mary Smith case is available as either a walkthrough for the learners or it can be used as a demonstration by the facilitator.

For the latter the ART could be projected onto a screen and populated or a Lync meeting could be facilitated and then the ART populated.

If it is delivered as a demonstration then the learners can initially concentrate on what the ART looks like without having to do it themselves.



For this walkthrough/demonstration you will need to have access to the ART, the XML document and the text files from the appropriate folder for Mary Smith.

For the ART to work, the ART and XML document must be in the same folder.

There are step by step instructions for this Mary Smith walkthrough/ demonstration available separately. The title of the document is 'ART Walkthru M Smith'.

Having used the ART to draft the appeal response the Word document produced must be checked and edited if necessary to ensure that the content is correct **before selecting add ins and producing PDF's for uploading onto DRS.**

## Preparation Proforma

As can be seen from the Mary Smith example a certain amount of information in the form of dates is needed to populate the ART. Some of it can be found in the case papers but there is some that has to be collected from PIPCS.

Whilst getting used to using the ART, it is worth preparing all the information/dates needed to complete the ART before accessing the template. This saves time having to go in and out of the template and PIPCS.

The information collected can be recorded on a proforma.



Refer the learners to Handout 05 – Preparation Proforma.



The learners may or may not find it helpful to use this proforma in the future but for the purposes of this learning, it is recommended that it is used at this time. It should help them to focus on the information needed for particular parts of the template.

The format of the proforma helps reflect the information required.

For example if a letter is received:

- Date of Event = date of receipt of the letter
- Date of Document = date when the document was signed or the date in the top right or left corner of the letter.
- Date of Decision is the date on PIPCS which is particularly important on reassessment cases as it is the date used for the four week run on.

Generally this can be found in the Dispute tab – Explanation but it must be double checked on the Determinations tab and then Determinations History for the correct date.



Ask the learners to access the following simulation and work through it with Handout 05 to see where the information can be found.



Handout 05a shows whereabouts on PIPCS the information can be found.



## Simulation – View Appeal Details



The following simulation demonstrates where information required for a standard appeal response can be found on PIPCS.



Refer the learners to Simulation – View Appeal Details.



The next step is to return to the John Jones case papers and complete the preparation proforma for his case prior to writing the appeal response.

## Walkthrough Case 2 – John Jones



Ask the learners to use the case papers and the information below to complete the preparation proforma for John Jones.

This walkthrough can be used for both a reassessment and non-reassessment audience

For the non-reassessment learners:

On 14 April 2014 Mr Jones made a claim to PIP over the phone and was disallowed both components. Mr Jones requested a reconsideration but the decision wasn't changed. Mr Jones then appeals the decision.

For the reassessment learners:

Mr Jones was awarded DLA lowest rate care component for three years from 29 August 2011 to 28 August 2014.

DWP wrote to Mr Jones on 10 April 2014 to invite a claim to PIP.

On 14 April 2014 an application to PIP was made over the phone. During this call Mr Jones confirmed he didn't want evidence used for his DLA decision to be considered for PIP. After Mr Jones submitted his application he also sent in a report from his hospital and a current prescription.



Once the learners have completed the proforma, ask them to access the ART from the shared folder.

Remember the XML document 'appeal response 2' must be present in the same folder as the ART.

The ART, XML document, How to Guide and Excel file with the ART paragraphs is held in each site's shared folder for easy reference.



The learners will also need the following text files so that they can copy and paste the details, that would normally be copied from PIPCS, into the ART:

- DLA decision details (reassessment only);
- J Jones decision, and
- J Jones home page/J Jones home page reassessment.

These files may need to be emailed to the learners.

Once the learners have all the relevant files, you are ready to walk them through the preparation of an appeal response for John Jones.



There are step by step instructions for the walkthrough for John Jones available separately. The name of the document is 'ART walkthru J Jones – non-reass' and 'ART walkthru J Jones – reassessment'.

It is recommended that the learners refer to the case papers at all stages of this walkthrough.

When preparing appeal responses, a copy of the response **must** be retained on DRS.

To do this, with the Word document still open, select

- 'Add-ins' option on the toolbar (furthest left next to View) and then,
- "Produce PDF's". This saves 3 documents in your document library for uploading to DRS as Appeal outcome.

## Appeals which cannot be Lapsed

If the appeal can't be lapsed because either the claimant has indicated they are going to continue with their appeal or it has not been possible to contact the claimant to discuss the revised decision then this must be recorded in the appeal response.

To record this decision in the ART, the AW must state in 'Section Two - Facts of the Case' that they telephoned the claimant on 'DATE' to discuss the decision and the claimant confirmed they wished the appeal to continue.

Alternatively if the AW was unable to contact the claimant they must record that attempts were made on 'DATES and TIMES' to contact the claimant to discuss the decision but these attempts failed.

Where the AW thinks more points could be awarded but the appeal cannot be lapsed, then the details are recorded in the ART as follows:

- Concession on one or more activities which aren't disputed would be covered at section 4.

Where the additional points result in a threshold being crossed, then, in the conclusion, it would no longer be correct to say: “I oppose this appeal and ask the Tribunal to dismiss the appeal and confirm the Secretary of State's decision.”

Where the new points score would cross a threshold, the conclusion needs to be replaced with: “I called the claimant to explain their [daily living/mobility] rate could be increased to [standard/enhanced] but this would lapse their appeal.

The claimant wanted their appeal to continue.

I ask the Tribunal to confirm the Secretary of State's decision on [daily living/mobility] but support increasing the [daily living/mobility] to the [standard/enhanced] rate.”

## Topic 06 – Practice Cases



There are three practice cases in this module covering both reassessment and non-reassessment learners.

This is an opportunity for the learners to practice using the ART to create an appeal response.



Remember the Case Studies for the Appeals cases are held in a separate folder within the Appeals folder and not in the folder with the other case studies.

This is because the dates on the Appeals cases are different



It is strongly recommended that, as the facilitator, you spend some time getting used to finding the different paragraphs as there are so many of them. You may find the Excel file is the best way to search through the paragraphs.



It is recommended you access and view this Excel document with the learners, if you have not already done so already.

There is a search function available by using 'Ctrl and F'.

Once the responses have been created, allow time for learners to peer review each other's work.

### Practice Case 1 – Kevin Jones

On 11 June 2018 Mr Jones made a claim to PIP and was disallowed at new claim stage. At reconsideration stage the decision was unchanged. Mr Jones is now appealing this decision.



Refer learners to the case papers for Kevin Jones and allow them time to create a response for her appeal using the ART.



For reassessment learners:

The learners will require the following information to complete their response. Consider writing this information on a flip chart or white board.

Mr Jones was awarded DLA middle rate care component and lower rate mobility component for 4 years from 22 October 2014 to 21 October 2018.

DWP wrote to Mr Jones on 04 June 2018 to invite a claim to PIP.

On 11 June 2018 an application to PIP was made over the phone and during this call Mr Jones confirmed he didn't want evidence used for his DLA decision to be considered for PIP.



Once the responses have been created, allow time for learners to peer review each other's work.

### Practice Case 2 – Linda Hughes

On 15 March 2018 Mrs Hughes made a claim to PIP over the phone and was awarded standard rate of Daily Living but disallowance of Mobility component at new claim stage. At reconsideration stage the original decision was unchanged. Mrs Hughes is now appealing this decision.



For reassessment learners:

The learners will require the following information to complete their response. Consider writing this information on a flip chart or white board.

Mrs Hughes was awarded DLA lower rate care component and higher rate mobility component for two years from 21 August 2016 to 20 August 2018.

DWP wrote **to Mrs Hughes** on 8 March 2018 to invite a claim to PIP.

On 15 March 2018 an application to PIP was made over the phone and during this call Mrs Hughes confirmed she didn't want evidence used for her DLA decision to be considered for PIP.



Refer learners to the case papers for Linda Hughes and allow them time to create a response for her appeal using the ART.

Once the responses have been created, allow time for learners to peer review each other's work.

## Practice Case 3 – James Davidson

On 26 January 2018 Mr Davidson made a claim to PIP and was awarded standard rate Daily Living and standard rate Mobility.

Mr Davidson then requested a reconsideration where the original award decision remains unchanged. Mr Davidson is now appealing this decision.



Refer learners to the case documents for Mr Davidson and allow them time to create a response for his appeal using the ART.



For reassessment learners:

The learners will require the following information to complete their response. Consider writing this information on a flip chart or white board.

Mr Davidson was awarded DLA middle rate care and higher rate Mobility component for two years from 17 September 2016 to 16 September 2018.

DWP wrote to **Mr Davidson** on 6 January 2018 to invite a claim to PIP.

On 26 January 2018 an application to PIP was made over the phone and during this call Mr Davidson confirmed he didn't want evidence used for his DLA decision to be considered for PIP.

Once the responses have been created, allow time for learners to peer review each other's work.

### Using Bundle Builder

The learners have just covered how to prepare an Appeal response manually. As mentioned earlier in this learning **bundle builder has been designed to support the appeals response process.**

**It will assist the AW to collate and create the appeal bundle. The bundle builder automates the retrieval of DRS documents and displays them for review as a PDF.**

**The AW can then discard, rename and reorder pages. The whole bundle is then automatically numbered. The bundle can then be uploaded to DRS.**



Refer the learners to the PIP Appeal Bundle Builder e-learning and allow time to complete.



There is no practice mode for PIP Appeals Bundle Builder. It is suggested that you arrange a demonstration of a live case to illustrate the functionality of Bundle Builder.

## Copying and Pasting from PIPCS

For training purposes the information normally be copied and pasted from PIPCS has to be imported into the ART from txt files.

The learners will now consider how an AW would copy and paste from PIPCS in a live environment.



Refer the learners to the local shared folder where they will find a document entitled 'How to use the new ART'.

The required information about copying and pasting from PIPCS can be found on pages 2, 3 and 4 of this document.



Ask the learners to read through the information and then deal with any queries they may have.

As a facilitator, you do not have access to PIPCS so it is recommended that at this stage you arrange for an AW to demonstrate to the learners how to build a full case on the ART tool. MS Lync may be the optimum delivery method for this exercise.



Ask the learners if they have any questions on what has been covered in this topic before moving on.

## Topic 07 – Dispatching the Appeal to HMCTS. Responses for Submit Your Appeals.

Once the appeal response is completed for Submit Your Appeals, the AW will email the appeal bundle to Admin Support.

After checking that the case is not UCB or Harmful, Admin Support will print out a copy of the documents for the claimant, and email the bundle back to HMCTS via the DWP Shared email inbox to the originating HMCTS email address.

Making sure that the appellants HMCTS Appeal reference number and the word response is included within the subject line and removing EMAILBLOCK from within the email. Finally updating PIPCS.

If there is any representative involvement, the documents will be sent to reprographics for an additional copy to be made. On return of copy documents, Admin Support will issue them to the claimant and their representative.

In exceptional circumstances the PDF bundle may be above the maximum DWP email size limit, or the appeal is against a Case Review Team (CRT) decision.

These will need to be sent to HMCTS clerically. Advise HMCTS via the relevant email address that the bundle is being issued clerically.



Remember that once the email has been sent to HMCTS it must be deleted from the sent items (and deleted items if appropriate) immediately.

## Responses for Business as Usual Appeals.

For Business as Usual appeals, where the appeal response is completed and a copy has been printed from the ART, all the other documents pertinent to the appeal must be prepared, taking appropriate action if harmful information has been identified. The AW must establish how many sets of documents are required.

For example one set for the tribunal, one for the claimant and one set for a representative if applicable.

All the documents are then sent to reprographics with a request for the appropriate number of photocopies.

When the appeal bundle is returned from reprographics and the appeal response is ready for dispatch, form AT38 must be completed.

Finally PIPCS must be updated and the relevant forms sent.



For further information on the actions to take when the appeal response has been completed, refer the learners to:

DWP Homepage > Operational Instructions> Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 02 The Response > Response completed.

[Response completed](#)

## Creating a Communication Record

When the AW has completed their response, additional response or requested further evidence they are always required to record a Communication Record. This is to keep track of which documents have been sent to HMCTS and the claimant and when they were sent.

This Communication Record is no different to any other Communication Record that they would have previously created on PIPCS.

The AW will need to complete the Notes box with the action that has been completed, for example:-

“Docs sent to HMCTS to facilitate appeal. The following docs have been sent: PIP Part 2, Assessment Provider (AP) Report“.



For more information about creating a Communication Record, please refer to PIP11 PIPCS Work and Task Management Functionality.



Ask the learners if they have any questions on what has been covered in this topic before moving on



## Topic 08: HMCTS Receive the Response

When HMCTS receive the appeal response they will review all the documents to make sure nothing is missing and then take appropriate action to schedule a hearing.

If any issues are identified e.g. unreadable documents, they will send a response to DWP detailing the reasons for return of the bundle.

### Scheduling a Hearing

HMCTS will schedule a date for the hearing and notify DWP by post of the oral Hearing date. When the notification is received, it is scanned into DRS and tasked to the relevant appeals WQ or automatically allocated to a PIP user with the appropriate skill set.

HMCTS will also issue a notification to the claimant or their representative notifying them of the date of the hearing.

On receipt of the task, the AW must update PIPCS by following the appropriate operational instructions.



For information on updating PIPCS refer the learners to:

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal independence Payment Instructions > 10 Appeals > 03 Post Response > HMCTS notify DWP of Scheduled Hearing Date.

[03 Post Response](#)

## Presenting Officer

The circumstances of the case or the DWP business unit will indicate if a PO is required to attend an oral hearing. These circumstances are described in detail in operational instructions.

If a PO is required to attend the hearing, they will be allocated a task (according to local appeals practice) to note the hearing date.

The PO must print **the document bundle, and the CM response** for their own use when they receive details of the hearing from HMCTS. This additional copy of the appeals bundle must be printed from DRS. PIPCS must be edited to show a PO is attending.



For more information on how to decide if a PO is required, refer the learners to:

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 02 The Response > Complex Cases > PO attendance where the claimant requests an oral hearing

### [Complex cases](#)

DWP Homepage > Operational Instructions > Working Age Benefits > View all Working Age Benefits > A to C > Code of Appeals Procedures > Code of Appeals Procedures > Code of Appeals Procedures Guide > Presenting Officers > Appendix 8 - Role of the Presenting Officer. [Appendix 8 Role of Presenting Officer](#)

After reviewing all the evidence HMCTS can also decide if they require a PO to attend the tribunal. HMCTS will notify DWP if a PO is required and PIPCS must be edited to show a PO is required.

The First-tier Tribunal judge will direct the AW and this is a formal decision.

If these directions are not followed then there would be grounds for the judge to consider strike out of the SofS case.



The PO is responsible for reporting to the AW any feedback from the tribunal and for which overturned decisions they have requested a full statement of reasons (SoR).

### Appeal Outstanding When a Claimant Dies

The death of a claimant does not automatically stop an appeal to the Tribunal. A personal representative or an appointee (appointed by the SofS) can pursue an appeal.

A personal representative is:

- an executor where there is a will;
- an administrator, appointed by the Court.

If the SofS does not appoint a person to act on behalf of the deceased and any executors do not wish to proceed, the Tribunal decides whether the appeal should continue or be abated.

An appeal which is abated may be revived if the SofS subsequently appoints someone to act, otherwise the matter is regarded as closed.



Refer the learners to DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 18 Deaths > 01 Death notified pre & post decision (Decision Making) > Appeal outstanding.

[Appeal outstanding](#)

## New or additional evidence provided after the Appeal Response has been sent to HMCTS

New or additional evidence could be provided at any point. This will usually be from the claimant either directly to DWP or through HMCTS.



Ask the learners what actions they might need to take if further information is provided after the appeal response has been sent to HMCTS?



It is recommended their answers are written on the whiteboard.

The action to take depends very much upon the circumstances but make sure the following points are covered during the feedback:

If further evidence is received after the appeal response has been sent to HMCTS then DWP must notify HMCTS that further evidence has been received unless the evidence has come from HMCTS.

Initially the additional evidence is passed to an AW who reviews it to check if it affects the previous decision:

- If it does affect the previous decision, the AW must check the 'Appeals view' screen to see if an appeal hearing date has been set.
- If the date field is populated and the date has passed the AW is not be able to review the decision. They must wait for the tribunal decision.

**continued**



- If the date field is not populated, the AW must contact HMCTS to make sure the appeal hasn't been heard. If it has then again the AW must wait for the tribunal decision. If the appeal hasn't been heard then the AW can proceed to consider the new evidence and decide if it is sufficient to lapse the appeal.
- If the evidence shows the claimant's original award was clearly incorrect, the decision can be revised. If the decision is revised and the appeal can lapse as per operational instructions.
- If the new evidence raises new issues which have not been addressed before but the decision under appeal remains the same, then the AW must complete a further response explaining why the new evidence does not affect the decision under appeal, and is sent with form AT39 to HMCTS. The 28 calendar day target does not apply but the further response must be sent before the appeal hearing date.
- If the further information raises no new issues, there is no need to prepare a further response. This is likely to be the only circumstance where a further response is not needed.

**continued**



If further evidence is received which does not change the decision under appeal and no details of the hearing date have been received, then a copy of the evidence must be sent to the PO as per local practice.

Once HMCTS have arranged the hearing it becomes their responsibility to issue copies to the PO.

### No Further Response Needed

The further information will have been scanned into DRS and tasked to the appropriate Appeals WQ or automatically allocated to an AW with the appropriate skill set. When the AW receives the task they must:

- Complete and print one copy of form AT39. This form explains to HMCTS that the appeal decision is not affected by the new information and so no further response has been prepared,
- Print a copy of the further evidence and send to HMCTS with the copy of the AT39,
- **Save a PDF copy and upload to DRS.**
- The AW must then edit the appropriate appeal.
- Within the 'Edit Appeal' screen the AW must record the issue of the AT39 and further evidence in the Notes box and select Save.

The appeal record will remain open to await the decision from the tribunal.



Form AT39 can be found in the same local shared folder as the ART and AT38.

## Preparing a Further Response

If a further response (also known as a 'supplementary submission') is needed, the AW must complete this by **selecting the supplementary response tick box within the ART tool and include a supplementary response** The AW must also complete an AT39 to accompany any further responses.



**Full details of how to prepare a further response can be found by referring to:**

**DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 03 Post response > Preparing a further response.**

[Preparing a further response](#)



Walk through these instructions with the learners and answer any questions raised.

Once the further response has been completed and all relevant documents have been printed, the AW arranges for all the documents to be photocopied. The AW must establish how many sets of documents are required and photocopy the required amount.



The AW must then complete and print off two AT39s then:

- Send one copy of the AT39, further response form and associated documents to HMCTS;
- Complete and send form PIP.2010, further response form and associated documents to the claimant or representative, where applicable;
- Upload A PDF copy of the further response form to DRS.

Where there is PO involvement, they will print a copy of further response form and associated documents for themselves directly from DRS.

The AW must then edit the appeal record by selecting the 'Action' button for the appropriate appeal and from the drop-down menu, selecting 'Edit'. In the 'Notes' field the AW must record that a AT39, further response form, any associated documents and PIP.2010 have been issued, and then select 'Save'.

The appeal record will remain open to await the decision from the tribunal.

## Adjournments

The PO, the claimant or a tribunal member can request an adjournment, but only the judge can decide if the hearing is to be adjourned. This could be because additional evidence or information or a further response from DWP is required or the presence of a PO or other party is requested.

HMCTS notify DWP and the claimant if a hearing is adjourned. The notification includes the reason for adjournment, whether or not a further response is required and when the hearing will be resumed if known.

The notification is uploaded into DRS on receipt and a manual task is then created for the AW to consider. The notification should set out all the tribunal's directions. The AW must carefully check the notification and take any action needed before the further hearing date, for example, writing a further response or obtaining further medical evidence.



If HMCTS ask the appellant or any other party to provide extra evidence, the AW must note PIPCS and await the additional details. HMCTS will forward a copy of any additional evidence received.

The AW must update PIPCS to show that the hearing has been adjourned and why. This is done in the Edit Appeal screen.

The appropriate reason for adjournment must be selected from the drop-down menu.

If the reason 'Other' is selected, then the free text field 'Appeal Adjourned Text' must be completed to explain why the appeal was adjourned.



Refer the learners to DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 03 Post response > Preparing a further response.

[Preparing a further response](#)

## Withdrawing an Appeal

If a claimant decides they do not wish to continue with their appeal, the appeal can be withdrawn. This can be done before the hearing, or at the hearing itself. The request must be made in writing directly to HMCTS, who will determine whether or not to accept the withdrawal.

If the claimant makes a request to withdraw their appeal directly to DWP the claimant must be asked to contact HMCTS.

If a request for a response has already been received from HMCTS and the claimant has told DWP directly they wish to withdraw their appeal, action on the appeal should continue.

This is because HMCTS may not accept the withdrawal or the claimant may change their mind about the withdrawal and not contact HMCTS.

If a case is withdrawn but has not yet been sent to DWP for a response, HMCTS will action this request and there will be no action for DWP.

HMCTS will inform DWP of all withdrawn appeals if they have already requested a response. This will be a written notification.

On receipt of the written notification, a task will be created for the AW to update PIPCS. It will include a hyperlink to the application case home page.

The AW must update PIPCS to show that the appeal has been withdrawn. This is done in the Edit Appeal screen by selecting 'Appeal Withdrawn' from the drop-down menu.

The AW must also arrange for the documents relating to the appeal to be marked as ephemeral



More information on marking documents and changing document markings can be found in module PIP32 Document Management/DRS.

If any hard copy documents for the appeal response are held, they must be disposed of as confidential waste.

Any party who has withdrawn their appeal may apply to HMCTS for it to be reinstated.

The request must be made in writing and be received within one month after either the date HMCTS received the request to withdraw the case; or the date of the hearing at which the case was withdrawn orally.

## New Claim Submitted

There will be occasions when a further claim is received whilst an appeal against an earlier decision is still outstanding. In this scenario the earlier decision is likely to be a disallowance of benefit.

The PIP2, AP report, and any further evidence is uploaded into DRS and is visible in PIPCS. A new claim decision can be made on this case in the normal way.



The new claim will go to whichever business unit currently owns the case so if it is still owned by the reassessment unit then it will go to the reassessment owning unit for consideration.

PIP2CS will advise the Appeals WQ making them aware of the new claim so that HMCTS can be informed.

For the decision under appeal however, if the AW has not yet produced a response, they must consider all of the information available from the new claim and include a reference to this in their response.

If the original response has already been produced (but the hearing has not yet taken place), the AW must produce a further response, and submit this to HMCTS with form AT39 as soon as possible.

The response (or further response) must include an instruction to the tribunal to limit their decision to the day before the date of the new claim. The AW is not required to send any of the documents from the second application with their response or further response.

When the appeal outcome comes back from HMCTS and the claimant has already had a decision on their new claim, further action may need to be taken, depending on the outcome of the appeal.

No action would be necessary if the tribunal's decision was the same as or less advantageous than the decision on the subsequent new claim.

However, if the tribunal gives a more advantageous decision than the one given by the CM on the subsequent new claim, then consideration must be given to revising the subsequent decision to ensure correctness.

Revision would not be appropriate however if there had been some improvement in the claimant's daily living or mobility needs when they made the second claim.

Similarly revision would not be appropriate if the AW disagrees with the tribunal's decision and is taking steps to appeal to the Upper Tribunal.



Ask the learners if they have any questions on what has been covered in this topic before moving on.

## Topic 09: Post Tribunal Action

In this topic we will look at the action to take when a tribunal decision is received from HMCTS.

### After the Hearing

When the tribunal have made their decision, they will issue the decision notice to the claimant (and representative if relevant) after the hearing. They will also e-mail a copy of their decision to DWP.

The Decision Notice is uploaded into DRS and a manual task is created for the AW to consider the tribunal's decision.

The AW then has one calendar month to identify any potential errors and consider if any further action needs to be taken on the case to challenge the decision.

### Accidental Errors

After looking at the tribunal decision, the AW may realise it appears to contain an accidental error.

These types of error are those which could be considered a slip of the pen or typing mistake. It does not include decisions where an error has been made in applying the law or where the AW disagrees with the descriptor choices.

### For example:

The date of claim is 20 December 2013. The AW and tribunal consider the case from this date.

The appeal hearing takes place on 15 February 2014.

In the decision notice received from HMCTS, the date of claim is stated as 20 December 2014.

There is no dispute over the date of claim, and date of claim would not be a future date. In this instance the tribunal have clearly made a typing mistake.

If such an error is identified by the AW, they must notify HMCTS.



For details of how to apply to have an accidental error corrected refer the learners to:

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 04 First Tier Tribunal (FtT) decision > Decision Not Correct > Accidental error.

[Decision not correct](#)

If the tribunal refuses to correct the decision and the error affects the amount of benefit which is payable, the AW may need to consider further action such as referral to the Upper Tribunal (UT). This is covered in the next topic.



The AW must also bear in mind that both the claimant and HMCTS themselves, can also identify an accidental error. These will be corrected by HMCTS who will then notify DWP of the changes. This may include sending a new decision notice.

### Set aside requests

When the AW is reviewing the new decision made by the tribunal, they may identify a procedural error made by HMCTS.

This is usually, but not exclusively, when a document relating to the appeal was not available to everyone involved in the hearing (one or more of the claimant or their representative, DWP and HMCTS).

In these cases, the AW must create a set aside request. This calls for the appeal to be heard again due to the first one being carried out incorrectly.



The learners must be able to identify such cases, but they are likely to be rare. Refer them to the following guidance for more information:

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 04 First Tier Tribunal (FtT) decision > Setting aside Tribunal decisions on certain grounds.

[Setting aside Tribunal decisions on certain grounds](#)

If the AW's set aside request is accepted, a new hearing will be scheduled by HMCTS, and they will be responsible for informing both DWP and the claimant of the new time.

If it is not accepted, the case will be returned to DWP and the AW must continue their action as normal.

### Viewing the Decision Notice

When the Decision Notice is received from HMCTS a task will be created for the AW. This task is called 'Appeal Outcome Received from HMCTS'. The task will have one hyperlink to the Case Homepage and one to the Participant Homepage.

The first thing to establish when the AW picks up this task is whether or not the tribunal agreed with the DWP decision by comparing the HMCTS Decision Notice with the previous decision made by the CM.

In order to compare the HMCTS Decision Notice and the last decision notification sent to the claimant (both held in DRS), the AW should:

- Select the hyperlink to the Participant Homepage;
- Select the Attachments tab. This will bring up the list of documents available for the claim that can be viewed on DRS. They will be arranged in date order;
- Underneath the heading 'Document Type', the appropriate reconsideration decision notification should be looked for and selected to view it. After this notification has been read and the decision noted, it can be closed, and then
- Select the Decision Notice from HMCTS.



The AW can also find details of the original decision using the Supporting Details page on PIPCS. This can be accessed from Eligibility Checks Tab on the Case Homepage and was covered in module PIP16 'Processing the Decision'.

### Decision Maintained

If the DWP decision is upheld by the tribunal, the AW must update PIPCS to reflect this.



Talk the learners through the following process for recording a maintained decision on PIPCS.

- Open the Edit Appeal screen (detailed earlier in the module).
- Here, the AW must record a value in the following fields:
  - Hearing date.
  - Outcome (selected from a drop-down menu).
- Once the AW has completed this, they must select Save and then close the manual task.

There may already be a date in the Hearing Date field. This is the date the hearing was scheduled to take place. If this date is different to the actual hearing date, the AW must amend this accordingly.

Where the DWP decision is unchanged by the tribunal, the entry selected in the Outcome field must be 'Decision Maintained.'

When all action is complete, the status of the appeal will be closed



If the tribunal has upheld the CM decision, in that no award has been made or the existing award has not been increased then notification to the claimant is not required. HMCTS will notify the claimant of the decision.

### Decision Changed



Why might the tribunal change a CM decision at the appeal hearing?



Possible answers:

- Claimant provides further written medical evidence.
- Claimant provides convincing oral testimony.
- Tribunal view the same evidence differently to the AP or CM and decide different descriptors apply.
- CM did not apply the law correctly.
- AP report contains a significant error.



Remember:

A claimant can have descriptors revised but still remain on the same rate of benefit. They may have an increased (or decreased) point score but in doing so not cross the threshold for standard or enhanced rate.

For example:

The mobility component of PIP is originally disallowed at new claim. The CM selected the descriptors as follows:

1. Planning and following a journey:

- a. Can plan and follow the route of a journey unaided **(0)**

2. Moving around:

- a. Can stand and then move more than 200m either - aided or unaided. **(0)**

A total of **zero** points.

The decision is not revised at the reconsideration stage.

At the appeal hearing the tribunal selects the following descriptors:

1. Planning and following a journey:

- b. Needs prompting to be able to undertake any journey to avoid overwhelming psychological distress to the claimant. **(4)**

### 2. Moving around:

- a. Can stand and then move more than 200m either - aided or unaided. (0)

A total of four points.

In this case the descriptors have changed, but the overall rate of benefit has not. The claimant has not reached eight points, which is the threshold for standard rate mobility.

This is an important point when recording the decision on PIPCS.

There would be no requirement to issue a notification to the claimant because the overall rate of benefit is still the same.



Check the learners understand this point before moving on, as it will be relevant later (when entering new decision on the system).

When the outcome of the appeal is a new decision, the AW must:

- consider all the evidence available to see if they accept the decision;
- check that no errors have been made by the tribunal (such as accidental or procedural errors);
- ensure the provisions of the Acts / Regulations / Rules have not been misinterpreted;
- consider if the decision is such that no person acting judicially and properly instructed about the relevant law could have reached it;
- check if there has been a breach of natural justice;
- check for other errors of law, for example taking irrelevant evidence into account, giving reasons for decisions which imply faulty reasoning or ignoring relevant evidence.

Please note this list is not exhaustive.



Please refer to the file path below, if you need to familiarise yourself with the term natural justice

DWP Homepage > Operational Instructions > Advice for Decision Making > Advice for Decision Making (ADM) > ADM: Common Subjects chapters > ADM: A5 Appeals – PIP and UC only > Introduction A5001 – A5039 > The Rules of Natural Justice A5020 – A5022.

[The rules of natural justice](#)

On the decision notice there is an 'Outcome Reason.' This is where HMCTS will record a brief reason as to why the original decision was changed.

This value is selected from fifteen options in a generic drop-down menu, so it is not a personalised explanation for each case. However, it will give the AW an idea of the reasoning behind the new decision.

The overturn reason provided will have to be recorded on the drop down menu in the Notes field for the appeal record.

Additionally when the tribunal have overturned a CM decision a clerical notification PIP.7031 must be completed. This is because PIPCS currently doesn't have the functionality to issue a notification in this scenario.

The clerical notification contains details of the new/increased award and all other information that the claimant needs to know in relation to the payment of the award.

Where the claimant has been awarded enhanced mobility component a Certificate of Entitlement (CoE) is produced. In these cases the AW must also issue a DVLA leaflet with the PIP.7031.

### Considering the Evidence

When an AW looks at the new decision from HMCTS, they must consider all of the evidence available to them, and the tribunal's reason for changing the decision.

All of the documents and evidence looked at by the tribunal is available to view via the Attachments tab on PIPCS, with details of any further evidence the claimant produced at the hearing.



The further evidence itself may be received at a later date.

Even after looking through all of the information available to them, the AW may not understand why the tribunal arrived at their decision.

In these cases the AW may wish to consult the AP for advice. However this is not a requirement. This only applies to those cases where the AP opinion will aid the AW's understanding of an AP report or any further evidence received at the tribunal.

After careful consideration, if an AW does wish to do so, they must follow the usual procedure for contacting the AP through the QAM to discuss the case with them. This has already been covered in an earlier module.

Taking into account the tribunal's reason for changing the decision (and where appropriate the AP's advice), if the AW agrees with the new decision, they can continue to update PIPCS with the relevant information.



Decisions that the AW does not agree with are covered later in the module.

## Inputting a New Tribunal Decision



Ask the learners what actions they think will need to be taken to record the tribunal's decision.



In order to record the new decision on PIPCS there are two main actions the AW must take:

1. Update the Assessment Questionnaire in Decision Assist (as outlined in the Processing the Decision module).
2. Complete the Edit Appeal screen to confirm the appeal outcome.



Remember that PIPCS must also be updated for a maintained decision.

## Step One: Update the Assessment Questionnaire

In module PIP16 'Processing the Decision', learners were introduced to the Assessment Questionnaire. This is where both the AP and CM descriptors are recorded on PIPCS. Similarly, this is where the new HMCTS descriptors will be held.

At the reconsideration stage, learners were shown how to answer this questionnaire again, to reflect a change in decision.

At this point in the process, the AW must use the HMCTS Decision Notice to complete this questionnaire with the relevant details from it. More details on how to complete this questionnaire, if required, can be found in the earlier modules or by following operational instructions.



Refer the learners to [DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 04 First Tier Tribunal \(FtT\) decision > FtT decision received](#).

[First Tier Tribunal \(FtT\) decision](#)

After the AW has completed the Assessment Questionnaire (no reasons for decision need to be recorded on PIPCS for a maintained decision as they are on the Tribunal's decision), if it then becomes apparent the claimant will be awarded, they must check if there has been a change to payability or payment details.



The reasons given by the first tier tribunal do need to be recorded on PIPCS if the tribunal has overturned the CM decision.

### Possible Change of Circumstances

When inputting the result of the appeal on to the system, the AW must make sure that they have the most up-to-date information from the claimant. This is particularly important if the appeal hearing is held several months after the original application for benefit was received.

Therefore, if the claimant has been **awarded**, the AW must telephone them at this point to enquire about any possible change of payment or payability details.

This is to double check that these details held on PIPCS are still correct. As with any other phone calls, the AW must make three attempts to contact the claimant over a 48 hour period and if the claimant is still unavailable, arrange for a written enquiry to be sent out.

As with all enquiry forms the AW must set a manual task awaiting a reply from the claimant. The AW must not finalise the case on PIPCS until they have received this information.

If any of the claimant's details have changed, this must be input as appropriate onto PIPCS. Details of how to do this are covered in modules PIP23 Basic Change of Circumstances and PIP24 Payability.



When the claimant has been disallowed, this phone call does not need to be completed.

Once the appropriate changes have been made, or if there are no changes to make, the AW can go ahead and record the new decision from HMCTS on PIPCS.

The AW must also remember to step through the standard process of Validating the Evidence, Applying Changes, performing the Eligibility Check and then selecting Award or Disallow as appropriate.

## Step Two: Update Edit Appeal screen

To update the Edit Appeal screen with the outcome of the appeal, the AW must record a value in each of the following fields:

- Hearing date (as before, this may already be populated).
- Outcome (selected from a drop-down list).

This time the outcome will be either:

- New Decision Unchanged; or
- New Decision Changed.

Where the descriptors have been modified but the overall rate of benefit is **unchanged**, select New Decision Unchanged. If the overall rate of benefit is **changed**, select New Decision Changed.

- The AW must also type the Outcome Reason from the HMCTS Decision Notice. This reason is given by HMCTS.
- The AW must also record any appropriate notes.

When all of this action is complete, the AW must select Save and close the task.

Where appropriate the issue of PIP.7031 and the Certificate of Entitlement must be recorded in the Communication record.



Ask the learners if they have any questions on what has been covered in this topic before moving on.

## Topic 10: Challenge to a First Tier Tribunal Decision



When would an AW consider challenging the first tier tribunal decision?



A decision may be considered for challenge if it is wrong in law where the tribunal have not applied the relevant legislation appropriately to the case.

This usually refers to one of the following situations:

- The evidence does not support the decision.
- The tribunal has misinterpreted or misapplied the regulations.
- Benefit has been awarded in circumstances which are specifically excluded in PIP Regulations (for example, lay conditions not met or payability rules have not been applied).
- The tribunal has taken irrelevant evidence into account.

This list is not exhaustive, however.



For further information regarding the criteria used by DMA Leeds when deciding whether or not to apply for permission to appeal to the Upper Tribunal, refer the learners to:

[DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 04 First Tier Tribunal \(FtT\) decision > Decision wrong in law.](#)

[Decision wrong in law](#)

## Statement of Reasons (SoR)

Where a PO is present at the hearing and they consider an error in law has occurred, they must request a SoR at the hearing. The PO must then contact the appropriate appeals section to tell them a SoR has been requested. The ownership of the SoR then passes from the PO to an AW.

In cases where the AW thinks an error has been made by the tribunal in their application of the law, they are able to request a SoR from HMCTS. This will provide the AW with more information about the tribunal's decision.



Remind the learners that all errors in a tribunal decision must be identified within one month of the date HMCTS notified us of their decision. Any applications for a SoR outside of this time limit must be accompanied with a good reason for lateness.

As long as this time limit is adhered to, the AW must decide whether or not to fully or partially update the case with the new decision from HMCTS whilst awaiting the SoR. If the SoR is requested within the correct time limit then the AW can consider suspending payment if appropriate.

If the deadline for requesting a SoR is missed, then the new decision must be implemented and suspending payment cannot be considered.



For details on when a new decision from HMCTS should be fully/partially implemented or not implemented at all, refer the learners to:

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 04 First Tier Tribunal (FtT) decision > Time limit for requesting a SoR.

[Time limit for requesting a SoR](#)



The AW's request for a SoR must be approved by a QAM before it is issued.

All these cases are then be fed back to DMA Leeds to see which ones should be challenged, initially with the First-tier Tribunal, and then with the Upper Tribunal, if appropriate.

If the AW (with approval from a QAM) requests a SoR, they must record this on PIPCS.

This is done in the Edit Appeal screen. On this screen there is a checkbox called Statement of Reasons from HMCTS. The AW must tick this box.

The AW must also populate the Notes box that a SoR has been requested and then select Save. The original task must be closed and a communication record created to record the discussion with the QAM.

When a SoR is received from HMCTS, it will be scanned into DRS and tasked to an AW to consider whether to take any further action.



When the SoR is received, the AW must consider if an error in law has occurred. If they still feel there is an error in law then they should discuss it with the QAM.

If it is still considered an error has occurred, a case conference should be arranged with DMA Leeds.

The purpose of this is to seek DMA Leeds agreement to consider challenging the First tier Tribunal's decision.

If, after consideration of the SoR and the criteria used by DMA Leeds and in consultation with the QAM, the AW still considers the decision to be erroneous in law, they must contact DMA Leeds and update PIPCS to reflect this.



Remember that DMA Leeds only has one month from the date HMCTS issue the SOR in which to apply for permission to appeal to the Upper Tribunal – First-tier Tribunal Rule 38(3).

On the Edit Appeal screen, the AW will find a checkbox called Refer to DMA, which they must tick. They can then select Save and close the original task.

In order to track the progress of this action the AW must also create a manual task at this point to remind them to obtain an update on the progress of this referral after one calendar month.

The Appeal Status will remain Open until a DMA Response is recorded.



Any questions on what has been covered so far in this topic?

## Upper Tribunal (UT)

If an AW wishes to challenge a first tier tribunal decision because they do not accept the SoR from HMCTS, they must first seek approval from a QAM and agreement from DMA Leeds to take the case.

If approval is given, the QAM must complete a cover sheet which outlines reasons for the referral, and send all relevant claim documents from DRS electronically to DMA Leeds. This includes any notifications (such as the decision notice) from HMCTS.



Refer the learners to the following operational instructions on referrals to DMA Leeds:

DWP Homepage > Operational Instructions > Personal Independence Payment > Personal Independence Payment Instructions > 10 Appeals > 05 Post FtT decision > CM decides to ask DMA Leeds to apply for permission to appeal to the UT.

[05 Post FtT decision](#)

DMA Leeds will advise of its actions and whether or not it intends to seek leave to appeal to the UT. The QAM will notify the AW of the action to take. The AW must notify the claimant on PIP.4225. If it chooses to proceed to the UT, DMA is responsible for producing and issuing the response. It is also responsible for the response if the claimant appeals to the UT.

When an update is received from DMA Leeds, the AW must record this on PIPCS.

A manual task must be created so that the Edit Appeal screen can be updated as appropriate.

The AW must select the DMA Response field drop-down menu and according to the information received, record in this field either:

- Action HMTCS Outcome, or
- Appeal to Upper Tribunal.

The AW must then select Save and close the manual task.

### Claimant Appeals to Upper Tribunal

In circumstances where the claimant appeals to the Upper Tribunal, HMCTS will inform DWP via DMA (Leeds) of this in good time.

All documents relating to the outcome decision will be deleted after 24 months, as this is the retention period for this information. It is important that DWP is aware of any potential challenge so the documents are not destroyed. However it should be remembered that First-tier Tribunal documents/system records are destroyed/deleted after six months.

An 'On Hold' marker must be applied to the scanned documents stored on DRS. By applying this marker the documents will not be automatically deleted when the document retention period has elapsed.



More information on applying on-hold markers to documents can be found in module PIP32 Document Management/DRS.

Once DWP is made aware of a claimant's referral to the Upper Tribunal, a new Appeal record must be created on PIPCS as the previous Appeal record will have been closed and cannot be re-opened.

## The Upper Tribunal Decision

When the UT has made their decision, DWP will be informed via DMA Leeds. All of the documentation will need to be scanned into DRS and a manual task created for the AW to consider the documentation and input the result onto PIPCS.

This task should have a link to the application case home page.

The AW must navigate to the Edit Appeal screen.

- In the Upper Tribunal Conclusion field select one of the following:
  - First Tier Decision Upheld
  - New First Tier Decision Required
  - New Decision Changed
  - Appeal Withdrawn

The AW must then select Save and close the task.

When all of the action is complete on the case and the UT decision has been recorded (where appropriate), the Appeal Status will be set to Closed.

## Further Appeals

After the UT has considered the case, it is possible a further appeal can be made against their decision. In these circumstances, the case is taken to the Court of Appeal or after that, the Supreme Court (previously the House of Lords).

On rare occasions, the claimant may have an ongoing appeal lodged with the Court of Appeal, and submit a new claim to PIP. An AW would not be involved in this appeal, but should be aware it can happen.

In this situation the CM can choose not to make a decision on the new claim until they are notified of the outcome of the appeal. This is called a stayed case.



Direct the learners to ADM for more information on stayed cases:

DWP Homepage > Operational Instructions > Advice for Decision Making > Advice for Decision Making (ADM) > ADM: Common Subjects chapters > ADM A6: Staying.

[ADM A6 Staying](#)

If this happens, the AW must refer to current operational instructions, which will detail the action to be taken.

## Module Summary

We have now come to the end of the Appeals module. In this module the learners have learned how to:

- Describe the responsibilities HMCTS have for making sure an appeal is valid.
- Explain the importance of and process for lapsed appeals where appropriate.
- Create and maintain appeal cases on PIPCS
- Create an appropriate response or further response (previously referred to as a submission or supplementary submission) for an appeal or reassessment appeal.
- State the action to be taken by the AW following an appeal hearing and accurately input the tribunal's decision onto PIPCS.
- Recognise the difference between accidental errors, procedural errors and errors in law.

## Knowledge Checker

The following is a set of questions and answers to address to the learners to check their understanding of the material covered in this module.



The learners can complete this as a whole group, or individually.



What is the prescribed period for making an appeal request?



One calendar month from the date the reconsideration notification was issued.



What is the DL6?



The letter from HMCTS requesting us to provide an appeal response.





How many days does DWP have in which to provide a response to HMCTS?



28 days.



What form does DWP use to notify HMCTS that an appeal response will be delayed?



A TL1 form.



What do we mean by a 'lapsed appeal'?



- a) A revised outcome which has been found in favour of the claimant and to which the claimant agrees to no longer pursue the appeal.
- b) Where a revised outcome is made fully in the claimant's favour.



Name two circumstances where we cannot lapse an appeal?



- a) Revised outcome but cannot get hold of the claimant to get their agreement
- b) The revised outcome is disadvantageous to the claimant.



What is an AT39 form used for?



For a supplementary or further response to HMCTS.



What does HMCTS need to be informed of, following a change of circumstances which affected entitlement to PIP?



a) HMCTS can't use the evidence as the change occurred after the date of claim

b) They should restrict the tribunal decision to the day before the effective date of supersession.



What is the AT38 form?



It's the over sheet when sending your appeal response.



What process do you need to follow if a case contains potentially harmful evidence?



Produce two copies of the bundle, one with the harmful evidence in and the other with the harmful evidence removed.