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Direct Lodgement - Appeals Post 28/10

A Department for Work & Pensions (DWP) wide change to the way in which clients can appeal against decisions has been introduced under Section 102 of the Welfare Reform Act.

Direct lodgement came into effect from on the 28th October 2013.

All appeals, when the original decision was made on or after the 28th October 2013, must be lodged directly with Her Majesty's Courts and Tribunal Service (HMCTS) and not the Child Maintenance Group (CMG).

CMG will still be responsible for carrying out all action on the case and will need to provide all information requested by HMCTS.

HMCTS will lodge the appeal, checking it is within time and establishing client confidentiality.

A decision made before the 28th October 2013 will follow the original appeals process. This includes any revisions of these decisions even if the revision was completed after this date. For more information refer to [Appeals - Pre 28/10](#).



You may receive the appeal directly from the client or from HMCTS. Upon receipt of an appeal you should create a new Appeals SR, having first checked that there is no existing active SR.

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](#).

Direct lodgement - Initial appeal request received

BAU

1. When a request for an appeal is received, you need to determine the original decision date of the decision. If it is a revision that the client is querying, you need to check the date of the original decision that was revised as it is this date that determines the action.
 - If the original decision is pre 28/10/13 go to **step 3**.
 - If the original decision is post 28/10/13 ie made on or after this date, continue from **step 2**.
2. Check the system and outbound notifications for the issue of a Mandatory Reconsideration Notification (MRN). This should be linked at both case and client level. If no MRN has been issued, you will need to take the client through the mandatory reconsideration filter process. For more information refer to Mandatory Reconsideration. If a MRN has been issued, record that an appeal has been received and then return the original appeal form/letter to the client with cover letter CMSL5996 and direct them to HMCTS to obtain an appeal form.
3. If the appeal is in writing, either a letter or an appeal form, forward the request to CAU for action. For more information refer to [Appeals - Pre 28/10](#). If the appeal request is verbal, talk to the client and discuss whether the decision can be looked at as a dispute.
4. If the client is happy to go through the dispute process you will need to follow that process. For more information refer to [Dispute Resolution](#). If the client does not want to go through the dispute process and wishes to continue to appeal, you will need to issue FT5900 to the client. Once this is returned it will need to be forwarded to CAU. For more information refer to [Appeals - Pre 28/10](#).



If the original decision is post 28/10/13 HMCTS will inform BAU of an appeal request via correspondence, check the system for inbound notifications. If received, go to **step 5**.



BAU are required to complete any outstanding SRs that impact the liability prior to moving the case to CAU.

Appeal received from BAU or Her Majesty's Courts & Tribunals Service (HMCTS)

5.  When an appeal request is received by BAU from HMCTS a Transitioned Case Check must be completed. Select the **paying parent surname** and then select the **More Info** tab and check the **Transition Date** and **NRP Case Group Look Up** fields. Where both fields show:
- **Transition date** = Any date before 30/06/2014
 - **NRP Case Group Look Up** = Reactive Transition with Pause

Go to the **procedural exceptions** tab and complete the steps for **Transitioned case group - Initial effective date checks**.

6. When an appeal request is received by BAU from HMCTS move the case to Appeals (CAU), raise an SR via an inbound activity using the following;
- **Process = Escalated enquiries**
 - **Area = Appeals**
 - **Sub Area = Direct Lodgement Appeal**

Link the SR to the case, attach any documents, update the Source and the **Status** to **Pending Assignment** to move the case to appeals or if appeal request received in CAU set the **Status** to **In Progress**. Ensure the Mandatory Reconsideration SR is linked.



Confirm that the Lock Assignment flag has been removed to ensure that the Case/SRs move to CAU

CAU

7. Select the **Escalated Enquiries MR** tab. Determine the date of the original decision under appeal. For revisions this must be the date of the original decision, not the date of the revision.
- For decision dates before 28/10/13 you need to follow **Appeals - Pre 28/10**.
 - For decision dates post i.e. on or after 28/10/13 continue from **step 8**.
8. Check that a MRN has been included, if it has continue from **step 9**. If client has not received a MRN or been through the mandatory reconsideration process they do not have appeal rights. You need to refer the case to the Appeals Reform Central team to reconsider the decision for reconsideration. Update the **Resolution Code** to **Referred for MR**, update all activities and **Close** and **Complete** the SR. For more information refer to [Mandatory Reconsideration](#).
9. Check the appeal form has been sent by HMCTS, if it has go to **step 11**, if it hasn't continue to **step 10**. Record on the system that the appeal form/letter has been received in error and request the document is deleted.
10. You will be unable to return the original appeal form/letter to the client so a copy needs to be sent along with cover letter **CMSL5996**. Direct the client to HMCTS to lodge the appeal. They will need to obtain an appeal form from HMCTS or approved outlet. If the client is unable to do this, please refer to "What do I do if a client requests an appeal form from CMG on or after 28th October 2013" within the FAQs tab of this procedure. Update the SR with a note saying 'Appeal received in error. Notification issued signposting client to HMCTS.' Update the **Resolution Code** to **Form Returned To Client**, update all activities and **Close** and **Complete** the SR.

HMCTS notify CMG that an appeal has been lodged against a CMG decision.

11. Complete the **HMCTS reference #** and any other relevant details within the SR. Within the **Reason/Resolution** tab, select the **Case Party** tab and add each contact and their role in the appeal.
12. HMCTS will confirm if the appeal has been made within time. If the appeal is within time go to **step 16**, if it is not within time, continue to **step 13**.

Late Appeal

13. The Late Appeal indicator will automatically update. Determine whether or not to object the late appeal;

- If the late appeal is not going to be objected go to **step 14**
 - If the late appeal is to be objected, update the **Late Appeal Objection** field and insert today's date in the **LA Obj Sent to HMCTS** field. You will be required to provide 'observations' to HMCTS, these observations should help determine whether the appeal should ultimately be accepted or not.
14. Complete form **AT39** with any observations in support of/or against why an appeal form may have been submitted late and any supporting evidence of why it should or should not be accepted. You also need to provide details of other parties affected by the appeal. Send the **AT39** to HMCTS. Update the **Late Appeal Objection** reason and **Late Observation sent to HMCTS** fields and update the **Sub Status** to **Out of time reason with TS**.
- It will be necessary to request and extension from HMCTS when you do this. For more information refer to **step 24**.
15. HMCTS will consider the reasons for lateness and notify all parties if the appeal is to be progressed or not.
- If the appeal is not to be progressed to **step 16**
 - If it is, update the **Response Received Date**, **LA Reason Accepted** and **Conf Resp Sent HMCTS** with **Y**, go to **step 18**.
16. If HMCTS notify that the appeal is not to be progressed, record this and the reasons given by HMCTS. Update the **Resolution Code** to **Late appeal Rejected**. Update all activities and close the SR.
17. Send details of all other parties affected by the appeal to HMCTS using the **AT39**. This is the end of the process.
18. HMCTS will make confidentiality requests to all parties and notify CMG of the outcome.
19. Update the **Editing Required** dropdown within the **Case Party** tab of the **Reason/Resolution** tab once information is received.

Check decisions and prepare response

20. Update the **Sub Status** to **Investigate Appeal**. Gather the relevant information from the case using the case details screens, SRs and correspondence.
21. Complete a direct check of the original decision to identify if there are any errors in the components that make up the liability calculation. If you identify errors they need to be revised. For more information refer to the relevant revision procedure in related items
- If no errors are identified and the decision is correct, you need to issue the response to HMCTS, then go to **step 22**.
 - If the revision results in a financial advantage to the appellant it lapses the appeal, so if the appellant or other parties are not happy with the calculation they would need to appeal again against the newly revised decision. Issue **CMSL5982** to the appellant, **CMSL5988** to all parties and **AT39** to HMCTS. 
- These letters must be issued clerically. Update the **Resolution Code** to **Decision Revised - No HMCTS**, update all activities and close and complete the SR.
- If the revision results in no financial advantage to the appellant and/or the outcome is not in their favour, the appeal continues against the newly revised decision. You need to send an **AT39** to HMCTS to inform them that the decision under appeal has changed and give the new information. Go to **step 22**
22. You now need to prepare and issue response. To do this follow [Appeals - Tribunal Preparation](#)

Client withdraws appeal

23. The client can withdraw the appeal at any time within the appeal process. The client will directly notify HMCTS who will notify CMG. When HMCTS notify of the withdrawal, update the **Resolution Code** to **Appeal Withdrawn**. Update any outstanding activities and change the **Status** to **Closed** and **Sub Status** to **Complete**. Once done, notify HMCTS the appeal has been withdrawn. HMCTS are responsible for issuing notifications to the client/s. Request and extension from HMCTS
24. There is a 42 day target timescale in place which must be adhered to. To request an extension from HMCTS complete the following where relevant;
- Update the **Extra Time To Respond** field to **Y**
 - **Extension Request Extra Time Requested Date**
 - **First Extension Accepted** to **Y**

- **First Revised Date** - use the date provided by HMCTS
- **Revised Response date**

For a second extension request, update the **Extension Required** field to **Second Request** and update the dates.

Northern Ireland

Mandatory Reconsideration and Direct Lodgement came into force in respect of child maintenance decisions in Northern Ireland from 11 July 2016.

Replace Child Maintenance Group (CMG) with the Northern Ireland Child Maintenance Service (NICMS).

Replace Her Majesty's Court and Tribunal Service (HMCTS) with The Appeals Service (TAS).

Replace decision date 28th October 2013 with 11 July 2016.

If a Mandatory Reconsideration Notice has been issued and an appeal form/letter is subsequently received from a client in respect of that decision, the appeal should be sent to TAS and letter CMSL5996NI issued clerically to the client to advise them that it has been forwarded.

Transitioned case group - initial effective date checks

Transitioned case group - initial effective date checks

1. Check the initial effective date of the case on the system and confirm whether the effective date held aligns with the date the letter notifying of the liability was issued (CMSL0039 or CMSL0084 for Receiving parent applications and either CMSL3400, CMSL4096 or CMSL4101 for paying parent applications), the aligning is based on the phase 1 rules for setting the effective date. Steps to confirm the effective date are listed below. The phase 1 rules were:
 - **For letters issued by the system** - The date the system created the letter which informs the Paying Parent of their 2012 Scheme liability + next working day + two calendar days
 - **For letters issued clerically** - The date the letter was issued clerically + two calendar days

 Some clerical letters were issued with just one calendar set instead of two, a decision was made at the time to allow these
2. If the initial effect date aligns with the letter issue date, then the case can continue as normal. For the cases that don't align, an incident will need to be raised with the area advice centre (AAC) and the customers expectations managed in regards to possible delays until the issue is resolved.

Confirming the effective date and letter issue date

2012 scheme case that triggered transition

1. In the **Case view**, select **Activities**.
2. Select **Query**, in **Type**, select **Letter Outbound – Auto** from the drop down pick list to view all system letters issued for case then select and drill down on relevant record for **Liability Statement (Applicant Type = PWC)** or **Issue Maintenance Calculation Decision for NRP (Applicant Type = NRP)**.
3. Select **Go To Correspondence** to view Letter Template.
4. Under **Template Name**, view **Created field** to confirm date system created the letter
5. Check **Status** field to confirm that letter was successfully fulfilled
6. Select **Open Generated Document** to view actual letter on the system
7. The Effective Date in the letter should align with Letter created date + Next Working Day + 2 calendar days

Example:

- Letter created date = 18/09/2013
 - Next Working day = 19/09/2013
 - Initial Effective Date = 21/09/2013
8. In the **Summary Case Details**, view the **Effective Date** field. If this date does not match the Initial Effective Date, then the effective date on the case needs to be changed to align with this date (action to amend this date on system will be taken in certain case scenarios). If there is no record of any system generated letter being created

or successfully fulfilled, then you will need to confirm whether a clerical letter was issued and obtain details of when the letter was issued.



Where there are cases that have transitioned, a check will need to be made to ensure the effective date is correct. For more information see **Cases that have transitioned below**.

- If you are unable to establish the correct Initial Effective Date you should refer the case to Advice and Guidance to provide guidance on the correct initial effective date. Where Advice and Guidance determine there is no evidence that the Effective date letter has been issued refer to **Corrective Action** below.

Cases that have transitioned

For Phase 1 where 1993/2003 scheme cases have had the liability ended for reactive transition, the liability is ended the day before 2012 Scheme liability starts to ensure that these clients have continuous liability, if 2012 Scheme effective dates are changed, this means that the Transition Date (Legacy Liability End Date) must also be changed.



This action is only required where legacy cases had on-going liability at the point of transition.

- In **Case view**, navigate to the **More Info** tab of each case. If the **Application Type** field shows **Reactive With Pause** then the case had a legacy liability at transition, if not no further action is necessary.
- Select the **Paying Parent's surname** and navigate to the Paying Parent's **More Info** tab
- The **Transition Date** field shows the date legacy liability end date, where this date needs to be changed to align with a revised 2012 Scheme initial effective, the revised date must be recorded in **Notes** as it cannot be changed on the system.
- As the 1993/2003 scheme case is closed, a revised transition date will need to be provided to the 1993/2003 Re-Assessment Team so a clerical adjustment to the 1993/2003 scheme liability and arrears can be made. Email the case details to **CM 2012 Scheme 1993-2003 reassessment team**.

Corrective action

For both the 2012 scheme case and the transition case, where it is identified that the effective date needs to be changed, corrective action will also need to be taken. The action is dependent on where the case's are in their lifecycle:

- **Pre-Initial Effective date** - Your team leader has the steps necessary to correct the effective date
- **Post-Initial Effective date** - Raise an incident via AAC who can provide case specifics steps

AT39

Form used by CAU

CMSL5996 - MR appeal received in error

Cover letter for appeals from sent to CMG in error. Should advise appellant to re-send it to HMCTS. **Only to be used when MR has occurred.**

Related Items

[Appeals - Pre 28/10](#)

[Appeals - Prepare for Tribunal](#)

[Complaints Overview](#)

[Complaint/Dissatisfaction - Log](#)

[Dispute Resolution](#)

[Mandatory Reconsideration](#)

What do I do if a client requests an appeal form from CMG on or after 28th October 2013

An appeal form could be requested either in writing or over the phone. Determine if the decision the client wants to appeal 2013.

If the decision was calculated pre 28th October then a CMG Appeal form should be sent out as per normal business process to [Appeals - Pre 28/10](#).

If the decision was calculated post 28th October then a quick check needs to be made with the client and on tl reconsideration has already been completed. If it hasn't you need to explain to the client that the process has changed ar Call the client if the request has been made in writing. If a Mandatory Reconsideration has already been completed then dir

- either visit gov.uk or justice.gov.uk to download an appeal form
- or Citizen's Advice Bureau to obtain an appeal form in person

As a last resort if a client expresses concern about their ability to download a form or to get to a CAB office then you can be sent to them from HMCTS. (This option is only available up until 31st October 2014). To arrange for an appeals pack [DWP Appeals Reform](#) website and access the appeals reform template. Complete all of the required fields and select **Email** the template as an attachment so the request can be sent to DWP to action.

[A client has a MRN, but is out of time to appeal. Do we issue a refuse to review?](#)

No. The client needs to lodge the appeal directly with HMCTS, it will then be down to HMCTS to advise the client if the appe

[An appeal form has been incorrectly received by CMG. The appeal form has not been signed, do we notify the client when w](#)

No. All you have to do it return the appeal form with the cover letter CMSL5996. It is up to HMCTS to ensure the client ha an issues.

[Why is there a requirement to ask HMCTS for an extension?](#)

There are several circumstances when it may be necessary to request an extension. As we are required to bring an appeal i cannot risk failing the target when the delay may not be our fault. The 42 day target will not be enforced until October 201 a shadow target to ensure caseworkers are used to the deadline before it becomes law.

[Why would we not withdraw an appeal at the client's request?](#)

As the appeal is lodged directly with HMCTS the appellant would need to withdraw the appeal with HMCTS. Appeals can still