

Decisions and appeals about benefits and tax credits

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Decision makers

Decision makers are responsible for making decisions about your benefits and tax credits. They work in several different government departments and offices, depending on the type of benefit or credit, as follows:

- Decision makers in the Department for Work and Pensions are responsible for decisions about your entitlement to benefits
- Decision makers acting on behalf of Her Majesty's Revenue and Customs make decisions about tax credits
- Benefit decision-making staff who work for local authorities make decisions about Housing Benefit and Council Tax Benefit.

You are entitled to get a written explanation of any decision, so long as you ask for the explanation within one month of the decision. The decision maker or local authority must send you the explanation within 14 days of your request.¹ After receiving the explanation, you then have one month to take matters further. However, you can challenge the decision without asking for an explanation in the first place.

Appeals

You are able to appeal against almost all decisions on matters such as:

- whether you are entitled to a benefit or tax credits
- how your benefit or tax credit has been worked out

- whether your claim for Jobseeker's Allowance (JSA) should be stopped or sanctioned and for how long
- whether you have been overpaid.

However, you cannot appeal against decisions on matters such as:

- whether or not the government has set benefit amounts high enough to live on
- how and on what day of the week a benefit or tax credit should be paid.

There are a few decisions that you can't appeal against. For example:

- getting JSA under the 'severe hardship' route
- community care grants, crisis loans and budgeting loans
- discretionary housing payments

You can, however, ask for 'reviews' of these decisions.

You must make your appeal in writing, and the relevant department or office must receive it within one month of the date when they first made their decision (and not one month from the date when you received the decision).² The date when the department or office made their decision will be shown on the letter they sent to tell you about the decision.

You should normally use form GL24 to make your appeal, and you can get this form from the government's website (www.gov.uk/government/publications/gl24-if-you-think-our-decision-is-wrong). If you are making an appeal about tax credits, you should use form TC623, which you can get online at www.hmrc.gov.uk. Your appeal will be passed on to the Tribunals Service, which is in charge of appeal tribunals.

If you appeal after the one month deadline, the tribunal may still hear your case if you can show that there were good reasons for not appealing sooner.

You can also ask for a revision or supersession.

Appeal Tribunal

Appeals are heard by First Tier Tribunals, which are run by Her Majesty's Courts and Tribunals Service. Tribunals are independent of the Department for Work and Pensions, Her Majesty's Revenue, and Customs and local authorities, and can change the decisions that were made by each of these

departments or authorities. A tribunal is normally made up of one legally qualified judge, who can ask other experts to hear the appeal. Tribunals that hear appeals about Employment and Support Allowance always include a doctor, and tribunals for Disability Living Allowance and Attendance Allowance include both a doctor and someone who has personal or professional experience of disabilities.

Some time after you have sent your appeal letter, the Tribunals Service will send you a letter asking whether or not you still want your appeal to go ahead. It is very important to reply to this letter within 14 days because, if you don't, your appeal may not go ahead.

If there is a long delay in dealing with your appeal case, you can write and ask a tribunal judge to give a direction to the Department for Work and Pensions, Her Majesty's Revenue and Customs or the local authority to prepare their paperwork quickly for the appeal.³

You do not have to attend the tribunal if you'd prefer the panel to reach a decision using only documents. However, it is far better to attend, because you can explain any facts that are not clear from your documents and you also have a much better chance of winning your appeal. Tribunals are not as intimidating or difficult as you might think – they are not like a courtroom. You can also bring someone to support you if you are not confident enough to go to the tribunal on your own. Ideally, an adviser who understands social security law should represent you at your tribunal (this could be someone from an advice agency or a welfare rights service). No matter what you choose to do about representation, it is still very important to get independent advice before your appeal hearing.

If the tribunal is made up of more than one person, the panel will try to reach a unanimous decision. If they cannot, the judge has the power to make the final decision. A decision will usually be made on the day of your hearing. You will normally hear the decision in person, and then later you will be given or sent a short written summary. You can write and ask for a more detailed summary.

You can get help with some travel costs to and from the appeal hearing. You may also be able to claim for loss of earnings, or for childcare costs. You must have receipts for all of the costs that you want to claim.

Revisions

A revision is when a decision about benefit is changed from the date that the decision was made. For example, if you were refused or awarded benefit on 2 January, the revision changes the decision made about covering that date.

If you have no right to appeal a decision, you can also ask for a revision. You must ask for a decision to be revised within one month of the date when the decision was sent to you. If you have received a written explanation of the reasons for the decision, then you must ask for a revision within 14 days of the date when the letter was sent. You can also ask for a revision when you do have a right of appeal,⁴ and the Department for Work and Pensions, Her Majesty's Revenue and Customs or the local authority should think about revising their decision if you request an appeal.

If you ask for a revision less than one month after the decision was sent to you (or less than 14 days after the reasons for the decision were sent to you), you do not have to give any reasons for your request. If more than one month, but less than 13 months has passed since the date of the decision, you will need to show that you have good reasons for applying late.⁵

The Secretary of State can revise a decision at any time without a request from you. This may happen if, for example, a decision was based on an official error or a factual mistake. You can also ask for a benefit decision to be revised at any time (even years later), if there was an official error (for example, you were paid the wrong amount of benefit, or some evidence was overlooked).⁶

Appeals against revisions

In most cases, if a decision is not revised in your favour you can appeal to a tribunal. You should appeal against the Secretary of State's revised decision within one month of the revision.

Supersessions

Supersessions are another way that a benefit decision can be changed. These change a decision about benefit from the date when something changed (for example, the rules changed or your circumstances changed). This means that a supersession will usually only take effect from the date when the Department for Work and Pensions, Her Majesty's Revenue and Customs or local authority receives the request for the supersession.⁷

The main grounds for requesting a supersession are:

- there has been a change of circumstances
- there was a mistake about, or ignorance of, a material fact
- a decision was wrong in law
- you have been given a benefit (known as a 'qualifying benefit') that affects your entitlement to other benefits.

The Secretary of State can supersede a decision, and must do this in certain situations. The Secretary can either enforce or change decisions to do the following things:

- apply a sanction to your JSA
- stop your benefit because it is felt that you are no longer incapable of work
- decide that you have been overpaid a social security benefit.

Appeals to the Upper Tier Tribunal

If a First Tier Tribunal makes a decision and you disagree with it, you may be able to appeal to the Upper Tier Tribunal. You have to show that the First Tier Tribunal either made a mistake about the law or the tribunal wasn't run fairly – for example, you didn't get the chance to properly give your side of events, or the tribunal hasn't properly explained why it preferred one lot of evidence, such as a doctor's report, over another report.

It is very important to get independent advice before appealing to the Upper Tier Tribunal, particularly if your case might set a bad pattern for similar cases.

To follow this course of action, you must apply to the First Tier Tribunal judge in writing. See www.tribunals.gov.uk, for more details and advice.

Complaints

If you do not agree with the way a local council made a decision, you can complain to the council's complaints or monitoring officer and to the Local Government Ombudsman (visit www.lgo.org.uk to find out who the ombudsman is). Before you can go to the ombudsman, you will have to use

the council's internal complaints procedure (there are normally three stages in the procedure).

If you have a complaint against the Department for Work and Pensions or Her Majesty's Revenue and Customs, you can contact a local advice centre like a Citizens Advice Bureau or your member of parliament and ask them to take up your case. Alternatively, each Department for Work and Pensions or Her Majesty's Revenue and Customs office has a customer services manager who can handle your complaint. The Department for Work and Pensions customer charter, available from the Department for Work and Pensions website (www.dwp.gov.uk/other-specialists/compensation-recovery-unit/customer-charter), sets out the standards you can expect from the department.

¹ Reg. 28, Social Security and Child Support (Decisions and Appeals Regulations 1999 (D&A Regs)

² Reg. 31, D&A Regs

³ Reg. 38(2), D&A Regs

⁴ Reg. 3, D&A Regs

⁵ Reg. 4, D&A Regs

⁶ Reg. 3(5)(a), D&A Regs

⁷ Regs. 6 & 7, D&A Regs