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Appeals process changes: detailed lines to take for customer representative groups

Overview of the changes

Q: What are the changes?

Changes have been made to the disputes and appeals process to reduce unnecessary demand on Her Majesty's Courts and Tribunals Service (HMCTS) and to ensure more disputes against decisions are resolved by Department for Work and Pensions (DWP) Decision Makers. There are three key changes:

- **Mandatory reconsideration** of decisions prior to appeal – following receipt of a decision which someone disputes, they must now request DWP to conduct a 'mandatory reconsideration' before being able to lodge an appeal.
- **Direct lodgement** of appeals with HMCTS – people wishing to appeal following a mandatory reconsideration must now submit their appeal directly to HMCTS.
- **Time limits** for DWP to return appeals responses to HMCTS – DWP has agreed to the request of the Tribunal Procedure Committee to the introduction of time limits for the return of appeal responses to HMCTS. DWP has undertaken to provide an appeal response within 28 calendar days in benefits cases, and within 42 calendar days in child maintenance cases.

Q: Who will these changes affect?

The measures will affect everyone claiming a DWP administered benefit and those undertaking a child maintenance assessment or calculation.

Q: What appeals are covered by these changes?

The changes apply to appeals against any benefit sanction or any decision about benefit eligibility. The changes were phased in, and were first introduced for Personal Independence Payment and Universal Credit in April 2013.

Q: Will the changes apply to child maintenance cases?

Yes, the changes were introduced for child maintenance cases on 28 October 2013.

Q: When were the changes introduced?

Mandatory reconsideration, direct lodgement and time limits were introduced for Personal Independence Payment (PIP) from 8 April 2013 and for Universal Credit (UC) from 29 April 2013.

For all other DWP administered benefits and child maintenance cases, the changes were introduced on 28 October 2013.

DWP will begin to report against the time limits from October 2014.

Q: Will the changes affect people who are living overseas, and if so, when?

Yes, the changes also apply to people living overseas. Just as in the UK, they were introduced for overseas claimants of Personal Independence Payment from 8 April 2013 and for Universal Credit from 29 April 2013. For all other DWP-administered benefits and child maintenance cases, mandatory reconsideration and direct lodgement were introduced on 28 October 2013, and DWP will begin to report against the time limits from October 2014.

Q: Will the changes apply to appellants who started their appeal before the changes were introduced, but whose appeals are still ongoing?

If an appellant lodged their appeal before the date when the disputes and appeals changes were introduced for their benefit (8 April 2013 for Personal Independence Payment, 29 April 2013 for Universal Credit, and 28 October 2013 for all other DWP-administered benefits), then the changes will not apply to them.

Q: Did DWP and HMCTS work together to deliver the changes?

DWP and HMCTS worked closely together to deliver the changes and continue to do so. In particular, DWP and HMCTS set up an Appeals Task Force. The aim is to improve the quality of initial decision making, to address the high volumes of appeals and to ensure that appeals are dealt with fairly and efficiently. This has included:

- streamlining processes within both DWP and HMCTS, including an end-to-end review of the appeals process; and
- improving contact with claimants to ensure that any new evidence is taken into account when carrying out mandatory reconsiderations.

A Joint Performance Management Group (JPMG) was also set up, which reports to the Appeals Task Force.

Q: Was there any public consultation about the changes?

Yes, there was. Between 9 February 2012 and 4 May 2012, DWP undertook a 12 week public consultation exercise seeking views on the Regulations for mandatory reconsideration that were drafted for the Lords committee debates on the Welfare Reform Bill. The Bill received Parliamentary approval and has now become the Welfare Reform Act 2012.

DWP received 154 responses to the consultation, from a number of organisations, together with comments from DWP staff, claimants and the general public.

Q: Are you just trying to make it harder for people to appeal?

Not at all, Decision Makers already carry out the reconsideration process when a claimant applies for a reconsideration or makes an appeal. This is not a new process. However, we believe that requiring people to apply for a reconsideration before they are allowed to appeal will improve the process for resolving disputes.

People will still be able to appeal the same decisions they did before the changes, once they have requested a mandatory reconsideration by DWP and received the outcome.

Q: Are you just trying to save money?

No. Of course, in a time of spending cuts, it is important for DWP to consider costs among other factors, and it is certainly more cost-efficient, as well as time-efficient, if disputes are resolved as early as possible.

However, the main driver for the changes has been a desire to improve the disputes and appeals process, to separate clearly the roles of DWP and HMCTS, and to enhance the customer experience by giving people a timeframe within which they can expect DWP to process the response to an appeal.

Q: What happens if someone claims two different types of benefit? Will they have to use two different processes if they want to dispute DWP's decisions?

Yes, there may be a period of dual processes for people who submit appeals for different benefits or child maintenance during the period that spans the changes. The decision notifications sent them by DWP will make it clear whether or not they are required to apply for a mandatory reconsideration before appealing against the decisions to which they relate.

Q: How do people know which process applies to them?

Universal Credit and Personal Independence Payment have followed the new processes since these benefits were introduced in April 2013. So if the

decision under dispute is about a claim for Personal Independence Payment or Universal Credit, the changes will definitely apply.

For other benefits, if the decision notification is dated before 28 October, the old process will apply (so there will still be an option of moving straight to appeal).

If the decision notification is dated on or after 28 October 2013, the new process will apply and the person will have to request a mandatory reconsideration before they can appeal.

In both cases, the decision notification will explain what the person should do if they do not agree with the decision, and what their appeal rights are.

DWP have also ensured that customer representative groups are aware of the timetable for the changes.

Q: With changes taking place at different times, how will you successfully operate multiple processes?

We are closely engaged with HMCTS, and have developed detailed plans to ensure that the changes continue to operate as expected.

Q: Where can I get more information?

More information is available on Gov.uk. Search under “Appeals Reform Programme” or type in specific terms like “mandatory reconsideration”, “direct lodgement” or “time limits”.

Leaflets are also available from DWP and HMCTS, which will talk you through the disputes and appeals process in more detail.

Improving the disputes and appeals process

Q: How many appeals are made against DWP decisions?

Annual statistics for 2012/13 show that over this period, HMCTS received 507, 131 appeals against DWP decisions. These are the most up-to-date annual statistics currently available.

Q: Why is there such a high overturn rate of DWP decisions at appeal and what are you doing about this?

DWP estimates that around 38% of appeals result in DWP’s decision being overturned. Just because a decision is overturned does not mean that the DWP decision was wrong, and it is worth noting that this does not mean that 38% of all decisions made by DWP are overturned, but only 38% of those

which go to appeal. In fact, the majority of DWP decisions are not appealed against. However, the overturn rate is still higher than the Department would wish, since DWP aspires to get every decision “right first time”.

Early indications suggest that the majority of decisions are overturned owing to the judiciary reaching a different conclusion on the same facts or following verbal evidence being provided at the hearing by the appellant or their representative.

There has already been extensive investment and activity undertaken following Professor Harrington’s reviews of the Work Capability Assessment (WCA), to improve DWP standards of decision making. DWP has already changed its operating model to introduce more contact with customers, so that Decision Makers can explain decisions, listen to any additional evidence and reach the right decision at the earliest opportunity.

DWP has also taken steps to improve feedback from tribunals, to gain a better understanding of why decisions are overturned. The Department has been running a pilot to test whether sending more Presenting Officers to tribunal hearings might be an effective way of providing feedback that DWP can learn from.

Q: Do you have a plan for tackling appeal volumes?

Both DWP and HMCTS have agreed on robust plans to make additional capacity available to meet increased demand for appeal hearings. For example, DWP has allocated additional staffing to deal with appeals, and HMCTS has:

- recruited more judges and medically qualified panel members;
- secured additional hearing venues focusing on areas with the longest waiting times; and
- been running Saturday sittings in some of the busiest venues.

It is also expected that the changes to the appeals process, by resolving disputes internally within DWP at an earlier stage of proceedings, will reduce unnecessary pressure on HMCTS.

Q: How will you improve standards of decision making?

DWP is currently working with HMCTS to improve internal decision making and appeals processes. The Appeals Task Force, which was started jointly with HMCTS, has focused on improving decision making and efficiency throughout the appeals process. In 2011, DWP introduced a programme of learning for Decision Makers with the aim of improving the quality of decision making and providing greater consistency.

The Department is also working with HMCTS to improve feedback from tribunal hearings to enable further improvements to decision making to be made.

From 9 July 2012 new information has been added to the decision notification issued by HMCTS, which will provide the main reason for a decision being overturned, chosen by the judge from a drop-down menu, to enable the Department to assess areas that may require further improvement. This will have a positive impact on evidence gathering and help improve standards of decision making.

A number of changes have also been made as a result of the reviews of the Work Capability Assessment conducted by Professor Malcolm Harrington. The recommendations relating to decision making and appeals which DWP has accepted and implemented so far include providing additional training to all DWP Decision Makers on gathering and using evidence, and holding regular forums where Decision Makers can raise issues or questions and share good practices.

Q: What support do you give to Decision Makers and Appeals Officers?

A Learning and Development package has been created to support Decision Makers and Appeals Officers through the changes. Following Professor Harrington's recommendations, DWP is also providing additional training to all DWP Decision Makers on gathering and using evidence, and holding regular forums where Decision Makers can raise issues or questions and share good practices.

Support for Claimants

Q: Will there be extra help for people with additional communication needs?

Yes, as in all areas of DWP, letters and forms will be available in Braille and alternative formats (for example, in large print or in audio or CD form). Induction loops and communication by text phone can be made available for people with hearing difficulties. If DWP is advised that someone's first language is not English or Welsh, then it may be possible to arrange for letters and forms to be translated, and for an interpreter to be present at face-to-face and telephone consultations.

On request, HMCTS can also provide forms in Welsh or large print and arrange for interpretation services.

Q: Will there be extra help for people with mental health problems?

DWP staff are given training in helping people with mental health problems, and can provide reasonable adjustments.

Q: Will HMCTS and DWP be able to identify vulnerable people and give them additional support?

Yes, DWP staff are given training in how to identify vulnerable people and how they can best support their needs. Decision Makers are given all the necessary specialist training and guidance to carry out their roles and will be able to draw on specialised support where needed. HMCTS has also developed a procedure for supporting vulnerable customers through the appeals process.

However, it is not always possible to tell when someone is vulnerable, so if there are any aspects of a person's circumstances that they would like DWP or HMCTS to be aware of, or reasonable measures that staff could take to support them, they should let both departments know at the point of contact.

The Mandatory Reconsideration process

Q: What is “mandatory reconsideration” and how has it changed things?

Mandatory reconsideration means that following receipt of a decision which a person disagrees with, they must request that DWP conducts a ‘mandatory reconsideration’ before they are allowed to lodge an appeal.

Before the changes, if someone disputed a DWP decision, they could either ask DWP to reconsider, or move straight to appeal. In practice, a lot of people choose to appeal straight away. This placed unnecessary pressure on HMCTS, and meant that it took longer for the right decision to be made. Mandatory reconsideration will improve the disputes process by making sure that as many disputes as possible are resolved without the need to appeal.

Q: Why has mandatory reconsideration been introduced?

The main reasons for introducing mandatory reconsideration are to:

- resolve disputes as early as possible;
- reduce unnecessary demand on HMCTS by resolving more disputes internally;
- consider revising the decision where appropriate;
- provide a full explanation of the decision; and
- encourage people to identify and provide any additional evidence that may affect the decision, so that DWP can ensure that people receive the

benefits or child maintenance to which they are entitled at the earliest opportunity.

Q: What happens if someone does not want a mandatory reconsideration in their case?

Since the changes to the disputes and appeals process, it is no longer possible to move straight to appeal. If someone wishes to dispute a DWP decision, a mandatory reconsideration will be necessary, because a Decision Maker will have to conduct a mandatory reconsideration before they can be given appeal rights.

If they do not request a reconsideration, the decision outlined in their decision notification will simply come into effect.

Q: What happens if someone just goes straight to HMCTS and requests an appeal?

If someone appeals straight to HMCTS without first asking for a mandatory reconsideration, HMCTS will return their appeal form to them advising that it is not valid without a Mandatory Reconsideration Notice (which confirms that DWP has looked again at their case). They will advise them to contact DWP and ask for a mandatory reconsideration.

Q: Will mandatory reconsideration apply to every case?

No, there are some decisions that do not have any rights for mandatory reconsideration or appeal. These include some child maintenance decisions. It is made clear in the decision notification whether or not someone has the right to a mandatory reconsideration.

Q: How can someone ask for a mandatory reconsideration?

Some of the ways to ask for a mandatory reconsideration are laid out in the decision notification that people receive once an initial decision has been made in their case. For example, they can telephone a DWP Contact Centre that deals with their claim, or send a request in writing to the address given in the decision notification.

There may be other opportunities to ask for a mandatory reconsideration, depending on what benefit they are claiming. For example, if someone is claiming Personal Independence Payment and an adverse decision has been made, a Decision Maker will call them a week after the date on the decision notification. If the person disagrees with the decision in the notification, this would be an ideal time to tell the Decision Maker that they would like DWP to reconsider it.

Q: How long do people have to ask for a mandatory reconsideration?

However a person chooses to ask for a mandatory reconsideration, the limit for reconsideration requests is one calendar month from the date of issue of

their decision notification. If they have asked DWP for a written statement of the reasons for their decision then an extension to the time limit may apply.

The Decision Maker may also be able to extend this time limit if there are special circumstances which meant that someone couldn't apply for a reconsideration within a calendar month. If a person applies for a mandatory reconsideration more than a month after the date of issue of their decision notice, they should give reasons for the late application, and the Decision Maker will take these into consideration.

Q: Who undertakes the mandatory reconsideration? Will it be the same Decision Maker who gave the original decision?

Where possible, a mandatory reconsideration will be conducted by a different Decision Maker.

Q: How long does a mandatory reconsideration take?

There are no plans for a statutory timescale for completion of the mandatory reconsideration process, although the Department will monitor the process to avoid unnecessary delays. The time it takes for a Decision Maker to complete a mandatory reconsideration will vary depending on the circumstances of the case. People will be contacted once the mandatory reconsideration process in their case is complete.

Q: If someone's claim for benefit has been disallowed, will they receive payments pending mandatory reconsideration?

If someone's claim has been disallowed completely, then no, they will not receive payment pending mandatory reconsideration. This is already the case for all DWP-administered benefits. There may be other benefits that they will be entitled to claim in the meantime.

If DWP has awarded someone a benefit at a reduced rate, and they are asking for a mandatory reconsideration because they dispute the rate of the award, then they will receive payment at the reduced rate confirmed in their decision notification, pending the outcome of the mandatory reconsideration.

If someone is asking for a reconsideration because they dispute the amount of child maintenance payable, then the amount confirmed in their decision notification is the amount they will need to pay pending the outcome of the mandatory reconsideration.

If the decision in their case is reversed after mandatory reconsideration, payment will be re-instated and backdated to the effective date of the original decision. DWP will subtract any income replacement benefits that a person may have claimed during the mandatory reconsideration period from the total owed.

Q: How do people receive the outcome of a mandatory reconsideration?

Once the Decision Maker has completed the mandatory reconsideration of the case, they will send them two Mandatory Reconsideration Notices in the post (a copy for the person and a copy to send to HMCTS should the person wish to pursue an appeal). These will contain the outcome of the reconsideration, and will also give details of appeal rights.

Q: What happens if someone still thinks DWP's decision is wrong after a mandatory reconsideration?

If, after mandatory reconsideration, a person still wishes to dispute DWP's decision, they can appeal against the decision, regardless of whether the decision has been changed or remained the same. Any appeal must be made in writing to HMCTS. The Mandatory Reconsideration Notice will contain details of how to do this. A copy of the notice must be included with the appeal.

Q: What if someone applies late for a mandatory reconsideration?

Anyone who wishes to dispute a DWP decision should try to seek a mandatory reconsideration within a calendar month of the date of issue of their decision notification. If they have asked DWP for a written statement of the reasons for the decision, then an extension to the time limit may apply.

A Decision Maker may also be able to extend this time limit by up to 12 months if there are special circumstances which meant that a person couldn't apply for a reconsideration within a calendar month. So if someone applies for a mandatory reconsideration between one and 13 months after the date of issue of their decision notification, and can give reasons why their application is late, then the Decision Maker may still be able to reconsider their case.

If they cannot explain to DWP why their application was not made in time then the Decision Maker may not be able to reconsider their case. This may affect their appeal rights.

Q: Can DWP refuse to undertake a mandatory reconsideration?

If an application for reconsideration is late, and the Decision Maker decides that it cannot be accepted, then yes, DWP can refuse to reconsider the case.

Q: If someone applies late for a mandatory reconsideration and DWP refuses to reconsider, can they still appeal against the decision?

If someone applies late for a mandatory reconsideration and the application is not accepted by the Decision Maker because, for instance, no reasons were provided for the delay, then they will not be able to appeal against the decision. Mandatory reconsideration is a compulsory part of disputing a decision, and it will not be possible to appeal without DWP reconsidering the case.

Most people who make a late request will be able to say why they were unable to make their request for reconsideration in time.

Q: Are Decision Makers medically qualified? Do they have access to medical guidance?

Decision Makers are not medically qualified. This is not a requirement for their job, as they are not carrying out medical assessments, but making decisions based on a variety of evidence including the report of an independent medically-qualified assessor.

Decision Makers have access to appropriate medical guidance, which they can use at any time for clarification of medical terminology.

The telephone call from the Decision Maker

Q: If a Decision Maker conducting the mandatory reconsideration is likely to refuse or reduce a claim, what action do they take?

If a Decision Maker cannot review a case fully in a person's favour, they will call the person and make them aware that the Decision Maker is likely to reach an adverse decision. During the call, the Decision Maker will ask the person about any aspects of their case which are unclear, and will also ask if they have any further evidence which might help the case (for example, a letter from a health specialist not previously sent to DWP). If the person does have any further evidence, the Decision Maker will advise them where to send it.

The Decision Maker will then go on to conduct the mandatory reconsideration, taking into account any new evidence which has been provided.

Q: Where an adverse decision is likely to be made, will the Decision Maker try to contact the person involved to discuss this with them and seek any further evidence?

Yes, the Decision Maker will make at least two attempts to call the person involved to discuss the matter, at least three hours apart. For some benefits, they will make three or more attempts, depending on time constraints.

Q: What happens if the Decision Maker isn't able to contact the person by telephone?

If the Decision Maker isn't able to contact the person by telephone, they will go ahead with the mandatory reconsideration on the basis of the evidence that is already available to them.

Q: What happens if the telephone call from the Decision Maker elicits further information?

If the telephone call elicits further spoken information, the Decision Maker will take this into account when reconsidering the case.

If during the call a person tells the Decision Maker that they have further written evidence which can be sent to the Department, then the Decision Maker will wait to receive this evidence before they reconsider the case. They will postpone the mandatory reconsideration for a month, to allow the person time to send the evidence.

If the Decision Maker has not received the evidence at the end of the month, they will go ahead with the mandatory reconsideration on the basis of the evidence that is already available to them.

Submitting further evidence

Q: Can DWP advise someone what further evidence they should send?

Yes, the Decision Maker will advise what evidence they feel is necessary to progress the case.

Q: Is there any help available to meet the costs of obtaining further evidence?

If a Decision Maker feels that a piece of evidence is necessary to progress a case, then DWP may be able to pay any associated fees. Only evidence which the Decision Maker agrees is necessary can be paid for by DWP.

Q: How long will people have to submit further evidence?

People will have up to a month to submit further evidence, counted from the day when they informed the Decision Maker that they would be sending further evidence. This limit can be extended by the Decision Maker in some circumstances.

Q: Where should people send any further evidence?

Any further evidence for a person's mandatory reconsideration should be sent at the earliest opportunity to the DWP office dealing with their case. The correct address for the office is shown in their decision notification.

Q: Can you still reconsider a case even if there is no further evidence?

People do not have to provide further evidence in order to ask for a decision to be reconsidered. However, if they do have any further evidence to support their case, they should send it to DWP as soon as possible, as this will allow the Decision Maker to reach the right decision in the case more quickly.

Ideally all information should be provided when someone first submits their claim for benefit or Child Maintenance.

The Direct Lodgement Process

Q: What is “direct lodgement” and how does it change things?

Direct lodgement means that anyone who still wishes to appeal following a mandatory reconsideration must now submit their appeal directly to HMCTS, instead of going through DWP.

Before direct lodgement, if someone wished to appeal, they submitted a written appeal to a DWP Decision Maker, who considered the appeal papers and had the option to revise the decision and/or send a response and papers to HMCTS as appropriate.

Following the introducing of direct lodgement, anyone who still disputes a DWP decision after a mandatory reconsideration must submit their appeal directly to HMCTS. This is already the process for most major jurisdictions handled by HMCTS.

Q: Why has direct lodgement been introduced?

The main reasons why direct lodgement has been introduced are to:

- align the appeals process for Social Security and child maintenance appeals with other major jurisdictions handled by HMCTS;
- make sure that DWP is no longer involved in the administration of appeals, and can focus on its key role as a party to appeals; and
- speed up and clarify the appeals process. The current arrangement, where claimants submit their appeal to a DWP Decision Maker who transfers the appeal to HMCTS, causes delays in arranging tribunals, and confusion for people who may not realise which organisation is responsible for their appeal at any point.

Q: Do the changes make HMCTS’s administration of appeals more complicated?

The changes certainly give HMCTS a greater role in the administration of appeals, as direct lodgement aims to remove DWP from appeals administration, to allow the Department to concentrate on its main role as a party to appeals.

However, one of the overall aims of the appeal reforms is to reduce unnecessary pressure on HMCTS by resolving more disputes internally within DWP, so in fact the changes should reduce HMCTS’s administrative burden in the longer term.

DWP and HMCTS also believe that direct lodgement makes responsibility for the administration of appeals clearer and simpler, rather than more complicated. The arrangement before the changes, where claimants submitted their appeal to a DWP Decision Maker who transferred the appeal to HMCTS, caused delays in arranging tribunals, and confusion for people who may not realise which organisation is responsible for their appeal at any point. Direct lodgement of appeals with HMCTS should reduce these problems.

Q: Can an appellant withdraw an appeal once it's been lodged?

Yes, an appellant can withdraw an appeal at any time. After the appeal is lodged, the appellant will receive a letter from HMCTS confirming the lodgement, and this letter will contain contact details for HMCTS. The appellant can write to HMCTS using these contact details, and they will accept the withdrawal request and close down the appeal. They will also notify DWP that this has been done.

Lodging an appeal

Q: How can people lodge an appeal?

People can lodge an appeal by filling in an SSCS1 appeal form (or an SSCS2 or SSCS3 form in child maintenance cases and recovery of compensation claims). These can be downloaded at www.justice.gov.uk/tribunals or GOV.UK, or obtained in paper form from some independent advice centres.

The completed form should be sent to HMCTS, SSCS Appeals Centre, PO Box 1203, Bradford BD1 9WP for cases in England and Wales, and to HMCTS SSCS Appeals Centre, PO Box 27080, Glasgow G2 9HQ for cases in Scotland.

The SSCS appeal form will contain a note of these addresses.

Q: Can people lodge more than one appeal against the same decision?

No. An appeal will only be valid if it is accompanied by the Mandatory Reconsideration Notice which DWP will send out to a person in the post following reconsideration. This will prevent multiple appeals. In addition, HMCTS's computer system will flag up multiple appeals received from one person, and staff will then carry out checks to identify duplicate appeals.

If someone thinks that DWP's decision is incorrect for more than one reason, they should put all their reasons on their appeal form. The decision maker will ensure that all their grounds of appeal are discussed in their response.

Q: How long does someone have to lodge an appeal after receiving the outcome of the mandatory reconsideration?

Any appeal must be lodged within one month of the issue of the Mandatory Reconsideration Notice. This limit may be extended in certain circumstances, if a reason is given for why the appeal is late and the tribunal accepts this.

Q: Are people given information about their right of appeal?

Yes, the Decision Notification contains a person's appeal rights, and they can refer to the Mandatory Reconsideration Notice for details of what steps to take next if they do want to appeal to HMCTS following a mandatory reconsideration.

A small number of decisions cannot be appealed against: for example, a decision on benefit uprating. If a case cannot be appealed against, the Decision Notification will state this.

Q: What happens if someone goes directly to HMCTS and requests an appeal before their case has been reconsidered?

If someone appeals straight to HMCTS without first asking for a mandatory reconsideration, HMCTS will return the appeal form advising that it is not valid unless the tribunal is satisfied that a mandatory reconsideration has been completed. They will advise the person to contact DWP and ask for a mandatory reconsideration.

Q: Has DWP contacted people with information about the appeals process?

No. Following the introduction of the changes to the disputes and appeals process, DWP has stopped being involved in the administration of the appeals process and will concentrate on its role as a party to any appeal. DWP will therefore not contact people about the appeals process, although there will be details of appeal rights and how to go about lodging an appeal within the Mandatory Reconsideration Notice.

Q: Where can people in the UK get the correct form for lodging an appeal?

Some independent advice centres may be able to provide people with the SSCS appeal form. They can also access the correct form online at www.justice.gov.uk or GOV.UK

Q: Where can people living overseas get the correct form for lodging an appeal?

People living overseas should contact an International Pension Service Officer at the International Pension Centre or their Embassy, who should be able to provide the SSCS appeal form. They can also access the correct form online at www.justice.gov.uk or GOV.UK.

Q: Where can people get help with writing their appeal?

Advice centres such as the Citizens Advice Bureau can offer help and support in writing an appeal. Trade unions may also give free advice.

Q: Where can people living overseas get help with writing their appeal?

People living overseas should contact an International Pension Service Officer at the International Pension Centre or their Embassy. They may be able to direct them to organisations which can help them write an appeal.

People living overseas might also want to consider asking someone in the UK to act for them.

Q: How do people know which form to appeal on?

If someone is appealing after the introduction of the changes for their benefit, they should appeal on the SSCS1 appeal form (or the SSCS2 or SSCS3 form in child maintenance cases and recovery of compensation claims). These can be downloaded at www.justice.gov.uk or GOV.UK, or obtained from some local independent advisory bodies. A DWP Contact Centre that deals with their claim or the person's local Jobcentre may be able to give them more information about where SSCS appeal forms are stocked in their area. If someone is appealing before the changes are introduced for their benefit, they can still use the GL24 appeal form.

People can tell whether the decision in their case was made before or after the introduction of the changes by referring to the date on their decision notification. If this date is on or before 27 October 2013, they should use the GL24 form and lodge their appeal with DWP. If the date is on or after 28 October 2013, they should use the SSCS appeal form and lodge their appeal directly with HMCTS.

Anyone whose claim is for Personal Independence Payment or Universal Credit should also use the SSCS1 appeal form, regardless of the date on their decision notification.

Q: What happens if someone appeals on the wrong form?

If someone appeals on the wrong form, their appeal could still be valid as long as it is written in English or Welsh, signed and accompanied by a Mandatory Reconsideration Notice (if appropriate). They will not have to fill in another form to appeal as long as their appeal request complies with these rules.

People who are not sure which form to appeal on should call a DWP Contact Centre, that deals with their claim and ask for advice.

Q: What happens if someone cannot fill in the form without assistance?

A number of organisations may be able to help people to fill in their appeal form. Advice centres such as the Citizens Advice Bureau can provide help and support in writing an appeal. Trade unions may also give free advice.

Applicants might also want to consider appointing a representative to deal with the appeal on their behalf.

Q: What happens if someone loses their Mandatory Reconsideration Notice?

Anyone who loses their Mandatory Reconsideration Notice but still wishes to dispute DWP's decision should get in touch with a DWP Contact Centre that deals with their claim, to ask for a new one to be sent out to them before they lodge an appeal.

Q: Can an appellant give HMCTS more information about their circumstances at the appeal stage, and if so, where should they send it?

It is possible for people to give HMCTS further information at the appeal stage. They can send it to the HMCTS office dealing with their case. The address for this office is shown on the letter which they will receive from HMCTS acknowledging receipt of their appeal. HMCTS will send a copy of any further evidence to DWP for consideration.

However, submitting further evidence at this stage may extend the length of time it takes for a person's dispute to be resolved, as DWP will need to consider their case in light of the new evidence. Providing all evidence when they first apply for a benefit or child maintenance assessment/calculation, and certainly before the end of the mandatory reconsideration process, will allow DWP to make the right decision in their case more quickly.

Q: How do people know where to send their SSCS appeal forms?

If the person appealing lives in England or Wales, they should send their appeal to HMCTS, SSCS Appeals Centre, PO Box 1203, Bradford BD1 9WP.

If they live in Scotland, they should send their appeal to HMCTS SSCS Appeals Centre, PO Box 27080, Glasgow G2 9HQ.

The SSCS appeal form will contain a note of these addresses.

If the person appealing lives abroad, they should also send their SSCS appeal form to one of these addresses. Which address they use will depend on whether or not they intend to attend the tribunal hearing.

If they decide to attend the hearing, then they should send their SSCS appeal form to the address for their point of entry into Great Britain (for example, if a person intends to attend the hearing and will be arriving in Scotland then they should send their SSCS appeal form to the Glasgow address).

If they decide not to attend the hearing, then they should send their SSCS appeal form to the address for the place where they were previously resident in Great Britain (for example, if a person doesn't intend to attend the hearing and lived in England before moving overseas then they should send their SSCS appeal form to the Bradford address).

Q: What happens if someone sends their SSCS appeal form to DWP instead of to HMCTS?

If someone sends their SSCS appeal form to DWP in error after mandatory reconsideration, DWP will send it back to them, with instructions to lodge it directly with HMCTS.

If someone sends their SSCS appeal form to DWP before they have asked for a mandatory reconsideration, DWP will treat their request for an appeal as a request for a mandatory reconsideration. A Decision Maker will look again at the case and send the person a Mandatory Reconsideration Notice with the outcome of their reconsideration. If at this stage the person still wishes to dispute the decision, they can lodge an appeal directly with HMCTS.

Q: Who can people contact for updates on their appeal?

Once an appeal has been received by HMCTS, they will write back to the person acknowledging receipt of their appeal. This letter will contain the contact telephone number and address of the HMCTS office dealing with their case and this is who the person should contact for updates on their appeal.

Following the introduction of direct lodgement, HMCTS is now responsible for the administration of appeals, and so the person should contact HMCTS for updates on their appeal and not DWP.

Time Limits for Appeal Responses

Q: What are time limits and how do they change things?

Time limits are timescales, set down in law, for how long DWP has to return an appeal response to HMCTS.

DWP has agreed to the request of the Tribunal Procedure Committee to introduce time limits for the return of appeal responses to HMCTS. DWP has undertaken to provide an appeal response within 28 calendar days in benefits cases, and within 42 calendar days in child maintenance cases.

Q: Why have time limits been introduced?

The aim of time limits is to improve customer service by giving people a timeframe within which they can expect DWP to process the response to an individual appeal.

In addition, the change brings DWP into line with other departments, who are subject to time limits when submitting appeals responses to HMCTS, and with the other parties to appeals (including appellants), who are also subject to time limits.

Q: How long does DWP have to return an appeal response to HMCTS?

DWP has 42 calendar days to return an appeal response to HMCTS in child maintenance cases, and 28 calendar days in all other cases.

Q: When is the time limit be counted from?

The time limit is counted from the date when a DWP Appeals Officer receives the request for an appeal response from HMCTS, to the date when HMCTS receives the appeal.

Q: Does DWP have to process the appeal within the time limit as well as write it?

Yes. The time limit represents the total time that it should take DWP to write and process an appeal and return it to HMCTS. In exceptional cases, it is possible for DWP to ask HMCTS to extend the time limit.

Q: What happens if DWP can't return an appeal response within the time limit?

In exceptional cases, it will be possible for DWP to ask HMCTS to extend the time limit. It will be up to a tribunal Judge to decide whether or not to agree to the extension, on a case-by-case basis.

Q: Will people get a copy of the appeal response in their case?

Yes, a copy of the appeal response will be sent to the person (and any representatives), as well as to the tribunal. If the appeal relates to a child maintenance case then the other respondent in the case will also get a copy.

Q: Will the backlog of appeals make it harder for DWP to meet the time limits?

DWP has allocated additional staffing to deal with appeals, and believes that this should enable the Department to comply with the time limits.

Payment pending appeal

Q: If someone's claim for benefit has been disallowed, do they receive payments pending appeal?

This depends on which benefit they are claiming. For most benefits, payments will not be reinstated pending appeal. The one exception is Employment and

Support Allowance, where the claim has been disallowed following the result of the Work Capability Assessment.

If DWP has awarded the appellant a benefit or child maintenance at a reduced rate, and they are appealing against the rate of the award, then they will receive payment at the reduced rate pending the outcome of the appeal hearing.

Q: Where someone is disputing a decision made as a result of the Work Capability Assessment, how do the changes affect payment of their benefit during the disputes and appeals process?

Before the changes, claimants of Employment and Support Allowance whose claim was disallowed could choose between asking for a reconsideration and moving straight to appeal. Benefit was not paid during the reconsideration period, but was paid pending appeal. Therefore by moving straight to appeal, it was possible to avoid a gap in payment.

The situation is still that if a claimant disputes an Employment and Support Allowance disallowance decision, they will not be paid pending reconsideration but will be paid pending any appeal. However, since the introduction of the changes, the reconsideration process is mandatory so it will no longer be possible to appeal straight away and avoid a gap in payment. Claimants may be able to claim other benefits during the mandatory reconsideration period, such as Jobseekers' Allowance.

Q: Why don't you reinstate Employment and Support Allowance payments during mandatory reconsideration, where someone is disputing a decision made as a result of the Work Capability Assessment, and when will their payments be reinstated?

No DWP benefit reinstates benefit payments while the mandatory reconsideration process is still going on, and there is no legal basis for making payments pending reconsideration. Other benefits may be available during this period, such as Jobseekers' Allowance.

If the original disallowance decision is reversed after mandatory reconsideration, payment of Employment and Support Allowance will be reinstated and backdated to the effective date of the decision in the case. If someone still disputes DWP's decision after a mandatory reconsideration has been conducted, and submits an appeal, then Employment and Support Allowance will be put back into payment at the assessment rate when they lodge their appeal and will be paid pending the appeal hearing. We cannot look at reinstating payments until we are notified by HMCTS that the person have lodged an appeal. This will happen automatically, unless the person has made a claim for another benefit such as Jobseekers' Allowance during the mandatory reconsideration period. If this is the case, and the person wants to claim Employment and Support Allowance pending appeal instead, then they will have to notify DWP of this.

Payments of Employment and Support Allowance will be backdated to the effective date of the decision in the case. Any payments owed for this period will be restored. DWP will subtract any income replacement benefits that may have been claimed during the mandatory reconsideration period from the total owed.

Q: What financial support is there for appellants during the appeals process?

If an appellant's payments are stopped or reduced pending appeal, other benefits may be available depending on their circumstances.

Q: If someone is claiming a benefit related to illness or disability, and their condition deteriorates or changes pending their appeal hearing, do they have to make a new claim?

This depends on the circumstances of the case. An appeal tribunal can consider only the circumstances at the time the office made the decision. They cannot consider any changes to those circumstances that happened after DWP made the decision which is being appealed against.

If someone has a change in circumstances that may affect their claim to benefits, they should report it to DWP straight away, without waiting for their appeal to be decided. The Department may be able to reconsider their original decision in the light of the change in circumstances.

Q: If an appellant wins their appeal, are their payments be backdated?

If DWP's decision is overturned at appeal, then payment of the benefit or child maintenance entitlement will be backdated to the effective date of the decision made by the tribunal. Any payments owed for this period will be restored.

At the Tribunal

Q: What is the Tribunal Procedure Committee?

The Tribunal Procedure Committee makes rules governing the practice and procedure in the First-tier Tribunal and the Upper Tribunal of HMCTS. It is an advisory Non-Departmental Public Body, sponsored by the Ministry of Justice (MoJ) and empowered by the Tribunals, Courts and Enforcement Act 2007.

The introduction of time limits for DWP to return appeal responses to HMCTS brings the Department in line with the requirements of the Tribunal Procedure Committee.

Q: Who will be at the tribunal?

The tribunal will have up to three members, who are appointed by the Lord Chancellor and act independently of the Department for Work and Pensions (DWP). One of the members will be legally qualified (a solicitor or barrister). Other tribunal members might have medical or financial qualifications or experience or knowledge of disability.

DWP may send a Presenting Officer to assist the tribunal and put the Department's case.

Appellants can take someone along to their tribunal if they wish, as a representative or a witness in the case.

Tribunal hearings are open to the public, but normally few people attend. In some circumstances, the tribunal can close a hearing to the public.

Q: Will tribunal members for Employment and Support Allowance, Disability Living Allowance and Personal Independence Payment appeals have specialist knowledge of disability?

Yes, this is the case for Disability Living Allowance and Personal Independence Payment appeals, where the tribunal will include a disability qualified panel member, as well as a medically qualified member and the tribunal judge.

For Employment and Support Allowance appeals, the tribunal will include the tribunal judge and a medically qualified panel member only.

Q: Who will represent DWP at a tribunal?

DWP will sometimes send a Presenting Officer to a tribunal hearing, to assist the tribunal and put the Department's case. Sometimes DWP will send a written summary of its case to the tribunal hearing, rather than sending a representative in person.

Q: Does the appellant have to attend the tribunal?

Not necessarily. HMCTS will give the appellant the opportunity to decide whether they want to attend a hearing in person, which will enable them to deal with any questions or issues that arise. If the appellant does not wish to attend the tribunal, and DWP or the tribunal itself has not asked for a hearing, the appeal will be decided on the written evidence only.

Q: Can an appellant send someone else to represent them at an appeal hearing?

Yes, they can send a representative to the appeal hearing. This could be someone from a professional organisation, a friend or relative, or anyone authorised to act for them.

Q: Where can appellants get help with the cost of attending an appeal hearing?

HMCTS may pay for some of the costs for attending, for example travel costs.

Appellants living abroad will have to pay their own fares to and from the UK. They may be able to get some costs paid for them while they are in the UK.

After The Tribunal

Q: Will DWP be seeking feedback from appeal tribunals?

Yes. The tribunal will send a Decision Notice to DWP, to the appellant and to any representative that they may have, which will note the outcome of the tribunal. Where DWP's decision has been overturned at appeal, the Decision Notice will provide the main reason for the overturn, chosen by the judge from a drop-down menu. This will enable the Department to assess areas of decision making that may require further improvement.

In cases where DWP has sent a Presenting Officer to a tribunal hearing, the Presenting Officer can also provide feedback to DWP about how the tribunal approached the evidence, and so contribute to improving the quality of DWP decision making.

Q: If an appellant disagrees with the outcome of their appeal hearing, can they dispute it?

This depends on their circumstances. Appellants can appeal to the Upper Tribunal, but only on a point of law: that is, if they think the First-tier Tribunal has not applied the law correctly in dealing with their appeal. It is not possible to appeal to the Upper Tribunal about the facts the First-tier Tribunal have used, or about their medical findings or conclusions.

Q: What should someone do next if the tribunal upholds DWP's decision?

If a person thinks that the First-tier Tribunal has not applied the law correctly in dealing with their appeal, then they can appeal to the Upper Tribunal on a point of law. They must apply for permission to do this. The decision letter from HMCTS will explain how to go about it.

However, it is not possible to appeal to the Upper Tribunal about the facts the First-tier Tribunal has used, or about their medical findings or conclusions.

If someone does not want to appeal to the Upper Tribunal, then they can choose to accept DWP's decision. There may be other benefits to which they are entitled.

Alternatively, if their claim to benefit or child maintenance has been disallowed, then they can claim again, though if their circumstances have not changed then it is unlikely that their claim will be successful.

Q: How long does someone have to wait after their claim is disallowed to claim again?

People can claim again immediately after their claim has been disallowed. However, if their circumstances have not changed since their disallowed claim, then it is likely that their new claim will also be refused.