



**Shetland
Islands Council**

Benefits Section
Office Headquarters
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If **you** think the
decision about your
Housing Benefit or Council Tax
Reduction is wrong

What to do if you think the decision about your Housing
Benefit or Council Tax Reduction is wrong

- **asking for an explanation**
- **disputing a decision about your benefit**
- **appealing against a decision about your benefit**

IF YOU THINK THE DECISION ABOUT HOUSING BENEFIT OR COUNCIL TAX REDUCTION IS WRONG

If you have received a decision about Housing Benefit or Council Tax Reduction, you may need to know what you can do if you think it is wrong.

If you think the decision is wrong, you can ask us to explain it. If you still think it is wrong after we have explained it to you, we will look at it again.

For some decisions, you can appeal to an independent tribunal who can change the decision if they agree that it is wrong.

There are time limits for asking for decisions to be looked at again and for appealing. We tell you about these time limits in this leaflet.

OTHER ORGANISATIONS THAT CAN HELP

Advice Centres

Advice centres, like the Citizens Advice Bureau and law centres, can represent you and help you understand the reasons for decisions about Housing Benefit and Council Tax Reduction. They can also help you to fill in forms or to write a letter. They will sometimes go with you to the tribunal that hears your appeal.

It will help the advice centre if you show them any letters you have about the decision that you think is wrong. Trade unions may also offer free advice to their members. They may also be able to speak for you at the tribunal that hears your appeal.

You can find addresses for these organisations in the business section of the phone book, the Yellow Pages or at a library.

Solicitors

You may be able to get advice from a solicitor under the Legal Advice and Assistance Scheme.

You can find out about this from a solicitor. But if you decide to use a solicitor, the scheme does not cover the cost of a solicitor to help you at a hearing. You cannot get any money for things like solicitor's fees from us or the Appeals Service.

For details of solicitors and advice centres, contact

The Legal Aid Board
Franchise Development Group
85 Grays Inn Road
London
WC1X 8AA

UK Freephone **0500 282 3000**

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 Advice and Assistance Scheme. The scheme does not cover the cost of a solicitor to help you at a hearing. See above.

law correctly, you can 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 your 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 special reasons that caused the delay.
- You will need to show why you were not able to make your request on time.

CHECK WHAT TO DO

1. It may help if you ask us to explain our decision: check **Do you want more information about the decision?**
→ see page 5.
2. If you want us to look at our decision again: check **Do you want us to look at our decision again?**
→ see page 6.
3. If you want to appeal against the decision: check **Do you want to appeal against the decision?**
→ see page 8.
4. If you want to know what happens after you make an appeal: check **After you have made an appeal**
→ see page 10.
5. If you want to know what to do if you think the result of an appeal is wrong: check **If you disagree with the tribunal's decision.**
→ see page 13.
6. If you need help with your appeal: check **Other organisations that can help.**
→ see page 15.

THE DECISION

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

- If you receive a decision in writing it is usually because you have
 - claimed Housing Benefit or Council Tax Reduction
 - had a change of circumstances which affects your benefit
 - been told you have to pay back benefit
- You may be able to ask us to look again at a decision or appeal against it. There are special rules if you are not claiming the benefit yourself. For example, if you are a landlord and a decision is made about whether Housing Benefit is to be paid directly to you or if you are a landlord and a decision is made to recover an overpayment of Housing

Benefit or excess Council Tax Reduction 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.

An appointee is someone appointed by us to act for a person who cannot act for themselves.

IF YOU DISAGREE WITH THE TRIBUNAL'S DECISION

Appeals to the Social Security Commission

- If you do not agree with the appeal tribunal's decision you may be able to appeal to the Social Security Commissioners.
- The Commissioners are barristers, solicitors or advocates of not less than ten years' standing and are appointed by the Queen on the advice of the Lord Chancellor. They are independent of both the Department for Work and Pensions and the Local Authority.

Who can appeal to the Commissioners?

- Appeals can be made by:
 - anyone who has already appealed to the Appeals Service
 - the Local Authority
 - the Department for Work and Pensions

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 Appeals Service will tell you what to do if you are unhappy with the decision. Read this carefully. It tells you important time limits for your appeal.
- You cannot appeal unless you first get the *statement of reasons* for the tribunal's decision. See **The Result** on page 12.
- You should read the statement of reasons carefully. If you think the tribunal did not apply the

Paper Hearing

- This is an appeal hearing which you do not go to. If you go to an oral hearing, you will be able to deal with any questions or issues that arise.
- You should use the form we will send you with the appeal papers to add any more information which you think will help your case.
- Do not delay sending information as you will not be told the date of a paper hearing.
- The appeal will be heard and the Appeals Service will send you the 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 Appeals 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 appeal to the Social Security Commissioners. See **If you disagree with the tribunal's decision** on page 13.
- If you want a record of the appeal hearing, you can get a copy of the *record 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.

DO YOU WANT MORE INFORMATION ABOUT THE DECISION?

- You have received a letter telling you about your Housing Benefit or Council Tax Reduction decision

and/or

- If you want more information to help you decide what to do, ask us for a written statement of reasons for the decision if we have not already sent you one. You must do this within **one month** of the date of the decision letter. We will send the statement of reasons to you as soon as possible.
- If you still disagree with the decision, you can:
 - ask us to look at it again → see page 6
 - appeal against the decision → see page 8

Do you:

- ✓ Want more information about that decision?

If YES, contact us about the decision letter straight away.

- You must do this straight away because if you want us to look at the decision again or if you want to appeal against it, you must do so within **one month** of the date on the decision letter, not the date you contact the office.
- You can phone, write or visit us.

When you contact us

You have a choice:

- You can ask us to explain the reasons for the decision

If you asked for a written *statement of reasons* the one month you have to ask us to look at the decision again or to appeal against it will be extended by the time we took to send the *statement of reasons*.

DO YOU WANT US TO LOOK AT THE DECISION AGAIN?

- You have received a letter from us telling you the decision or a written *statement of reasons* explaining the decision
- Or we have explained our decision and you still think it is wrong
- If there are any special circumstances which mean you cannot contact us within one month, we may still be able to change the decision. Tell us what the special circumstances are when you contact us.

Do you:

- ✓ Want us to look at the decision again?

If YES, we will look at the decision again.

- Let the office that sent you the decision letter know within **one month** of the date of the letter. If you ask for an explanation first the one month is still counted from the date of the decision letter. If you ask for a written *statement of reasons* you will have the one month from the date of the decision letter plus the time we took to send you the *statement of reasons*.
- If you ask us to look at a decision more than one month after the date of the decision letter and you do not have special circumstances, we may still be able to change the decision. But this will usually only be 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.
- A different member of staff will usually do this
- If the decision is wrong we will change it.

Oral Hearing

- This is an appeal hearing 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 let the Appeals Service know straight away. You must have a good reason why you cannot go, such as illness. You may be able to arrange another date. If you do not let the Appeals Service know you cannot go to the hearing, the tribunal may hear your appeal without you.
- Oral hearings are usually open to the public, but anyone who goes to the hearing will usually be 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 Appeals Service know you want to go to the hearing or want to send someone to represent you. The Appeals 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 rep if you have one
 - delayed until you are in Great Britain

Expenses

- The Appeals 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 Appeals Service office handling your appeal.
- If you live aboard 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.

AFTER YOU HAVE MADE AN APPEAL

- After you have appealed we will offer you an explanation of our decision if we have not already done this.
 - We will look at the decision again if we have not already done this.
 - If we agree that the original decision is wrong and the new decision is to your advantage, we will send you a new decision and your appeal will stop. If you do not agree with the new decision, you can appeal against it.
 - If we agree that the original decision is wrong but the new decision is **not** to your advantage, we will send you a new decision. Your appeal will continue against the new decision. 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 facts used to make the decision, to the Appeals Service.
- We will also include any other relevant papers.
- A copy of the appeal papers will be sent to you and your representative if you have one.
 - Read the appeal papers very carefully. If you do not understand something, ask us, an advice centre or solicitor to explain.
 - You will also receive a form. You must complete this form and send it to the Appeals Service within **14 days** of the date the form was sent 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 or issues that arise. People who go to their hearing usually do better than those who do not.

If the decision can be changed

- If you asked us to look at our decision again, within one month, or had special circumstances which meant you could not, we will change the decision from the date of the original decision.
- If you do not agree with the new decision, you can ask us to look at it again.
- If you asked us to look at our decision again after one month and did not have special circumstances, the decision will usually be changed from the date you asked us on.
- We will send you a letter telling you what the new decision is.

If the decision cannot be changed

- If the decision cannot be changed, we will send you a letter telling you that we cannot change it. The letter will confirm the original decision.
- The letter will tell you if you can appeal against the original decision.

- If you can appeal, the **one month** time limit starts again from the date of the letter confirming the decision.

DO YOU WANT TO APPEAL AGAINST THE DECISION?

- You have received a letter from us telling you the decision or a written statement of reasons explaining the decision
- Or we have explained our decision and you still think it is wrong
- The letter telling you about the decision tells you if you have the right to appeal against it.
- Write down the reasons for your appeal. This is important because the tribunal does not have to look at anything you do not mention. Make sure that you sign the form.
- Send the form back to the office shown on your decision letter within **one month** of the date on the decision letter.

Do you:

- ✓ Have the right to appeal against the decision?
- ✓ Believe the decision is wrong?
- ✓ Want to appeal to an independent tribunal?

If YES, to all, use the form at the back of this leaflet to appeal.

The Appeals Service will decide your appeal at a tribunal hearing. The tribunal is made up of people who are not from the Local Authority

- Complete all relevant boxes on the form. You can get help from an advice centre or a solicitor.

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 against.
- The tribunal cannot look at changes of circumstances that happened after we made the decision.

- **If a change of circumstances could affect your benefit or mean you could claim again, you should report it straight away.** Do not wait for the appeal hearing. Contact us using the details shown on your decision letter.

Late appeals

The Appeals 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 circumstances that caused the delay. These could be a death, a serious illness, absence abroad, a postal strike or some other special circumstance.
- You should include an explanation of why you could not appeal within one month on the form at the back of this leaflet.
- A legally qualified tribunal member will look at the reasons you have given for not appealing in time and will decide if your appeal can be accepted.

They will look at:

- whether there were special circumstances for the delay
- the length of time since you received the decision
- whether it is in the interests of justice that your appeal is accepted, and
- whether your appeal is reasonably likely to succeed.

- The Appeals 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 **13 months** or more after the date on the decision letter.

Appeal tribunals

Tribunals are made up of two members neither of whom is from the Local Authority

- Tribunal members will be experts on the issues involved in your appeal.
- All tribunals have a legally qualified member to help apply the law to your appeal
- Tribunals may also include someone with financial qualifications