



How To Appeal Against A Decision on Your Housing or Council Tax Benefit

When you get a decision in writing from us about Housing or Council Tax Benefit you can ask us to look at it again. If we do not change the decision you may be able to appeal to an independent tribunal. The letter telling you about the decision also tells you if you can appeal.

Check what to do

This leaflet tells you what you must do. **It is very important to act quickly. You may lose benefit if you delay**

- If you receive a decision in writing it is usually because you have:
 - Claimed Housing or Council Tax Benefit
 - Had a change of circumstances which affects your benefit
 - Been told that you may have to pay back benefit
- You may be able to ask us to look at a decision again even if you yourself are not claiming benefit. For example, if you are a landlord and a decision is made that Housing Benefit should be paid directly to you or whether an overpayment of Housing Benefit should be recovered from you.

If you are an appointee for another person you can ask us to look again at a decision about their benefit and you may be able to appeal for them. The letter telling you about the decision will tell you if you can appeal.

If you think the decision is wrong you can ask us to explain it. If you think we have missed something or made a mistake please tell us straight away. You can do this by calling into one of our offices, by telephoning or writing to us.

Do you want more information?

If you would like us to explain how we worked out your benefit please contact us. You must do this within **one month** of the date of the decision letter. We will then send you a statement of reasons for our decision within 14 days.

Do you want us to look at our decision again?

Please write asking us to look at our decision again **within one month of the date on the decision letter**. If you have already asked us for a statement of reasons you will have one month from the date of the decision letter plus the time we took to send you the statement of reasons. If you delay longer than this we will normally only change our decision from the date you wrote to us.

What happens next?

- When you ask us to look at a decision again we will check that the decision is correct.
- If the decision was wrong we will change it.
- We will send you a letter telling you about the decision.
- If you do not agree with the new decision, you can ask us to look at it again.
- If the first decision was right we will send you a letter telling you that we cannot change it. The letter will confirm the first decision. It will also tell you if you can appeal against it.

- ❑ In either case a new **one month** time limit starts from the date on the letter telling you about the decision.

Do you want to appeal against the decision?

- ❑ Does the decision letter say you have the right to appeal?
- ❑ Do you believe the decision is wrong?
- ❑ Do you want to appeal to an independent tribunal?

If you answer 'yes' to all of these please use the form at the back of this booklet.

What happens next?

The Tribunal Service will decide your appeal at a tribunal hearing. The Tribunal Service is based in Glasgow.

To make your appeal you need to:

- ❑ Fill in the appeal form. You can get help from an advice centre, Welfare Rights or a solicitor. (You will find some useful address and telephone numbers on page 9 of this booklet.)
- ❑ Write down the reasons for your appeal. This is important because the tribunal does not have to consider anything you do not write down. Remember to sign the form.
- ❑ Send the form to one of our offices within **one month** of the date on the decision letter.
- ❑ Remember, if the Tribunal Service decides that you have been getting too much money your benefit will be reduced.

What the tribunal looks at:

- ❑ The tribunal can only look at the evidence, the law and the circumstances at the time we made the decision you are appealing about.
- ❑ The tribunal cannot look at changes of circumstances, which happened after we made the decision.

You still need to tell us straight away about any change of circumstances, which might affect your benefit.

Late appeals

- ❑ The Tribunal Service may not be able to accept your appeal if it is received **more than one month after the date on the decision letter**.
- ❑ They can only accept a late appeal if there are special reasons for the delay. These could be the death of someone close to you, serious illness, absence from home, a postal strike or some other unusual event.

- You should give the reasons why you could not appeal within one month when you fill in the form at the back of this booklet.
- A legally qualified tribunal member will look at the reasons you have given for delaying your appeal and will decide if it can be accepted. They will look at:
 - Whether there were special reasons for the delay
 - The length of time since you received the decision
 - Whether it is in the interests of justice that the appeal is accepted, and
 - Whether your appeal is reasonably likely to succeed.
- The Tribunal Service cannot accept a late appeal if the only reason is that you misunderstood the law or interpretation of the law has changed since the decision was made.
- Your appeal cannot be accepted if you appeal more than 13 months after the date on the decision letter.

Appeal Tribunals

- Tribunals are made up of one or two members neither of whom is from our Local Authority.
- Tribunal members will be experts on the issues affecting your appeal.
- All tribunals have legally qualified members who help to apply the law to your appeal.
- Tribunals may include someone with financial qualifications.

When we receive your appeal

- We will send you an explanation of the decision you have appealed about if we have not already done this.
- We will look at the decision again if we have not already done this:
 - If we decide that our first decision was wrong and a new decision is to your advantage we will change it and send you the new decision. Your appeal will stop. If you do not agree with the new decision you can appeal against it.
 - If we decide that the first decision was wrong and the new decision is not to your advantage we will send you the new decision. Your appeal against the first decision will continue. You will have another month to comment on the new decision.
- If we do not change the decision we will send your appeal, and an explanation of the law and the facts used to make the decision, to the Tribunal Service. We will also send other relevant papers.
- We will send copies of all the appeal papers to you and to your representative if you have one.
- Please read the appeal papers very carefully. If you do not understand something ask us or an advice centre or a solicitor to explain it.
- The Tribunal Service will send you a form. You must fill it in and send it to the Tribunal Service within 14 days of the date they send it to you. If you do not, your appeal will stop.

- The form also asks you questions about how you want your appeal to be looked at. You can choose between an oral hearing and a paper hearing. If you choose to go to an oral hearing you will be able to deal with any questions that arise. People who go to their hearing usually do better than those who do not.

Oral Hearing

- This is a meeting of the Tribunal Service, which you can go to.
- The tribunal may ask you questions.
- You can ask questions.
- You can take someone with you to represent you.
- You can call witnesses to give evidence to the tribunal
- One of our representatives may be at the hearing. They may ask you questions and call witnesses.
- If you choose an oral hearing but find you cannot go, you must tell the Tribunal Service straight away. You must have good cause why you cannot go, such as illness. You may be able to arrange another date. If you do not tell the Tribunal Service that you cannot go to the hearing, the tribunal may hear your appeal without you.
- Oral hearings are usually open to the public but people seldom go to the hearing unless they are involved in the appeal. You can ask to have your appeal heard in private.
- If you live abroad and want an oral hearing, let the Tribunal Service know you want to go to the hearing or want to send someone to represent you. The Tribunal Service can arrange for your appeal hearing to be:
 - As near as possible to the place you arrive in Great Britain
 - As near as possible to your representative if you have one
 - Delayed until you are in Great Britain.

Expenses

- The Tribunal Service may pay some of your expenses for going to the tribunal, for example travel costs. If you want more information about expenses, contact the Tribunal 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 expenses while you are in Great Britain and the appeal hearing is going on.

Paper Hearing

- This is an appeal hearing, which does not require your attendance and therefore you will not be able to deal with any questions that arise.. If you go to an oral hearing, you will be able to deal with any questions that arise
- The appeal will be heard and the Tribunal Service will send you a decision.

- If the tribunal think they need you to go to an oral hearing they can refuse your request for a paper hearing.

If you choose a paper hearing but change your mind, you can choose to have an oral hearing. Write to the Tribunal Service straight away.

The Result

Whether you have an oral or paper hearing:

- You will be given a decision notice explaining the tribunal's decision as soon as possible after the appeal hearing. A copy will be sent to the office that made the original decision.
- You can also ask for a statement of reasons. This gives an explanation of the tribunal's decision including the facts and the law used. You must ask for a statement of reasons within one month of the date you are given or sent the decision notice. You must have a copy of the statement of reasons if you decide to make a further appeal to the Social Security Commissioners. See '**if you disagree with the tribunals decision**' below.
- If you want a record of the appeal hearing, you can get a copy of the records of proceedings up to 6 months from the date of the hearing.
- If your appeal is successful, we will usually put the decision right as soon as we receive our copy of the tribunal's decision. We may not put it right straight away if we appeal to the Social Security Commissioners.

If you disagree with the tribunals' decision

- If you do not agree with the appeal tribunal's decision you may be able to make a further appeal to the Social Security Commissioners.
- The Commissioners are barristers, solicitors or advocates with at least 10 years experience and are appointed by the Queen of the advice of the Lord Chancellor. They are independent of both the Department of Social Security and the Authority.

Who can appeal to the Commissioners?

- Anyone who has already appealed to the Tribunal Service
- The local authority
- The Department of Social Security

What you can appeal to the Commissioners about

You can only appeal to the Commissioners on a point of law. You cannot appeal to the Commissioners about:

- Questions of facts
- A tribunal's findings or conclusions.

How to appeal

Your decision letter from the Tribunal Service will tell you what to do if you are unhappy with the tribunal's decision. Read this carefully. It tells you important time limits for a further appeal.

You cannot appeal unless you first get the statement of reasons for the tribunal's decision.

See **'The Result'** above.

You should read the statement of reasons carefully. If you think the tribunal did not apply the law correctly, you apply for leave to appeal to the Commissioners. You must do this within **one month** of the date the statement of reasons was sent to you.

If you appeal to the Commissioners, you must send the statement of reasons with your application. If you do not, your application may not be looked at.

A legally qualified tribunal member will decide if your appeal can be sent to the Commissioners or if the appeal should be looked at again by a different tribunal.

You can ask an advice centre, solicitor or another suitable person or organisation to help with you application.

Late Applications

- ❑ Late applications for a statement of reasons or for leave to appeal to the Commissioners can only be accepted if there are special circumstances or reasons for the delay.
- ❑ You will need to be able to show why you did not make your request on time.

You can contact us at these offices

Customer Service Centre (Benefits) (All Telephone Enquiries) Tel: 01546 605512

Customer Service Points

Customer Service Point
Hill Street
Dunoon
PA23 7AP

Customer Service Point
Mount Pleasant Road
Rothesay
PA20 9HQ

Customer Service Point
Dalriada House
Lochgilphead
PA31 8ST

Customer Service Point
Burnett Building
St John Street
Campbeltown
PA28 6BJ

Customer Service Point
Jamieson Street
Bowmore
Isle of Islay
PA43 7HP

Customer Service Point
Lorne House
Albany Street
Oban
PA34 4AR

Customer Service Point
Breadalbane Street
Tobermory
Isle of Mull
PA75 6UP

Customer Service Point
31 James Street
Helensburgh
G84 8BP

Office opening hours

Monday 9.00 am to 5.00 pm

Tuesday 9.00 am to 5.00 pm
Wednesday 9.00 am to 5.00 pm
Thursday 9.00 am to 5.00 pm
Friday 9.00 am to 5.00 pm

Other organisations that can help

Welfare Rights

K. Gill Dolphin Hall Manse Avenue DUNOON PA29 7DQ 658711 (01369) 703735	J.McCorkindale Old Registrars Building Witchburn Road Campbeltown PA28 6JU (members of the public should make appointments at Old Quay Head)	M.Baxter Lorne Resource Centre Soroba Oban PA34 4JA (01631) 564724	C. Morrison 31 James Street Helensburgh G84 8AS (01436)
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Other

Citizens Advice Bureau (01546) 605550

Islay & Jura Advice Centre (01496) 810669

Bute Advice Centre (01700) 502784

Mull information & Advice Centre (01688) 303022