

## Quality Focus August 2020 - Lapsing Appeals (including in-part) and Telephone Calls

### Background

The purpose of lapsing an appeal is to get the right result for our customers, resolving their dispute and avoid unnecessary appeals going ahead. The power to revise is discretionary rather than mandatory. It should not be used in order to prevent an appeal being heard as DMs should always consider whether a decision under appeal should be revised.

We recognise that making the call to discuss a potential lapse can be challenging. We want to support our appeal writers to improve the services provided to our customers and the tribunal service. This document is a helpful guide to aid you in making these calls.

### Hints and Tips

We must ensure that our customers feel they are being listened to and have all the information they need. We also need to ensure they are given enough time to consider the proposed decision, ensuring that the decision is right for them and that they have time to arrange appropriate support if required.

Here are some things to consider when making a call to our customer:

#### **1) Think about your audience**

- If the customer has a current formal representative who has assisted with the appeal you must *first try to contact them*. Only if that is proving difficult should you contact the customer. You would briefly explain the reason for the call, and ask them to get the representative to call you. Advise the customer we won't take any further action until the representative makes contact. Do not give a time limit, but request that this is done without delay.
- If the customer has an informal representative, you should always contact the customer firstly. However, after explaining the call and any appropriate discussion, ask if they want to discuss the revision with anyone else? If yes, give them time to do this and await further contact. Explain that you would be happy to discuss with their representative, provided the customer is present when the call is made.
- Does the customer take any medication or have a condition where the time of day of the call maybe a factor?
- If the customer has any communication difficulties, learning needs, autism etc. consider asking the customer for permission to contact a parent/relative /guardian/friend to get a greater understanding of the impact of their health condition
- Do you need an interpreter?

Best practice Memorandum issued to all decision-making staff involved in appeals lapsing.

## **2) Planning Ahead**

**A crucial element of the call is being able to explain to the customer and or representative if you cannot lapse in full. As well as this lapsing conversation, it may then lead to a conversation about increasing the award/revising in full.**

- What questions do you need to ask them?
- What information do you need to ensure you give to the customer?
- What facts may need to be established to determine the relevant issues that they may still dispute given what you are going to propose?
- What evidence is available which goes towards deciding those facts?
- Is other evidence necessary to decide the material facts?
- If the customer is on the health journey, ensure you have a copy of any assessment reports, questionnaires and evidence so you are prepared to answer any queries.

## **3) Explanation of the following points (where applicable) will help structure the conversation:**

- Introduce yourself and inform the customer of the reason or reasons for the call to help put them at ease
  - What you have decided is your key persuasive piece of evidence.
  - Where that evidence came from. Reference the source.
  - How you have clarified & addressed any inconsistencies
  - Why you have preferred a piece of evidence over another
  - Why you have disregarded a piece of evidence
- 4) Use clear language, avoid jargon and abbreviations or acronyms. Remember to listen.
  - 5) For those customers on the health journey talk to the customer about any evidence that has **not** formed part of the HCP report or decision and listen carefully to their explanation.
  - 6) Justify the decision on the balance of probability.
  - 7) Offer to recap any points or be prepared to reword your explanation if it seems the customer is unsure or may not understand
  - 8) Arrange to call the customer at a mutually agreed time/day for a follow up if required – always check if the customer prefers to call us.
  - 9) Ensure the customer understands that they do not need to accept the revision. They can simply let the appeal continue. Also explain, that we will let the tribunal know that we think that a higher award can be made, but also explain that the tribunal will be looking at the case again and will make their own decision.
  - 10) Let the customer know that if they say no today, they can contact DWP at any time before the appeal is heard if they change their mind.

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11) Should they accept the lapse, ensure the customer is made fully aware of any fresh appeal rights and advise a confirmation notification will be issued. If they subsequently change their mind, inform them the new appeal joins the queue and will not be expedited.

12) Where there is an informal representative and you offered the customer the opportunity to discuss the revision with them –

- it is acceptable to lapse the appeal if the customer says they have discussed it and wish to lapse
- it is acceptable to lapse where customer has not discussed it but you have no concerns about their decision

13) Clarify their understanding and inform them on next steps. Always ensure customer knows that lapsing is not the only option.

14) Record the details of the call on the designated system, including a summary of the call made, how a representative (formal or informal) was appraised, if the call was deferred in order for the customer to seek support, any agreed time to decide and confirmation that appeal rights were clearly stated and understood.

#### **Do's**

- ✓ Always involve any representatives
- ✓ Listen carefully to any further verbal evidence that the customer gives you.
- ✓ Remember the customer has a right to be believed, this should be our default position unless the weight of the evidence suggests otherwise.
- ✓ Remember verbal evidence can be acceptable evidence
- ✓ Discuss the case with your Team Leader if you have any concerns

#### **Don'ts**

- Don't allow the customer to believe they are obligated to accept the lapse if it is not entirely resolving their dispute, they should not feel pressured to accept under any circumstances.
- Don't lapse an appeal where there is a formal representative and you haven't discussed the lapse decision with them. Even if the customer is happy, their representative must agree.

#### **Impact on DRS colleagues as a result of this update**

No changes made to guidance and no training required as these are tips and best practice.

If you have any problems or issues, please contact

**Customer Service Assurance Team**

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