

The following extracts are taken from the Decision Makers' Guide, Volume 1, Chapter 3, which is available at:  
<https://www.gov.uk/government/publications/decision-makers-guide-vol-1-decision-making-and-appeals-staff-guide>

## Revising decisions at any time

### Introduction

03250 In the following circumstances decisions made by the DM can be revised at any time either during or outside the application period without an application from the claimant<sup>1</sup>.

1 SS Act 98, s 9(1)

### Revision while appeal is going on

03251 The DM may revise at any time **before** the appeal is determined where an appeal, including a late appeal, is made within the time limits (see DMG Chapter 06<sup>1</sup>).

1 SS CS (D&A)  
Regs, reg 3(4A)

03252 This allows the DM to revise the decision under appeal where action to revise does not start within the one month time limit (see DMG 03101). For example, the claimant may produce further evidence after an adjourned hearing which was not previously available to the DM, but which allows the decision to be revised.

03253 Where new information is provided after the response has been written and sent to HMCTS, a revision should be considered. Where the decision is revised, HMCTS should be informed **immediately**, especially where the appeal is to be lapsed.

### When should a decision not be revised

03254 The purpose of lapsing an appeal is to prevent unnecessary appeals going ahead. The power to revise is discretionary rather than mandatory, and should not be used in order to prevent an appeal being heard. DMs are therefore advised to consider whether a decision under appeal should be revised where

1. the revision does not address the issue which is the subject of the appeal **and**
2. it is clear that a further appeal will be made.

### **Example 1**

The DM decides that a claim for IS should be disallowed from and including 17.1.07 on the grounds that the claimant's income exceeds. The decision is reconsidered on appeal, the issue being whether the claimant has income. The DM notices that the date of disallowance is incorrect, and should have been

19.1.07. The DM does not revise the decision, and the appeal goes ahead. The error in the disallowance date should be addressed in the appeal response.

### **Example 2**

The DM decides that an overpayment of benefit of £10,855 is recoverable. The decision is reconsidered on appeal, the issue being whether the overpayment is recoverable. The DM notices that the amount of the overpayment has been incorrectly calculated, and should be £10,835. The DM does not revise, and the

appeal goes ahead. The error in the amount should be addressed in the appeal response.

### **Example 3**

The DM decides that an overpayment of benefit of £10,855 is recoverable. The decision is reconsidered on appeal, the issue being whether the amount of the overpayment is correct. The claimant contends that that the amount of the overpayment is £5,000. The DM notices that the amount of the overpayment has been incorrectly calculated, and should be £10,835. The DM does not revise the decision as it is clear that the claimant will make a further appeal. The response to the FtT should point out the error in the calculation.

### **Example 4**

The DM makes an advance award of the lowest rate of the care component of DLA, deciding that the qualifying period was not satisfied at the date of the claim. The claimant appeals on the ground that the award should have started on the date of claim, and should have been at the middle rate. The DM accepts that the qualifying period was satisfied at the date of claim, but decides that the claimant is not entitled to the middle rate care component. The claimant is advised of this via telephone call but still contends that they consider that they should be entitled

to the middle rate and that they would make a further appeal if the decision was revised. The DM does not revise and the appeal goes ahead.

### **Example 5**

The DM awards the lowest rate care and mobility component of DLA. The claimant appeals on the grounds that they satisfy the conditions for the higher rate of both components. The DM finds he could revise the decision awarding benefit at the same rate but 3 weeks earlier. The DM does not revise and the appeal goes ahead.

03255 Where the decision is not revised, but the DM considers it to be incorrect, the response should

1. advise the FtT why the decision is not revised **and**
2. request that the correct decision is substituted for that of the DM.

The following extracts are taken from the Decision Makers' Guide, Volume 1, Chapter 6, which is available at:  
<https://www.gov.uk/government/publications/decision-makers-guide-vol-1-decision-making-and-appeals-staff-guide>

## Lapsing an appeal 06160 - 06179

### Decision not to the claimant's advantage 06166 - 06179

06160 Where

1. the DM revises the decision under appeal (for decisions notified before 28.10.13) **or**
2. the appeal is accepted by HMCTS, the DM can still consider revising the decision under appeal (for decisions notified on or after 28.10.13)

the outcome determines whether the appeal lapses. An appeal should be lapsed where the revised decision is to the claimant's advantage<sup>1</sup>.

**Note:** An appeal cannot be lapsed where the decision is superseded.

1 SS Act 98, s 9(6)

06161 The purpose of lapsing an appeal is to prevent unnecessary appeals going ahead. The power to revise is discretionary rather than mandatory, and should not be used in order to prevent an appeal being heard. DMs are therefore advised to consider whether a decision under appeal should be revised where

1. the revision does not address the issue which is the subject of the appeal **and**
2. it is clear that a further appeal will be made.

**Note:** Once the DM actually makes that revised decision then the appeal must lapse so it is important that the DM considers whether revision is the appropriate course of action to take.

06162 So where a revision would not give the claimant all they are asking for in the appeal, the DM will contact the claimant before revising to ask them if they would still want to appeal if the revised decision were made. If the claimant says they would

1. still appeal, then the decision would not be revised and the appeal goes ahead with our response including details of the revised decision and that we cannot revise the decision as this would mean the appeal would have to lapse **or**
2. be happy with the revised decision, the DM would make that revised decision and lapse the appeal. The claimant would be informed of their appeal rights against the revised decision.

**Note:** If the claimant cannot be contacted then the appeal should not be lapsed.

### **Example 1**

The DM decides that a claim for IS should be disallowed from and including 17 January on the grounds that the claimant's income exceeds. The decision is reconsidered on appeal, the issue being whether the claimant has income. The DM notices that the date of disallowance is incorrect, and should have been 19 January. The DM does not revise the decision, and the appeal goes ahead.

### **Example 2**

The DM decides that an overpayment of benefit of £10,855 is recoverable. The decision is reconsidered on appeal, the issue being whether the overpayment is recoverable. The DM notices that the amount of the overpayment has been incorrectly calculated, and should be £10,835. The DM does not revise, and the appeal goes ahead.

### **Example 3**

The DM decides that an overpayment of benefit of £10,855 is recoverable. The decision is reconsidered on appeal, the issue being whether the amount of the overpayment is correct. The DM notices that the amount of the overpayment has been incorrectly calculated, and should be £10,835. The DM revises, and the appeal is lapsed.

### **Example 4**

The DM makes an advance award of the lowest rate of the care component of DLA, deciding that the qualifying period was not satisfied at the date of the claim. The claimant appeals on the ground that the award should have started on the date of claim, and should have been at the middle rate. The DM accepts that the qualifying period was satisfied at the date of claim, revises the decision and lapses the appeal.

06163 Where the decision is not revised, but the DM considers it to be incorrect, the response should

1. advise the tribunal why the decision is not revised **and**
2. request that the correct decision is substituted for that of the DM.

06164 A decision is to the claimant's advantage<sup>1</sup> when the outcome is that

1. an award of benefit is made, increased or the period extended **or**
2. an amount of benefit is greater but is not payable, or has been suspended, or the claimant is disqualified from receiving it **or**
3. a decision that benefit is payable to a third party is reversed **or**  
a refusal to give an IA declaration is reversed (see DMG 03300 for full guidance on revision and supersession of accident questions) **or**
5. the amount of a recoverable overpayment is reduced or is no longer recoverable **or**
6. a sanction is lifted or the period reduced.

**Note 1:** An increase in an assessment of disablement for IISB which does not result in an award of benefit on its own or on aggregation is not advantageous.

**Note 2:** This list is not exhaustive and each case should be considered on its facts.

1 SS CS (D&A)

Regs, reg 30(2)

### **Example 1**

A claimant is awarded lowest rate care component and lower rate mobility component of DLA. They appeal on the grounds that they satisfy the conditions for higher rates of both components. The DM revises the decision to award the middle rate care component, but does not change the award of the mobility component. The appeal lapses.

### **Example 2**

A claimant is awarded lowest rate care component and lower rate mobility component of DLA. They appeal on the grounds that they satisfy the conditions for higher rates of both components. The DM finds they could revise the decision awarding benefit at the same rates but from three weeks earlier. The DM does not revise, and the appeal goes ahead.

06165 Where an appeal is lapsed because the decision is revised, the new outcome decision carries a new dispute period and appeal rights. For decisions made before 28.10.13, the claimant, and HMCTS where the appeal has been sent to them, should be notified that the appeal has lapsed. For decisions made on or after 28.10.13, the claimant and HMCTS should be notified that the appeal has lapsed.

## **Decision not to the claimant's advantage**

06166 Where the revised decision is not to the claimant's advantage, the appeal should be treated as made against the decision as revised<sup>1</sup>. The claimant is also invited to make further representations within one month of notification of the revised decision<sup>2</sup>. For appeals on decisions notified before 28.10.13, the appeal is not referred to HMCTS at this stage, and the decision is implemented. If however, the appeal has already been referred to HMCTS then a further response based on the additional facts should be prepared.

1 SS CS (D&A) Regs, reg 30(3); 2 reg 30(4)

06167 If the decision is not revised following reconsideration, the reconsideration is **not** a decision. The appeal continues and the DM prepares the appeal response to be sent to HMCTS.

06168 After the end of that period, or within that period if the claimant consents in writing, the appeal to the FtT must proceed, except where

1. the DM further revises the decision in light of further representations from the claimant **and**
2. that decision is more advantageous to the claimant than the decision before it was revised<sup>1</sup>.

1 SS CS (D&A) Regs, reg 30(5)

06169 The appeal lapses where

1. the claimant provides further information **and**
2. the revised decision can be revised again **and**
3. the effect of the new decision is that the conditions in DMG 06161 are satisfied for the original decision<sup>1</sup>.

1 SS CS (D&A)

Regs, reg 30(5)

### **Example**

The DM awards IS of £40. The claimant appeals, and the DM revises the decision to award £35. The claimant provides more information, as a result of which the DM is able to revise again and award £40.50. The appeal lapses.

06170 Where the result of the further revision is not to the claimant's advantage, the appeal proceeds to HMCTS with a response in the normal manner.

The following extracts are taken from the Advice for Decision Making Staff Guide, Chapter A3, which is available at:  
<https://www.gov.uk/government/publications/advice-for-decision-making-staff-guide>

## Revising decisions at any time

### Introduction

A3094 In the following circumstances decisions made by the DM can be revised at any time either during or outside the application period without an application from the claimant<sup>1</sup>.

*1 SS Act 98, s 9(1); UC, PIP, JSA & ESA (D&A) Regs, reg 8*

### Revision while appeal is going on

A3095 The DM may revise at any time<sup>1</sup> **before** the appeal is determined where an appeal, including a late appeal, is made within the time limits (see ADM Chapter A5).

*1 UC, PIP, JSA & ESA (D&A) Regs, reg 11(1)*

A3096 This allows the DM to revise the decision under appeal where action to revise does not start within the one month time limit. For example, the claimant may produce further evidence after an adjourned hearing which was not previously available to the DM, but which allows the decision to be revised.

A3097 Where new information is provided after the response has been written and sent to HMCTS, a revision should be considered. Where the decision is revised, HMCTS should be informed **immediately**, especially where the appeal is to be lapsed.

### When should a decision not be revised

A3098 The purpose of lapsing an appeal is to prevent unnecessary appeals going ahead. The power to revise is discretionary rather than mandatory, and should not be used in order to prevent an appeal being heard. DMs are therefore advised to consider whether a decision under appeal should be revised where

1. the revision does not address the issue which is the subject of the appeal **and**
2. it is likely that a further appeal will be made.

#### Example 1

The DM decides that a claim for JSA should be disallowed from and including 17.1.17 on the grounds that the claimant has an occupational pension of £300 per week. The decision is reconsidered on appeal, the issue being whether the claimant has an occupational pension. The DM notices that the date of disallowance is incorrect, and should have been 19.1.17. The DM does not revise the decision, and the appeal goes ahead. The error in the disallowance date should be addressed in the appeal submission.

#### Example 2

The DM decides that an overpayment of benefit of £10,855 is recoverable. The decision is reconsidered on appeal, the issue being whether the overpayment is

recoverable. The DM notices that the amount of the overpayment has been incorrectly calculated, and should be £10,835. The DM does not revise, and the appeal goes ahead. The error in the amount should be addressed in the appeal submission.

### **Example 3**

The DM decides that an overpayment of benefit of £10,855 is recoverable. The decision is reconsidered on appeal, the issue being whether the amount of the overpayment is correct. The claimant contends that the amount of the overpayment is £5,000. The DM notices that the amount of the overpayment has been incorrectly calculated, and should be £10,835. The DM does not revise the decision as it is clear that the claimant will make a further appeal. The submission to the FtT should point out this error in calculation.

### **Example 4**

The DM makes an advance award of the standard rate of the daily living component of PIP, deciding that the qualifying period was not satisfied at the date of the claim. The claimant appeals on the ground that the award should have started on the date of claim, and should have been at the enhanced rate. The DM accepts that the qualifying period was satisfied at the date of claim, but decides that the claimant is not entitled to the enhanced rate. The claimant is advised of this via telephone call but still contends that they consider that they should be entitled to the enhanced rate and that they would make a further appeal. The DM does not revise the decision and the appeal proceeds.

### **Example 5**

The DM awards the standard rate of daily living and mobility components of PIP. The claimant appeals on the grounds that they satisfy the conditions for the enhanced rate of both components. The DM finds he could revise the decision awarding benefit at the same rate but 3 weeks earlier. The DM does not revise and the appeal goes ahead. The error in the date should be addressed in the appeal submission.

### **Example 6**

The DM awards the standard rate of daily living and mobility components of PIP. The claimant appeals on the grounds that they satisfy the conditions for the enhanced rate of both components. The DM reconsiders the decision and decides that the claimant should be awarded the enhanced rate of the daily living component but that the award of the mobility component should remain at the standard rate. The claimant is advised of this and says that they are content with the proposed new decision and that they will not make a further appeal against the revised decision. The DM revises the decision and the appeal lapses.

A3099 Where the decision is not revised, but the DM considers it to be incorrect, the submission should

1. advise the FIT why the decision is not revised **and**
2. request that the correct decision is substituted for that of the DM.

The following extracts are taken from the Advice for Decision Making Staff Guide, Chapter A5, which is available at:

<https://www.gov.uk/government/publications/advice-for-decision-making-staff-guide>

## Lapsing an appeal

A5159 Where the appeal is accepted by HMCTS, the DM can still consider revising the decision under appeal, the outcome determines whether the appeal lapses. An appeal should be lapsed where the revised decision is to the claimant's advantage<sup>1</sup>.

**Note:** An appeal cannot be lapsed where the decision is superseded.

*1 SS Act 98, s 9(6)*

A5160 The purpose of lapsing an appeal is to prevent unnecessary appeals going ahead. The power to revise is discretionary rather than mandatory, and should not be used in order to prevent an appeal being heard. DMs are therefore advised to consider whether a decision under appeal should be revised where

1. the revision does not address the issue which is the subject of the appeal **and**
2. it is likely that a further appeal will be made.

**Note:** Once the DM actually makes that revised decision then the appeal must lapse so it is important that the DM considers whether revision is the appropriate course of action to take.

A5161 So where a revision would not give the claimant all they are asking for in the appeal, the DM will contact the claimant before revising to ask them if they would still want to appeal if the revised decision were made. If the claimant says they would

1. still appeal, then the decision would not be revised and the appeal goes ahead with our response including details of the revised decision and that we cannot revise the decision as this would mean the appeal would have to lapse **or**
2. be happy with the revised decision, the DM would make that revised decision and lapse the appeal. The claimant would be informed of their appeal rights against the revised decision.

**Note:** If the claimant cannot be contacted then the appeal should not be lapsed.

### Example 1

The DM decides that a claim for UC should be disallowed from and including 17 January on the grounds that the claimant's income exceeds the maximum amount of the award. The mandatory reconsideration confirms the earlier decision. On receiving the appeal from HMCTS, the issue in the appeal is whether the claimant has income, the DM notices that the date of disallowance is incorrect, and should

have been 19 January. The DM does not revise the decision, and the appeal goes ahead.

### **Example 2**

The DM decides that an overpayment of PIP of £10,855 is recoverable. The mandatory reconsideration confirms the earlier decision. The decision is reconsidered on appeal, the issue being whether the overpayment is recoverable. (PIP is subject to guidance in DMG Chapter 09 and so recoverability is an appealable decision). The DM notices that the amount of the overpayment has been incorrectly calculated, and should be £10,835. The DM does not revise, and the appeal goes ahead.

### **Example 3**

The DM decides that there has been an overpayment of UC of £10,855. The mandatory reconsideration confirms the earlier decision. The decision is reconsidered on appeal, the issue being whether the amount of the overpayment is correct. The DM notices that the amount of the overpayment has been incorrectly calculated, and should be £6,255. The DM contacts the claimant who says they are happy with this and do not want to continue with the appeal. The DM revises the decision and the appeal is lapsed.

A5162 Where the decision is not revised, but the DM considers it to be incorrect, the response should

1. advise the tribunal why the decision is not revised **and**
2. request that the correct decision is substituted for that of the DM.

A5163 A decision is to the claimant's advantage<sup>1</sup> when the outcome is that

1. any benefit paid to the appellant is greater or for a longer period as a result of a revision
2. it would have resulted in a greater amount of benefit being payable but for the effect of any restriction or suspension of payment of, or disqualifying a claimant from receiving some or all of the benefit **or**
3. as a result of the decision, a denial or disqualification for the receiving of any benefit is lifted wholly or in part **or**
4. it reverses a decision to pay benefit to a third party **or**
5. the amount of a recoverable overpayment is reduced or is no longer recoverable **or**
6. a financial gain has or will accrue to the claimant as a result of the decision.

This list is not exhaustive and each case should be considered on its facts.

*1 UC, PIP, JSA & ESA (D&A) Regs, reg 52(5)*

A5164 Where an appeal is lapsed because the decision is revised, the new outcome decision carries a new dispute period and appeal rights. The claimant and HMCTS should be notified that the appeal has lapsed.