

Appendix 8

Role of the Presenting Officer

The PO functions before the FtT are to

1. Give a summary of the department's case as set out in the response
2. Assist the FtT with oral submissions on the law
3. Question the appellant's case
4. Draw the FtT's attention to new points in the appellant's favour, in particular where the appellant is unrepresented
5. Assist the tribunal FtT to focus on the questions to be considered.

The PO may also be called upon to

6. Describe departmental procedures where these have a bearing on the appeal
7. Provide information about earlier claims/decisions
8. Deal with new points as directed (obtaining advice from DMA Leeds during an adjournment if necessary).

Before the hearing

The POs should

1. identify which decision is being appealed, clarifying the point with the appellant if necessary.
2. ensure they are familiar with
 - a) the facts of the case
 - b) the decision under appeal
 - c) the grounds of appeal
 - d) the written response
 - e) the law (both legislation and case law) underpinning the decision.

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3. in appropriate cases (IB, SDA, DLA, AA & IIDB appeals), ensure that they are familiar with the medical history of the appellant.
4. where operational issues may be discussed or the decision-making history of the case is relevant, ensure they understand them.
5. highlight or list separately the key issues - those points that the FtT should focus on.
6. contact the original DM if
 - a) the reasons for the decision are not clear
 - b) relevant evidence appears to be missing from the papers
 - c) there is no clear evidence of a decision essential to the appeal, for example a supersession decision where the appeal concerns a requirement to repay an overpayment.
7. Revise or supersede, or arrange for a revision or a supersession to be carried out if the decision under appeal is wrong. If the decision is revised, ensure that the appeal is either lapsed or treated as an appeal against the revised decision.
8. Arrange for the attendance of a witness, if one is necessary or if the attendance of a witness has been directed by the FtT.

The hearing

1. When invited to speak, the PO should
 - a) describe the factual background to the decision
 - b) explain the legal basis for the decision
 - c) state the appellant's grounds for appeal
 - d) explain why the decision is, in the DM's view, correct
 - e) if there are additional matters which should be brought to the FtT's attention, a later award for example, mention them at an early stage in the proceedings.

Role of the Presenting Officer

2. If the response is deficient in some way, or the PO has not been able to have a decision corrected, they should say so at the outset of proceedings.
3. Once the appellant has explained the grounds for appeal, the PO may, with the FtTs permission, put questions to the appellant and any witness. Any questions should be relevant and courteous.
4. The PO should send any new evidence to HMCTS before the hearing if at all possible. If new evidence, new grounds of appeal, or unfamiliar case law is introduced by the appellant, the PO should ask for a short adjournment to consider whether it can be dealt with on the spot, or whether an adjournment is necessary to enable a new written response to be made.
5. If the new evidence suggests that the decision under appeal was wrong, the PO should readily submit that the appeal should succeed, or that a different decision should be made.
6. The PO may be asked questions about the history of claims and should be ready to provide additional information.
7. The PO should be ready to explain abbreviations and unusual terms or to describe departmental procedures. In summing up, the PO should remind the FtT of the questions to be considered. If there are points in the appellant's favour which have been overlooked, the PO should draw attention to them.
8. If at the conclusion of the hearing the decision under appeal appears to be correct, the PO should say so during any final observations to the FtT.
9. If an adjournment is directed, the PO should ensure that any directions are precise as to what the FtT require and who should obtain it. It is particularly important that where additional medical evidence is requested, the questions to be answered are clear.

After the hearing

10. Where the appeal is successful, the PO should report back to the decision maker with a brief account of the reasons why the FtT came to its decision.
11. Where the decision is given at the hearing, the PO should if possible check the decision to ensure that there are no obvious errors which could be corrected immediately.
12. Presenting officers may be called upon to attend Tribunal User Group meetings arranged by HMCTS, where issues of concern HMCTS customers are discussed. They might also be asked to participate in local PO network groups to share best practices.

