

Special circumstances arising on appeals

Withdrawal of appeals

- 5000 [\[See CAP Bulletin 3/11\]](#) An appellant, or a person accepted as acting on their behalf, can withdraw their appeal
1. in writing at any time before the hearing **or**
 2. orally at the hearing.
- 5001 The appeal can only be withdrawn orally as in CAP 5000 **2.** above if the FtT consent to the withdrawal.
- 5002 If the appellant or their representative withdraws an appeal before HMCTS are informed about the appeal, the withdrawal **must** be notified in writing. The withdrawal is recorded on the appropriate appeals recording system and no further action is taken. HMCTS do not need to be informed. Send the appellant DL/CAP35.
- 5003 If an appeal
- has already been sent to HMCTS **and**
 - the appellant or their representative notifies the appropriate business unit **in writing** that they are withdrawing the appeal
- send the notification to HMCTS on form LT203C. HMCTS will then take the appropriate action.
- 5004 Withdrawal of an appeal may be notified direct to HMCTS. DWP business units will have no action to take where the appeal has already been referred to HMCTS. In the event HMCTS receives a withdrawal notification, but the appeal has not yet been referred to HMCTS, the notice of withdrawal will be referred to the appropriate DWP business unit and action should continue in accordance with CAP 5001.
- 5005 If the withdrawal is made at the appeal hearing, it does **not** have to be made in writing. The FtT will note the records that the appellant has withdrawn their appeal.
- 5006 HMCTS will notify all PTPP that the appeal has been withdrawn.

5007 - 5150

Reinstatement of withdrawn appeal

5007 A party to an appeal who has withdrawn their case may also apply to the FtT for it to be reinstated. Such a request must be made in writing and be received within a month after

1. the date the FtT received the written request to withdraw the case **or**
2. the date of the hearing if the withdrawal was made verbally.

5008 - 5049

Withdrawal unclear

5050 If the appeal response has not been sent to HMCTS and the appellant's intention is not clear, e.g. there is more than one decision involved in the appeal, the appellant's intention must be clarified. The appellant or their representative must be asked to confirm in writing whether they want to withdraw the appeal against all the decisions or just specific ones.

5051 If the appeal has been sent to HMCTS and the appellant's intention is not clear, e.g. there is more than one decision involved in the appeal, HMCTS will either confirm that the appeal should be withdrawn or decide that the appellant does not wish to withdraw the appeal. HMCTS will notify all PTPP where it is confirmed that an appeal has been withdrawn.

5052 - 5099

Suspected fraud cases

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

5101 - 5149

Appellant changes address

General

5150 If the appellant notifies a change of address after the response is sent to HMCTS, telephone the following immediately

- the TS **and**

- if appropriate, IPC/LPC/NPC **and**
- any other DM involved in the appeal.

5151 Tell them the new address and the date of change, and if necessary confirm the telephone call in writing.

New address outside tribunal area

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

5153 If the response has already been sent to HMCTS, they will notify the appellant if the case has to be processed at a different location.

5154 If the appellant notifies that they have changed their address before the response is sent to HMCTS

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

5155 - 5159

Adjourned appeals

5160 Where the appellant

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

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

5161 - 5200

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

5162 - 5169

Appeal received after file has been transferred

5170 If an appeal is received

- after the appellant has changed address **and**
- responsibility for the benefit case has been transferred to a new office location **and**
- any action on the transferred benefit case has been taken at the new office

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

5171 - 5179

Appeal received against DM's decision at previous office

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

5181 - 5199

Appellant dies before the hearing

5200 If the appellant dies before the hearing, inform the TS of the death. Tell the FtT whether the S of S has appointed a person to act for the deceased so that the appeal can proceed. Although the FtT also have the authority to substitute a party in such circumstances, it will normally be the S of S who do so.

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

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

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

5202 - 5249

Striking-out appeals

- 5250 [\[See CAP Bulletin 2/11\]](#) The TS **must** strike out an appeal where
1. the appellant has failed to comply with a direction and the direction stated that failure to comply would result in the appeal being struck out **or**
 2. the appeal is outside the FtT's jurisdiction.
- 5251 The TS **may** strike out an appeal where
1. the appellant fails to comply with a direction and the direction stated that failure to comply may result in the appeal being struck out **or**
 2. the appellant failed to co-operate with the FtT **or**
 3. the FtT considers there is no reasonable prospect of the appellant being successful.
- 5252 Where it is the respondent (i.e. DWP) that has failed to comply with the FtT's direction then the effect of striking out is to bar the respondent from taking further part in the appeal.

See DMG Chapter 06.

Special circumstances arising on appeals

5253 - 5299

5253 If the TS strikes out an appeal, they will notify the appellant and the Department.

5254 When the strike out notification is received

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

5255 If proceedings have been struck out under CAP 5250 1. or CAP 5251 1., the appellant can apply in writing to the FtT for proceedings to be reinstated. Where the respondent has been barred from taking further part in the proceedings as in CAP 5252, then they can apply to the FtT 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. In all other cases the appellant is asked for comments before strike out action is taken.

5256 If the FtT decides to reinstate the appeal, they will notify all PTTP.

5257 When the reinstatement notification is received.

1	proceed with the case as for a normal appeal
2	re-enter the case on the appropriate method of recording appeals, using as the date of lodgement the date when notification was received that the case had been reinstated. If the appeal is reinstated it will be entered again in order to track its progress.

5258 Where the respondent has been barred from taking further part in proceedings, a request for reinstatement would mean that the bar would be lifted. The business unit would need to apply for lifting of the bar within a month of the barring being notified.

5259 - 5299

Appellant living outside Great Britain - attendance at hearing

Representative nominated

- 5300 If the appellant is living outside GB, the case will proceed as normal if the appellant nominates a representative to take their place at the hearing.
- 5301 The representative may not live in the area covered by the Tribunal Service office that the appeal papers are initially sent to. In this case the TS will transfer the papers to the appropriate tribunal centre and notify the particular DWP business unit. Send any further details about the appeal to the new tribunal centre location.

5302 - 5309

Representative not nominated

Appeal held over

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

No delay

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

5313 - 5999

