

If you think
our decision
is wrong

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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.

* In this leaflet, when we say 'benefit' this includes getting credits for National Insurance contributions.

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

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

Challenging a decision

If you think our decision is wrong, or you don't understand it, you can:

- ask us to explain our decision face to face, or over the phone
- ask us to look at our decision again (the benefit office may call this 'reconsidering', "revising" or 'reviewing' it)
- ask us for a 'written statement of reasons' if you did not get one of these in the decision
- appeal against our decision.

You can do any of these things or all of them.

For some decisions, your appeal may go to an independent tribunal. The independent tribunal can change our decision if they think it's wrong. There is more information about tribunals on pages 11 to 17.

There are time limits for asking us to look again at decisions and for appealing. This leaflet tells you more about these time limits.

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What decisions will you look at again?

We can look again at the benefit or Social Fund decisions we make. Our decision letter will tell you how you can ask us to do this.

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

Budgeting loans, community care grants or crisis loans

You can ask us to look again at our decisions about Social Fund budgeting loans, community care grants or crisis loans. Also, if we cannot change our decision, or if we do change it and you are still unhappy, you can ask the Independent Review Service to look at the decision again. For full details about this service, see the leaflet called ‘Independent Social Fund reviews’ that we sent you with your review decision.

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 isn’t able to claim for themselves. Please ask the office dealing with your claim for more information.

If you're appealing on someone else's behalf

You can appeal on someone else's behalf if that person has said, 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 look again at a decision about their benefit. You can also appeal for them.

Child maintenance

The Child Support Agency (the agency) makes decisions about child maintenance. If you think the agency has made the wrong decision about how much child maintenance you must pay, or should get, you can appeal against this.

Although you do not have to do this before appealing it may be best to ask the agency to explain their decision or to look at it again for you. This is often the quickest way to correct a decision if you think the agency might have overlooked some important facts.

If you think that a decision is wrong and would like the agency to either:

- explain it to you, or
- look at it again

you should contact them by phone or in writing using the contact details on the decision letter they sent you. You must do this within one month of the date on the decision letter.

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You should tell the agency why you think the decision is wrong and ask them to look at it again. They will then explain the reasons for the decision to you and change it if it is wrong. They will also send you a letter to confirm this. If you are still unhappy with the decision, you can appeal.

You must appeal within one month of the date on the letter giving you the decision you are not happy about.

Either parent can make an appeal. However, if you are not the parent with day-to-day care of the child, you must keep paying the amount of maintenance you have been told to pay until your appeal is decided.

You can find more detailed information on making an appeal about child maintenance in the following leaflets:

- **CSA2006A - How to appeal**
if you applied before 3 March 2003 and have a '1993 scheme' case, or
- **CSL307 - How can I appeal against a Child Maintenance decision?**
if you applied after 3 March 2003 and have a '2003 scheme' case

To read copies of these leaflets go to:



www.direct.gov.uk/csa and follow the link to 'if you disagree with a CSA decision', or



Phone **0845 713 3133**
Textphone **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.

Working Tax Credit and Child Tax Credit

HM Revenue & Customs (HMRC) makes decisions about tax credits. If you think a decision HMRC has made on tax credits is wrong, you should get the leaflet 'How to appeal against a tax credit decision or award'. Just phone the helpline on **0845 300 3900**. If you have hearing difficulties please phone **0845 300 3909**.

Child Benefit and Guardian's Allowance

HM Revenue & Customs (HMRC) makes decisions about Child Benefit and Guardian's Allowance. If you think a decision HMRC has made about Child Benefit or Guardian's Allowance is wrong, you should get the 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, contact the office that sent it to you as soon as possible. You can then ask for:

- an explanation of the reasons for the decision, either face to face or over the phone
- a written statement of the reasons for the decision, if you have not already received one. You will usually get a copy within 14 days of asking for one.

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Will you still reconsider a decision if I just ask for a statement of reasons?

Yes. However, if the explanation was face to face or over the phone, you will still only have one month from the date on the decision letter to ask the office to reconsider their decision – not one month from the date you spoke to us.

If you request a written statement of reasons for the decision within one month of the decision letter, the time limit for asking for a reconsideration will be extended. [The date by which you must ask us to reconsider the decision will be explained when we send you the written statement of reasons].

Asking us to look at your decision again

You can phone us or write a letter asking us to look again at a decision.

If you decide to write, **do not** use the form at the back of this leaflet. This form should only be used if you want to appeal against a decision.

You may be allowed more than the one-month limit if you have special reasons (for example, if you have been coping with illness or bereavement, or have been outside the United Kingdom). If you can't contact the office within one month you should tell the office what your reasons are when you do contact them. They may still be able to change their decision.

If you ask the office to look again at a decision more than one month after the date on the decision letter, and you don't have a good reason, the office may still be able to change their decision. If they can, this will usually only be from the date you contact them. This could mean, for example, that they may not be able to backdate any extra benefits.

What happens next?

If you ask the office to look again at a decision, someone who was not involved with the original decision will usually do this. They will consider any evidence you give them, and 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, they will backdate any benefit to the date of the original decision. They will also do this if they have accepted that you had special reasons for not contacting the office within one month.

If you don't agree with the new decision, you can ask the office to look at it again 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 and confirm that the original decision still stands.

Appealing against a decision

If you still think 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 of 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.

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What happens if my appeal is late?

If you weren't able to appeal within one month, you should explain the reasons why when you do appeal.

If you appeal between one month and 13 months of the date on the decision letter, an Appeals Officer from the Department for Work and Pensions will first consider whether your appeal has been made in time, that is, treated as if it was made within the one month of the date of the decision you are appealing against. If the Appeals Officer objects, (they may do so if they think you do not have good reasons for appealing outside the one month period) they will refer the case to Her Majesty's Courts and Tribunal Service (HMCTS). The Tribunal will decide if your appeal can be accepted as being "in time" or if it is too late to be heard. If the Tribunal accept your appeal it will be processed by the DWP for hearing by HMCTS.

In all circumstances, the final time limit for making an appeal is 13 months after the date on the decision letter.

What happens to my appeal?

If your appeal is in time, the office that made your decision may explain it 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 look again at the decision, if they have not already done this.

The office may agree that their original decision was wrong and make a new decision which is better for you (for example, they will give you more money). The office will send you the new decision and your appeal will stop. However, if you don't agree with the office's new decision, you have the right to appeal against it.

If the office agree that their original decision was wrong but also agree that their new decision does not make you better off (for example, if they shorten the period you can get benefits), they will send you the new decision, but your appeal will still continue. You will also have another month from the date of the new decision to send your comments about the new decision.

If the office don't change their decision, they will send your appeal to Her Majesty's Courts and Tribunal Service (HMCTS), with an explanation of the law and facts they used to make the decision. The office will also include any 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 your representative if you have one) a copy of their response.

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

If you or your representative want to reply to the response or would like to send more documents to HMCTS, you should do this within one month of receiving the response. HMCTS will send you an enquiry form, which you should fill in and send back to them within 14 days of the date on the form. If you don't send the form back, the tribunal may think you want to stop your appeal.

The enquiry form asks how you want your appeal to be dealt with. You can decide to come to a hearing in person. This will give you the chance to deal with any questions or issues that come up.

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People who come to their hearing usually do better than people who don't go to their hearing.

If you decide not to go, the tribunal will decide your appeal without you if it considers that it is able to decide the matter without a hearing using the appeal papers only.

What the tribunal does

It is important to realise that an appeal tribunal can consider only the evidence, the law and your circumstances at the time the decision was made. It cannot change the law or consider any changes to your circumstances that happened after the decision was made.

If you have a change of circumstances, you should tell 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 tribunal will have up to three members. They are appointed by the Lord Chancellor and act independently of the Department for Work and Pensions (DWP).
- They are experts on the issues involved in your appeal.
- All tribunals have a legally qualified member (a solicitor or barrister).
- Tribunals may also include people with medical or financial qualifications or people with experience or knowledge of disability issues.

The hearing

- This is an appeal hearing that you come to 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 Department for Work and Pensions may also be there. They may ask you questions and call witnesses.
- If you choose to have a hearing but find that you can't go, you must tell Her Majesty's Courts and Tribunal Service (HMCTS) straight away. If you don't, the tribunal may deal with the appeal without you.
- Tribunal hearings are open to the public, but usually few people attend. In some circumstances, the tribunal can close a hearing to the public.
- 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 done in private by a medical professional.
- If you live abroad and want to come to a hearing or you want to send someone to represent you, let HMCTS know.

HMCTS 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

Her Majesty's Courts and Tribunal Service (HMCTS) may pay for some of your costs for going to the hearing, for example travel costs. If you want to know more about costs, contact HMCTS office handling your appeal.

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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 there is not going to be a hearing the tribunal will decide your appeal using the appeal papers only. You should send Her Majesty's Courts and Tribunal Service (HMCTS) any information you think will help your case. Send it as soon as possible because you won't be told when the tribunal will be considering the appeal. HMCTS will send you the decision.

The result

Whether you come to a hearing or let the tribunal consider your appeal without a hearing, the following will happen:

- 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.
- The tribunal will tell you about your right to apply for a written statement of reasons. This explains the tribunal's decision, including the facts and the law they used. If you want a statement of reasons, you must ask for one in writing within one month of the date on the decision notice.
- If you think there was a mistake in the way the tribunal was run (for example, you didn't receive a document that was used at the hearing, or you could not come to the hearing), then you can ask for the decision to be 'set aside' and for a fresh hearing to be arranged. You must write to Her Majesty's Courts and Tribunal Service (HMCTS), giving your reasons, within one month of the date on the decision notice.

- HMCTS keep a record of what happened at the appeal hearing 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 act on the tribunal's decision as soon as they receive their copy of it. However, the person who made the original decision does have a right to appeal against the tribunal's decision to the 'Upper Tribunal'. If they do appeal, the office may not take any action until the Upper Tribunal have made their decision (see below for more information about this).

What if I don't agree with the tribunal's decision?

If you don't agree with the tribunal's decision, you may be able to appeal to the Upper Tribunal. The Upper Tribunal is made up 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 Her Majesty's Courts and Tribunal Service
- the Department for Work and Pensions (if we think the tribunal have made a mistake in dealing with your appeal)
- in some cases, a trade union or similar organisation appealing for you, and
- people who have to repay an overpayment of benefits.

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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 tribunal have not applied the law correctly in dealing with your appeal. You can't appeal to the Upper Tribunal about:

- facts the tribunal have used, or
- the tribunal's medical findings or conclusions.

Because you can only appeal to the Upper Tribunal on a point of law, you may want to get advice before deciding how to respond to the tribunal's decision. This could be from the Citizens Advice Bureau or another welfare rights organisation.

How can I appeal to the Upper Tribunal?

The decision letter from Her Majesty's Courts and Tribunal Service (HMCTS) will tell you what to do if you are unhappy with the tribunal's decision. Read this carefully as it gives the time limits for your appeal.

You can only apply for permission to appeal to the Upper Tribunal after you have got the 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 incorrectly, you can apply for permission to appeal to the Upper Tribunal. You must do this within one month of the date on the written statement of reasons.

However, you will get more time if there is a mistake on the decision letter that means you have to send it back for correction, or if you have asked for the decision to be set aside and have been refused.

The one-month limit will then start from the latest date on the:

- correction letter
- rejection letter, or
- written statement of reasons.

You must apply in writing for permission to appeal. Your letter must say:

- which tribunal decision you are appealing against
- why you think the tribunal applied the law incorrectly, and
- what result you would like.

If you apply after the one-month time limit, you must also say why and ask for more time. You should send the application to HMCTS.

The tribunal that made the decision will first consider whether to review it themselves. If they decide not to review their decision, 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 the Citizens Advice Bureau, a solicitor or another suitable person or organisation to help you apply for permission to appeal to the Upper Tribunal.

If the tribunal refuse your application for permission, you can apply directly to the Upper Tribunal. The letter from HMCTS will explain how.

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Where can I find out more?

Advice centres

Advice centres such as the Citizens Advice Bureau 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 for you 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**. If you have problems speaking or hearing you 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. However, the legal-help scheme doesn't cover the cost of a solicitor helping you at an appeal tribunal. You cannot get any money for a solicitor's fees from the Department for Work and Pensions (DWP), Jobcentre Plus or Her Majesty's Courts and Tribunal Service (HMCTS).

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 in this leaflet on the internet, in the business pages of your local phone book, in the Thomson Local directory, in the Yellow Pages, or at a library.

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

If you want to know more about the law, go to www.legislation.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' on the DWP website at www.dwp.gov.uk

For more about tribunals, Upper Tribunals and how appeals are dealt with, go to the HMCTS website at www.justice.gov.uk/about/hmcts. To get their leaflet 'How to Appeal', call **08700 852611**. If you have hearing difficulties you can use Typetalk on **18001 08700 852611**.

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

Important information about this leaflet

This leaflet is only a guide and does not cover every circumstance. We have done our best to make sure that the information in this leaflet is correct as of February 2012. It is possible that some of the information is oversimplified, or may become inaccurate over time, for example because of changes to the law.

You can find more information about benefits and pensions online.



For benefits information go to
www.direct.gov.uk/benefits



For pensions information go to
www.direct.gov.uk/pensions

This information is available in other formats on request.



Phone **0845 731 3233**
Textphone **0845 604 0210**

We aim to provide a high quality of service to all our customers. You can find out more in our customer charter at www.direct.gov.uk/dwpcharter

Your appeal

Fill in 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.

Your present
address

Postcode

Daytime phone
number

CodeNumber

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 they have one)

3 About your representative

Have you arranged for someone to represent you at your appeal?

No Yes If Yes, please tell us their name and address

Their full name

Their address

Postcode

Their phone number

Code	Number
------	--------

Sign this box to give this person permission to act for you

4 About the decision

Name of the benefit or benefits

Date at the top of the letter about the decision

/ /

5 About the appeal

- Use the space at the end of this form to say why you don't agree with the decision.
- You must say why you think the decision is wrong. It is not enough to say 'I don't agree with this decision', 'the money is not enough' or 'My GP says I'm unwell'.
- The reason you give should be like these examples:
 - 'I think you have used the wrong figures to work out my mortgage interest. The right figures are...'
 - 'You have paid me from 4 July but I think I should be paid for two weeks before that because...'
 - 'My Disability Living Allowance should be more because I need attention at least eight times a day – not "infrequently" as you have said'.

- 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 did not appeal before now.

6 You or your representative should sign below

Please sign here

Date

 /

7 What to do now

- Make sure you have told us on the other side of this form why you don't agree 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 don't agree 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