

Appeals - Tribunal Preparation

A client or their representative has the right to appeal against a decision, if that decision is about a child maintenance calculation.


If the Child Maintenance Group (CMG) decides to change its decision, it will send both parents a letter to confirm the new decision. Either parent can ask the CMG to look again at a new decision, or appeal against it if they are still not satisfied.

This procedure will take you through the steps to prepare a case for tribunal. You should have examined the decision under appeal to see if it can be resolved before going to tribunal.

When it can be resolved you need to create an Action Plan and carry out the resolutions. For more information refer to appeals in related items. When it cannot be resolved, you need to prepare a response to Her Majesty's Courts & Tribunals Service (HMCTS). Once a tribunal decision has been returned following a hearing, you would then carry out the directions from the tribunal decision to resolve the appeal.

While a decision is being looked at again or appealed against, the non resident parent must still pay child maintenance until the issue is resolved

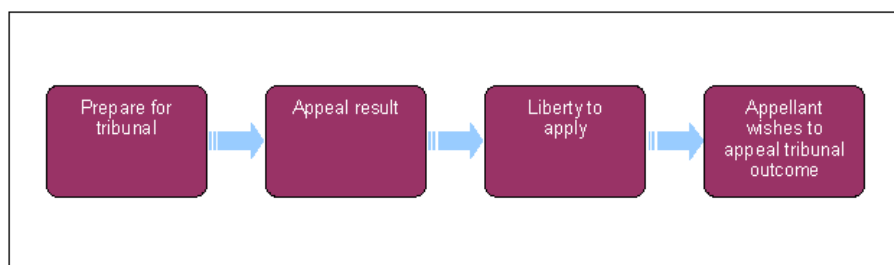
This procedure is dealt with by the appeals team.

 Clients should be encouraged to ask us to look at our decision again rather than go straight to appeal

During an appeal, it may be necessary to use HotDocs documentation. HotDocs is a specialist programme available to the central appeals unit (CAU) to develop standardised documents for appeals work.

This includes all submission shells, notifications of reassessments done, blank letters and memos and other general documents needed throughout the appeals process. For more information, select the following HotDocs link: [HotDocs](#)

For more information refer to the Policy, Law and Decision Making Guidance 



 When speaking to clients always use the new terminology. For more information refer to [Terminology Changes](#).


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Prepare for tribunal




This procedure follows on from the appeals procedure and is not intended as a standalone procedure.

1. Update the Sub status to **Prepare and Submit Response**. Input the TAS Ref in the **Escalated Enquiries** tab if not already done. Draft a summary report using CMSL5908 and assign a due date for x days in the **Due Date** column.

 The TAS reference number is provided by Her Majesty's Courts & Tribunals Service (HMCTS) as soon as they log the appeal on their system. It may have been done earlier in the appeals process if it was necessary to send them information for advice/a decision.

2. Following the Activity Plan, update the corresponding activities.
3. Store CMSL5908 and any other supporting documents in the document management system (DMS). For more information refer to [Documentum - Summary](#).
4. Link the service request (SR) to the documents in DMS with any appropriate comments and update the **SR Submission Activity Status** to **Done**.
5. Determine if editing has been requested by any party – a letter was issued to all parties involved during the resolution stage. For more information refer to [Appeals](#). If editing is required, update the **Editing Required** field in the **Escalated Enquiries** tab. You need to put a note in the **Notes** box to state which party requires the editing.
6. Create an edited copy of response CMSL5908 and store in DMS and link to the **Appeals SR**.
7.  Locally print and send the final copy of the response to the tribunal service and all parties via the postal service at the same time. Send CMSL5976 to appellant and CMSL5977 to the other party to advise we have gathered all the information for the appeal tribunal and they will hear from HMCTS directly.
8. Update the Activity Plan and the **Tribunal Tier**, **Tribunal Region** and **Tribunal Location** fields in the **Escalated Enquiries** tab.
9. Update Activity Plan and set a wait period of 28 days. Set the SR **Status** to **Wait** and the **Sub Status** to **Out With Tribunal Service**. If there has been not response within 28 days, set a further wait period of 28 days until a response is received.
10. Once notification of a hearing is received from the tribunal service, update the **Status** to **In Progress** and the **Tribunal Method** to **Oral** or **paper** and the **Date** fields in the **Escalated Enquiries** tab. Set a **wait** period for four weeks after the hearing date. Set the SR **Status** to **Wait** and the **Sub Status** to **Out With Tribunal Service**.
11. Book the court presenting officer (CPO) to attend the hearing. For more information refer to [Court Presentation - County Court](#).

 You may receive further evidence from a client when they have received their copy of the appeal response and if this had already been explained in the original response there is no need to comment, if it has not been explained you need to prepare a supplementary response to address any new issues. This is prepared in the same way as the original response but you only send a copy to HMCTS, unedited and they edit and distribute. This applies to anything received after the initial response has been sent out.


12.  Use AT37 as a cover letter to send the documents to HMCTS.
13.   If there is an adjournment to provide further evidence to the judge, the judge will instruct the appellant directly. Once the information has been received, add any necessary documents to DMS and link to the SR. Update the **Findings/Notes** and forward the information to HMCTS using CMSL5964 as a cover letter. If the appellant does not provide the information they were directed to present by the specified date, issue letter CMSL5984 to HMCTS.


Appeal rejected

14. Once the tribunal decision has been received, update the SR **Sub Status** to **TS Judgement Made**.
15. If the appeal is dismissed by the tribunal, update the **Tribunal Outcome** to **Appeal Rejected** and complete the **Tribunal Summary** and **Effective Date** fields.

Appeal upheld

16. When HMCTS uphold the appeal, they will notify the client. HMCTS will also issue the decision to CAU and it will contain any resolutions and actions that they wish to be completed as a result of the appeal. CAU will reschedule the finance and it is at this point that they will contact both clients to discuss this and the impact of the decision.

 Resolution could include financial redress, change of circumstances (CofC), changing the effective date, etc., and each resolution will have its own Activity Plan to follow.

 If a judge directs CMG to implement an income that is less than 25% different to the income currently in use then raise an incident for Design and Operational Excellence Directorate input.

17.  Update the SR **Sub Status** to **TS Judgement Made**, the **Tribunal Outcome** to **Appeal Upheld** and complete the **Tribunal Summary** and **Appeal Effective Date** fields in the **Escalated Enquiries** tab. Issue CMSL5909.

18. If the instruction from HMCTS is unclear or if the decision made by them is unusual or does not fit in with CMG's system capabilities or regulations, request a **Statement Of Reasons** from HMCTS. This is done by email. Set a **Wait** period of **14 days** at this stage and if no information has been returned continue to reset the **Wait** period until it is received.
19. Update the SR **Sub Status** to **Undertake Actions Prescribed** and complete all actions as outlined by HMCTS. You may need to create a child SR to complete the action. Follow the relevant procedure from the related items to action the decision;
- Correction - Personal Details
 - Revision/Correction - Change To Employment Status
 - Revision/Correction - Change To Benefit Details/Status
 - Correction - Contact Address
 - Revision/Correction - FTE Status (QC)
 - Revision/Correction - Carer Status - Paying Parent Not Carer Of ROC/CIFBA
 - Revision/Correction - New QC
 - Revision/Correction - Change To Income
 - Revision/Correction - Change To Shared Care
 - Revision/Correction - FTE Status (ROC/CIFBA)
 - Revision/Correction - New ROC/CIFBA
 - Revision/Correction - Paying Parent Not The Father
 - Close Case - Reverse/Revise
 - Revision/Correction - Carer Status - Receiving Parent Not Carer Of QC
 - Change - Address Details
 - Change Employment Status
 - Change - Benefit Status/Details
 - Change - Income
 - Change - Contact Details
 - Change - Payment Frequency/Collection Date
20. You must make clear notes that any revision or work undertaken as directed by HMCTS is a decision made by HMCTS. This is to ensure that the next caseworker to see the case understands that this decision has been made by HMCTS and not the Child Maintenance Group (CMG) and doesn't question the decision/think it is an error.
21. Once you have completed the change as advised by the tribunal service, issue CMSL5909.
22. Update the **Resolution Code** to **Appeal Accepted** and change the SR **Status** to **Closed** and the **Sub Status** to **Complete**.

Liberty to apply



If a piece of correspondence is received which highlights that the appellant or respondent is not happy with the implementation of the HMCTS directions, this will be treated as a Liberty To Apply application. These can be received either directly or as granted from HMCTS. It must be received within 28 days of the original first tier tribunal decision.

It is important that it is the recalculation of the assessment only and not the points of appeal that HMCTS have decided upon that can be revisited. For example, if the appellant disputes that CAU have not used the wages to recalculate the assessment that HMCTS directed them to use then this could be challenged under Liberty To Apply provisions. However, if HMCTS decides that the P60 is to be used in the recalculation and the case is reassessed in accordance with this then neither the appellant nor respondent can appeal that the P60 should not be used.

23. Create a service request (SR) using the following:

- **Process = Escalated Enquiries**
- **Area = Appeals**
- **Sub Area = Appeal Against Decision**

Update the SR **Status** to **Pending Assignment**.

24. Change the Status to **In Progress** and link the SR to the original Appeal SR and any other relevant SRs.

25. In the **More Info - Escalated Enquiries** tab update all relevant fields with appeal information, this will be found on the appeal form/letter and you will also need to investigate the linked SRs to obtain the information needed. If the appeal is out of jurisdiction you need refer to **Appeals step 32** 'Out of Jurisdiction'.

- The **Decision Appealed** drop down - this is where you will enter the reason for the appeal.
- The **Priority** dropdown will be defaulted to **3-medium**. You do not need to change this.
- **Date Logged** - this is the date the appeal form/letter was received and scanned by Xerox.
- **Appeal Sign Date** - this is used to capture the duly made date and you may have to return to complete this field later. The duly made date will be one of three dates;
 - The date the appeal form/letter is received if the appeal is valid
 - The date the missing information is received if the appeal is invalid.
 - The date the judge makes the decision to accept the appeal if it is out of time.
- **HMRC Tax Year** drop down if needed - this is for the tax year of the decision being appealed and you will enter the start year. Eg for the tax year 10/11 you will enter 2010.
- The **Appeal Details** notes box - complete the box with the appeal reason and any relevant information from the appeals form.
- The **Original Decision Date** box - this is the date the decision being appealed was calculated ie the calculation performed date.
- Consider if the appeal has been made in time and update the **Within Time** Y/N drop down.

26. In the **Reason/Resolution** tab, input the reason for the appeal using the drop downs in the reason tab and capture any notes.

27. Select the **Case Party** tab to capture all of the relevant parties, set the tier to **Liberty to Apply**, specify the role of each party and capture any comments.



The Child Maintenance Group (CMG) is the first respondent, but it is not necessary to enter this information.

28. Update the **Sub Status** to **First tier Tribunal**. Although the case is not at first tier tribunal stage you need to do this in order to create the correct activity plan. Once saved, and the activity plan is generated, change the **Sub status** to **In Progress**.

29. If the Liberty To Apply notification has been sent directly and not through HMCTS, issue CMSL5986 to the appellant and CMSL5987 with a supplementary response to HMCTS.

30. Update the SR sub-status to **Prepare and Submit Response** and update the **Tribunal** dropdown in the **Escalated Enquiries** tab to **Liberty to Apply**.

31. Set the **Next Action Due Date** for 28 days and set the SR status to **Wait** and sub-status to **Out With Tribunal**.

32. Once a reply has been sent from HMCTS you need to set the SR to **In Progress** and update the resolution plan.

33. You should now act on the decision made by HMCTS. You will need to create a child SR to complete any action and follow the relevant procedure in the related items.

34. Once the action has been taken and the appeal has been completed close the SR.

Appellant wishes to appeal the tribunal outcome – leave to appeal



If the appeal has not been upheld or has been upheld in part, the appellant or respondent can appeal to the upper tribunal, also known as Leave To Apply. The client applies directly to the judge who will decide if the appeal will be heard. The client can provide new material evidence or claim that evidence was not considered. HMCTS will contact CMG to inform of the upper tier tribunal. If this happens;

35. Create a child SR using the following:

- **Process = Escalated Enquiries**
- **Area = Appeals**
- **Sub Area = Appeal Against Decision**

36. Update the information in the **Escalated Enquiries** tab.

37.  Issue CMSL5965. This is a non standard letter and can be sent to any party connected with the appeal case.

38. Set **Tribunal Tier** to **Upper Tribunal** and link the SR with the original decision in the **Relate SR** tab.

39. Update the SR. In the **Reason/Resolution** tab, select **Case Party** view and capture all of the relevant parties and specify the role of each party, include any relevant comments. Then return to **steps 1-13**, finishing with sending documents to HMCTS. You then need to follow the relevant part of the procedure depending on the reply from HMCTS.

- If the appeal is rejected go to **step 14**
- If the appeal is upheld go to **step 16**

The Appeals Service – NI – whole procedure

CMG - NICMS,

Judge - Tribunal members

Upper Tribunal - The Commissioner

Department of Justice for Northern Ireland replaces Ministry of Justice.

Step 7 for NI needs to read;



Locally print and send the final copy of the response to the Appeals service, who will distribute to all parties.

For further information on letters to clients refer to [Letters \(Outbound\) - Send to Clients](#)

CMSL5909 Important information about your appeal

To advise the appellant what the child maintenance group will do following the decision of a tribunal that we had made an incorrect decision.

Under the sub-heading 'Your appeal' select one of the following optional paragraphs:

- Meanwhile, I'd like to apologise on behalf of ...We are happy to accept the panel's decision and will carry out their direction in full.
- Meanwhile, I'd like to apologise on behalf of....We are happy to accept the judge's decision and will carry out their direction in full.
- I'd also like to tell you what action we will take to make sure this doesn't happen again.

All other fields in this letter are system generated. Review the letter before sending.

[CMSL5964 A free text document](#)

This is only required when the Tribunal Service requests additional evidence from the CMG.

[CMSL5965 Appeal against a child maintenance decision](#)

A blank letter template to be used when writing a non-standard letter in an appeals case so the correspondence can be stored on the central system. This could be anyone connected with the case i.e. Paying parent, receiving parent.

Select one of the following optional paragraphs:

- If addressee is appellant, use paragraph TM_02797_E "Your child maintenance appeal"
- If addressee is other party, use paragraph TM_02798_E "Child maintenance appeal made by (other party)"

Enter the information you wish to relay to the client in the free text area. Review the letter before sending.

[CMSL5976 Important documents about your appeal](#)

To appellant, covering letter for appeal response information.

All fields in this letter are system generated. Review the letter before sending.

[CMSL5977 Important information about your child maintenance case.](#)

To other party, covering letter for appeal submission information.

All fields in this letter are system generated. Review the letter before sending.

[CMSL5984 For the attention of the Clerk to the Tribunal](#)

Letter to the Court/Appeals Service asking for consideration of rule 7 of the tribunal procedure.

Use the free text field to specify the information you require from the appellant. Review the letter before sending.

[CMSL5986 Important information about your appeal](#)

Letter to client advising dispute over tribunal/appeals outcome implementation has been referred back to the tribunals service/appeals service.

[Appeals](#)[Change - Address Details](#)[Change - Benefit Status/Details](#)[Change - Contact Details](#)[Change Employment Status](#)[Change - Income](#)[Change - Payment Frequency/Collection Date](#)[Close Case - Reverse/Revise](#)[CMG Appeals](#)[Complaints Overview](#)[Correction - Contact Address](#)[Correction - Personal Details](#)[Court Presentation - County Court](#)[Documentum - Summary.](#)

Letters (Outbound) - Send to Clients

Off Benefit

On Benefit

Paying Parent Appeals

Payment – Non Standard

Revision/Correction - Carer Status - Receiving Parent Not Carer Of QC

Revision/Correction – Carer Status - Paying Parent Not Carer Of ROC/CIFBA

Revision/Correction - Change To Benefit Details/Status

Revision/Correction - Change To Employment Status

Revision/Correction - Change To Income

Revision/Correction - Change To Shared Care

Revision/Correction - FTE Status (QC)

Revision/Correction - FTE Status (ROC/CIFBA)

Revision/Correction - Paying Parent Not The Father

Revision/Correction - New QC

Revision/Correction - New ROC/CIFBA

Terminology Changes