

If you think our decision is wrong

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DWP Department for
Work and Pensions

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Introduction

If you have applied for or are getting a benefit, you may need to know what you can do if you think we have made the wrong decision about your claim or if you don't understand our decision. 'Benefit' includes credits for National Insurance contributions. In this leaflet, the word 'benefit' also means credits.

If you receive a written decision from us, it's usually because you have:

- claimed a benefit
- had a change of circumstances that affects your benefit, or
- been told to repay a benefit.

If you think our decision is wrong, or you don't understand it, you can do any or all of the following things:

- ask us for a spoken or written explanation
- ask us to consider our decision again
- ask us for a 'written statement of reasons' if this was not given in the decision
- appeal against our decision.

For certain decisions, your appeal may go to an independent tribunal. They can change our decision if they think it's wrong. To appeal, you can use the form at the back of this leaflet. There's more about tribunals in this leaflet.

There are time limits for asking us to reconsider decisions and appealing. This leaflet tells you more about them.

What benefit or claim decisions will you reconsider?

Benefits and Social Fund

If you receive a written decision about your benefit or Social Fund application and you disagree with it, you can ask us to consider it again. Our decision letter tells you how to do this.

If we do not change our decision, in some cases you may be able to appeal to an independent tribunal. The letter telling you about our decision will say whether you can appeal.

Budgeting loans, community care grants or crisis loans

You can ask us to reconsider our decisions about Social Fund budgeting loans, community care grants or crisis loans. However, if we keep to our decision or if we do change it and you are still unhappy, then you can apply to the Independent Review Service for a review. For full details about this service, see the leaflet called 'Independent Social Fund reviews'. You can get it from us.

You cannot appeal to an independent tribunal about these decisions.

If you're claiming on someone else's behalf

There are special rules if you're claiming on behalf of someone who is unable to claim for themselves. Please ask Jobcentre Plus for more information.

If you're appealing on someone else's behalf

You can appeal on someone else's behalf if that person has stated in writing that you can. You don't have to be legally qualified to do this. You could be a family member or anyone else the person has asked to represent them.

If you're an appointee

An appointee is someone we (the Department for Work and Pensions) have chosen to act for a person who cannot act for themselves.

If you are an appointee for another person, you can ask us to reconsider a decision about their benefit and you can appeal for them.

Child maintenance

The Child Support Agency (CSA) makes decisions about child maintenance. If you think the agency has made the wrong decision about a child support claim, you should contact it at the address and phone number on your decision notice. You should do this within one month of the date on the notice.

On 3 March 2003, a new scheme was introduced for new child support cases and for cases under the old scheme that were linked to new ones.

If you want to know more about asking the CSA to reconsider a decision, or appealing against a decision it has made, please read the following leaflets.

- If you applied to the CSA **before** 3 March 2003, you should get leaflet **CSA2006(A)** 'How to appeal'.
- If you applied to the CSA **on or after** 3 March 2003, you should get leaflet **CSL307** 'How can I appeal against a child maintenance decision?'.

For more about how changes to the child support scheme will affect you or to ask for a copy of these leaflets, contact the helpline on **0845 713 3133**. People with hearing difficulties can call **0845 713 8924**.

Housing Benefit and Council Tax Benefit

Your local council makes decisions about Housing Benefit and Council Tax Benefit and how much you can get. If you think a decision about Housing Benefit or Council Tax Benefit is wrong, contact the council office that pays your benefit.

Disputes about Housing Benefit or Council Tax Benefit are handled in a similar way to those about other benefits. So a lot of this leaflet will apply if you ask your local council to reconsider a decision or appeal against a decision it has made about your Housing Benefit or Council Tax Benefit. The decision notice will tell you what to do. If you are not sure, contact your local council.

Working Tax Credit and Child Tax Credit

HM Revenue & Customs (HMRC) make decisions about tax credits.

If you think a decision HMRC have made on tax credits is wrong, you should get the leaflet 'How to appeal against a tax credit decision or award'. Just call the helpline on **0845 300 3900**. People with hearing difficulties should call **0845 300 3909**.

Child Benefit and Guardian's Allowance

HMRC make decisions about Child Benefit and Guardian's Allowance. If you think a decision HMRC have made about Child Benefit or Guardian's Allowance is wrong, you should get leaflet **CH24A** 'If you think our decision is wrong'. To do this, contact the Child Benefit office that sent you the decision letter.

How can I find out more about a decision?

If you have received a decision letter about a claim and want to know more, please immediately contact the office that sent it to you. You can ask for one or both of the following:

- A spoken or written explanation of the reasons for the decision.
- A written statement of reasons for the decision, if you have not already received one. You will normally get a copy within 14 days of asking.

Will you reconsider a decision?

You can ask us to reconsider a decision if:

- you have received a spoken explanation about the decision but you still think it's wrong, or
- you have received a letter or a written statement of reasons telling you about a decision but you are unhappy with it.

If you want us to reconsider the decision, you must contact the office that sent you the decision letter. But you must do so within **one month** of the date on the letter. You must also send the office any evidence to support your case.

If you asked for a **written statement of reasons**, we will extend the one-month time limit as follows:

- If the office sent you the statement within the time limit, we will extend the time limit by 14 days.
- If the office sent you the statement after the time limit, we will extend the time limit by 14 days from the date on the statement.

If you asked for a **written or verbal explanation first**, you will still only get one month from the date on the decision letter to ask the office to reconsider.

If special circumstances mean you can't contact the office within one month (for example if you have been coping with illness or bereavement or been outside United Kingdom), then tell the office about the special circumstances when you do contact them. The office may still be able to change the decision.

If you ask the office to reconsider a decision more than one month after the date on the decision letter and you don't have special circumstances, then the office may still be able to change the decision. But they will usually only be able to change it from the date you contact them. So, for example, they may not be able to backdate any extra benefits or credits.

What happens next?

If you ask the office to reconsider a decision, they will check whether they have made the right decision. A person at the office who was not involved with the original decision will usually do this. They will consider any evidence you give them to support your opinion that the decision is wrong. If they decide the original decision was wrong, they will change it.

If the decision can be changed

If you asked the office to reconsider the decision within one month, or they accepted that the special circumstances meant you could not contact the office within one month, then they will backdate any award to the date of the original decision.

If you disagree with the new decision, you can ask the office to reconsider it or you can appeal against it.

If the decision can't be changed

If the office decides they can't change their decision, they will write to tell you this. The letter will confirm the original decision.

If you still believe the decision is wrong, you may have the right to appeal to an independent tribunal. The letter will say whether you can do this.

If you can appeal, you must do so within **one month** from the date on this letter. Your appeal must be in writing and you can use the form at the back of this leaflet. Send it to the office that sent you the decision.

What happens if my appeal is late?

The time limit for appeal is one month after the date on the decision letter, but your appeal may still be treated as in time after that date. So if you could not appeal within one month, you should explain why on the form at the back of this leaflet.

In any circumstances, the maximum time limit for making an appeal is 13 months from the date on the decision letter.

If you appeal between one month and 13 months after the date of the decision letter, then only a member of the tribunal who is a qualified solicitor or barrister has the power to decide that your appeal is too late.

What happens when I appeal?

When the office receive your appeal, they will reconsider the decision. If they cannot change the decision to your advantage, they will send it to the Tribunals Service, who will arrange for an independent tribunal to consider your case.

The tribunal may agree with the original decision or decide it should be changed. If the tribunal decide that the office have awarded you too little money, they will order the office to increase your payments.

If they find that you have been getting too much money, your benefit will be reduced.

We say more about the tribunal on the following pages.

What does the tribunal do?

A 'First-tier Tribunal' within the Ministry of Justice's Tribunals Service will decide your appeal. This could be at an oral hearing where you and any representative you have can speak to the tribunal. If you don't wish to attend the tribunal, they will deal with the appeal without a hearing. They do this by reading the written evidence only.

The tribunal can consider only the evidence, the law, and your circumstances at the time the office made the decision. They can't consider any changes to your circumstances that happened after the office made the decision you are appealing against.

If you have a change in circumstances that may affect your claim to benefits, you should report it to the benefit office straight away. Don't wait for your appeal to be decided.

Contact the office shown on the decision letter.

Who is on the tribunal?

- The First-tier Tribunal will have up to three members. They are appointed by the Lord Chancellor. They are judicial officers who act independently of the Department for Work and Pensions (DWP).
- Tribunal members are experts on the issues involved in your appeal.
- All tribunals have a legally qualified member (a solicitor or barrister) to help apply the law to your appeal.
- Tribunals may also include people with medical or financial qualifications or those with experience or knowledge of disability.

What happens during the appeal process?

After you tell the office that made your decision that you want to appeal to the tribunal, the office may explain the decision in more detail. If you accept the explanation, you may decide not to continue with your appeal.

- If you want to continue with the appeal, the office will reconsider the decision if they have not already done so.
- If the office agree that their original decision was wrong and a new decision is to your advantage (for example, if they will give you more money), then they will send you a new decision and your appeal will stop. If you disagree with the office's new decision, you can appeal against it.
- If the office agree that their original decision was wrong but the new decision is **not** to your advantage (for example, if they shorten the period you can receive benefits), then they will send you a new decision. Your appeal will still continue.

You will have another month from the date of the new decision to add any further comments about the new decision.

If the office don't change their decision, they will send to the Tribunals Service your appeal and an explanation of the law and facts they used to make the decision. They will also include other relevant papers, such as copies of the evidence they considered, for example medical reports. This is called their 'response'.

The office will send you and any representative you have a copy of the response.

Read the response carefully. If you don't understand something, ask the office that sent it you. You can ask for help from an advice centre, like Citizens Advice, or a solicitor.

If you or your representative wishes to reply to the response or send more documents to the tribunal, you should do so within one month of receiving the response.

The Tribunals Service will send you an enquiry form, which you should fill in and return to them within 14 days from the date on the form. If you don't return the form, the tribunal may think you wish to stop your appeal.

The enquiry form asks how you want your appeal to be dealt with. You must decide whether you want to attend a hearing in person, which will enable you to deal with any questions or issues that arise. **People who attend their hearing usually do better than those who don't.** If you decide not to attend, the tribunal will decide your appeal, probably without a hearing.

The hearing

- This is an appeal hearing that you attend in person.
- The tribunal may ask you questions.
- You can take someone with you to represent you.
- You can call witnesses to give evidence to the tribunal.
- A representative from the DWP may attend. He or she may ask you questions and call witnesses.
- If you choose a hearing but find that you can't attend, you must tell the Tribunals Service straight away. If you don't, the tribunal may deal with the appeal without you.

- If your appeal is about Industrial Injuries Disablement Benefit or Severe Disablement Allowance, the tribunal may ask you to have a medical examination at the hearing. This will be carried out in private by a medical professional.
- Tribunal hearings are open to the public, but normally few people attend. In some circumstances, the tribunal can close a hearing to the public.
- If you live abroad and want a hearing, let the Tribunals Service know that you want to attend the hearing or want to send someone to represent you.

The Tribunals Service can arrange for your appeal hearing to be:

- as near as possible to the place you arrive in Great Britain (England, Scotland and Wales)
- as near as possible to your representative if you have one, or
- delayed until you are in Great Britain.

Costs

- The Tribunals Service may pay for some of your costs for attending, for example travel costs. If you want to know more about costs, contact the Tribunals Service office handling your appeal.
- If you live abroad, you will have to pay your own fares to and from Great Britain. You may be able to get some costs paid for you while you are in Great Britain.

Deciding the appeal without a hearing

- If no hearing takes place, the tribunal decides the appeal on the appeal papers only.
- You should send the Tribunals Service any information you think will help your case. Send it as soon as possible because you won't be told when the tribunal will consider the appeal.
- The Tribunals Service will send you the decision.

The result

Whether you attend a hearing or let the tribunal consider your appeal without a hearing, the following will apply:

- The tribunal will give or send you a decision notice explaining their decision. They will also send a copy to the office that made the original decision.
- They will tell you of your right to apply for a written statement of reasons. This explains the tribunal's decision, including the facts and the law they used. You must apply in writing for a statement of reasons within **one month** of the date on the decision notice.
- If you think there was a mistake in the tribunal process (for example, you didn't receive a document that was used at the hearing, or you could not attend the hearing), then you can ask for the decision to be set aside and for a fresh hearing. You must write to the Tribunals Service, giving your reasons, within **one month** of the date on the decision notice.

- The Tribunals Service keeps a record of the appeal proceedings for at least six months after the date of the hearing. You can get a copy by writing to them.
- If your appeal succeeds, the office that deals with your benefit will usually carry out the tribunal's decision as soon as they receive their copy of it. However, if they appeal against the First-tier Tribunal's decision to the Upper Tribunal, the office will not take action until the Upper Tribunal have made their decision (see below for more on this).

What if I disagree with the tribunal's decision?

If you disagree with the First-tier Tribunal's decision, you may be able to appeal to the Upper Tribunal. The Upper Tribunal consists of experienced lawyers who specialise in benefits law.

Who can appeal to the Upper Tribunal?

Appeals can be made by:

- anyone who has already appealed to the Tribunals Service
- the DWP (if we think the tribunal have made a mistake in dealing with your appeal)
- in some cases, a trade union or similar organisation appealing on your behalf, and
- people who have to repay an overpayment of benefits.

What can I appeal to the Upper Tribunal about?

You can only appeal to the Upper Tribunal on a point of law; that is, if you think the First-tier Tribunal has not applied the law correctly in dealing with your appeal. You can't appeal to the Upper Tribunal about:

- facts the First-tier Tribunal have used, or
- their medical findings or conclusions.

How can I appeal to the Upper Tribunal?

The decision letter from the Tribunals Service will tell you what to do if you are unhappy with the decision. Read this carefully as it states the time limits for your appeal.

You can apply for permission to appeal to the Upper Tribunal only after you have obtained the First-tier Tribunal's written statement of reasons for their decision. You should read the statement of reasons carefully. If you think the tribunal applied the law wrongly, you can apply for permission to appeal to the Upper Tribunal. You must do this within **one month** from the date on the written statement of reasons.

However, if there is a mistake on the decision letter that means you have to return it for correction, or you have asked for the decision to be set aside and have been refused, then the one month starts from the latest date on the correction or rejection letter or the written statement of reasons.

You must apply in writing for permission to appeal. Your letter must say which tribunal decision you are appealing against, what errors of law you think it makes, and what result you would like. If you apply after the one-month limit, you must also say why and ask for more time. You should send the application to the Tribunals Service.

The First-tier Tribunal will first consider whether to review the decision themselves. If they decide not to review, they may either send your application to the Upper Tribunal or refuse it.

Whatever the outcome, the tribunal will let you know in writing.

You can ask an advice centre such as Citizens Advice, a solicitor or another suitable person or organisation to help you apply for permission to appeal to the Upper Tribunal.

If the First-tier Tribunal refuse your application for permission, you can apply directly to the Upper Tribunal. The letter from the Tribunals Service will explain how.

Where can I find out more?

Advice centres

Advice centres such as Citizens Advice can give you help and support. They can also help you to fill in forms or write a letter, and may go with you to an appeal tribunal.

Trade unions

Trade unions may give you free advice, or may speak on your behalf at an appeal tribunal.

Community Legal Advice

For free, independent and confidential advice about benefits and tax credits (England and Wales only), or for details of solicitors in England and Wales, call Community Legal Advice on **0845 345 4345**. People with speech or hearing difficulties can call **0845 609 6677**. If you are in Scotland, you can contact the Scottish Legal Aid Board helpline on **0845 122 8686** to find a legal aid solicitor.

Solicitors

You may be able to get advice from a solicitor under the legal-help scheme.

You can find out about this from a solicitor. If you decide to use a solicitor, be aware that the legal-help scheme doesn't cover the cost of a solicitor to help you at an appeal tribunal. You cannot get any money for a solicitor's fees from the DWP, Jobcentre Plus or the Tribunals Service.

If you live abroad, you can ask someone in Great Britain to act for you. They may be able to get help from a solicitor under the legal-help scheme.

You can find addresses for the organisations mentioned here in the business pages of your local phone book, the Thomson Local directory, the Yellow Pages, or at a library.

You can get general information on any of the issues raised in this leaflet, or copies of any other leaflets, from Jobcentre Plus. The phone number is in the business pages of your local phone book.

If you want to know more about the law, go online to **www.opsi.gov.uk**. Some large libraries may also have copies of the law.

If you want to know more about disputes and appeals, read our technical guide **NI260** 'A guide to Revision, Supersession and Appeal' online from the DWP website at **www.dwp.gov.uk**

For more about First-tier and Upper Tribunals and the appeals process, visit the Tribunals Service website on **www.tribunals.gov.uk**. To request their leaflet 'How to Appeal', call **08700 852611**. People with hearing difficulties can use Typetalk on **18001 08700 852611**.

You can get the latest public-service information from **www.direct.gov.uk**

Call charges

Charges were correct as of the date on the back of this leaflet.

Calls to 0845 numbers from BT land lines should cost no more than 4p a minute with a 9p call set-up charge. You may have to pay more if you use another phone company, a mobile phone, or if you are calling from abroad.

Calls to 0870 numbers from BT land lines should cost no more than 8p a minute with a 7p call set-up charge. You may have to pay more if you use another phone company, a mobile phone, or if you are calling from abroad.

Calls from mobile phones can cost up to 40p a minute, so check the cost of calls with your service provider.

Our textphone numbers are for people who cannot speak or hear clearly. If you don't have a textphone, you could check if your local library or citizens advice bureau has one. Textphones don't receive text messages from mobile phones.

Important information

This leaflet is only a guide and does not cover every circumstance. We have done our best to make sure the leaflet is correct as of April 2010. Some of the information may be oversimplified or may become inaccurate over time, for example because of changes to the law. We recommend that you get independent advice before making financial decisions based on this leaflet.

**The leaflet is available in Welsh and other formats:
phone 0845 7 31 32 33.**

If you can't speak or hear clearly, you can order our leaflets from our textphone service on **0845 604 0210**.

Go to **www.direct.gov.uk** for the latest and widest range of public service information.



Your appeal

Complete this form and take or send it to the office that sent you the decision.

1 About you

Title Mr/Mrs/Miss/Ms/Other (please state)

Surname

All other names

Date of birth / /

National Insurance (NI) number | | | |

Get this from your NI number card, payslips, tax papers or letters from Jobcentre Plus.

Current address

Postcode

Daytime phone number Code Number

2 About a child

If this appeal is about a child, please tell us their details:

Child's name

Child's date of birth / /

Child's NI number | | | |

- If you are appealing against more than one decision, you must say why you disagree with each one.
- If you are appealing more than one month after the decision was made, you must say why you have delayed.

6 You or your representative should sign below

Please sign here

Date

7 What to do now

- Make sure you have used the Reasons box other side of this form to tell us why you disagree with the decision.
- Take or send this form to the office that sent you the decision.
- It will help if you write 'Appeal' on the front of the envelope.
- Remember, your appeal must reach the office within one month of the date at the top of the letter telling you about the decision.

Reasons

- Use this space to say why you disagree with the decision.
- You must say **why** you think the decision is wrong.
Use BLOCK CAPITALS.

- If you need more space, use another sheet of paper.
- Remember to put your name and National Insurance number on any extra sheets of paper.

Make sure you have filled in the other side of this form and signed it.

- Take or send this form to the office that sent you the decision.

For our use

 / /

Appeal form issued to customer

 / /

Appeal received

 / /

Appeal received at sector office

 / /

Invoice number