

HOUSING BENEFIT AND COUNCIL TAX BENEFIT

What to do if you think the decision about your Benefit is wrong



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

This leaflet explains what to do if you think the decision about your Housing Benefit or Council Tax Benefit is wrong. The rules are the same whichever area you live in. If you don't know which council covers the area you live in, you can find this information on your Council Tax bill.

- your landlord – but only in matters relating to who we pay benefit to;
- your agent – but only in matters relating to who we pay benefit to; or
- anybody who we ask to pay back benefit we have overpaid.

This means that only you can ask us to look at our decision again about how much benefit we think you are entitled to. Only your landlord or agent can ask us to look at our decision about whether we should pay them and whether our decision that they owe us money (because your benefit was overpaid) is correct.

Important notes

The amount of benefit we pay you is a matter between us and you. Only you can ask us to look again at how much benefit we pay you. If we reduce your benefit to recover any benefit we have overpaid you from a previous address, your current landlord cannot appeal against our decision to recover that overpayment.

Introduction

When you apply for Housing or Council Tax benefit, we will give you a decision in writing about your claim. If you disagree with it, you can ask us to look at it again.

There are different ways in which you can do this. You can contact us to:

- ask us to explain our decision;
- ask us to look at your claim again; or
- appeal against our decision.

You must be the person affected by our decision to ask us for any of these options.

Who is affected?

The people this will affect include:

- you (the person making the claim);
- someone acting on your behalf (chosen by the courts);
- someone who we agree can act on your behalf;

Landlords and appeals

Your landlord only has certain rights to appeal if they don't agree with our decision about your Housing Benefit.

- Your landlord can appeal if our decision is not to pay your benefit direct to them.
- Your landlord can appeal if we ask them to pay back any benefit we have overpaid you.
- Your landlord cannot appeal about how much benefit we give you.

What is Local Housing Allowance?

Local Housing Allowance (LHA) is the new way of working out the maximum Housing Benefit you could get. The amount that you get will still depend on your income and savings. It is only the way we work out the maximum Housing Benefit you could get that is changing. We will publish the LHA levels on our website.

What should I do if I disagree with the level of Local Housing Allowance?

You cannot appeal against the level of Local Housing Allowance (LHA) or the Broad Rental Market Areas (BRMA) on which they are based. LHA does not affect everybody. See the leaflet 'A guide to Local Housing Allowance' for more information.

If you have cooked meals as part of your tenancy you can ask for a redetermination. The Rent Service does not take your income into account when they make a determination, so your reasons for asking for a redetermination should not be your level of income. An officer from a different Rent Service area will look at the original valuation and write to you to tell you their decision.

Decisions you can't appeal against

You can ask us to look again at any decision you think is wrong. But there are some decisions you can't appeal against, for example:

- what information and proof we need you to give us;
- if we did not look at our decision again because you asked us too late;
- if we decide not to backdate your benefit because you are slow to or do not tell us about a change in your circumstances;
- if we pay you by cheque or how often we pay you;
- that we have a right to recover an amount we have overpaid you;
- how we recover the amount we overpaid you; and
- if you think our decision about a Discretionary Housing Payment is wrong.

Statement of reasons

You can ask us to give you a statement (called a 'statement of reasons') in writing to explain how we made our decision. This does not affect your right to appeal against our decision. The time we take to provide the statement will mean you have more time to ask us to look at our decision again or appeal to the Tribunals Service.

What should I do if I want you to look at your decision again?

You must write to us within **one month** of the date on the decision letter. If there are special circumstances which mean you cannot write to us within one month, you must contact us to explain why because we may still be able to look at our decision again.

What happens when we look at our decision again?

The decision will be checked by a different officer to the one who made the original decision, to see if it is correct.

If we can change our decision:

- we may change it from the date of our original decision; and
- we will send you a letter explaining our new decision.

If we cannot change our decision:

- we will send you a letter explaining why; and
- you have one more month to appeal to the Tribunals Service.

I want to appeal against your decision. What should I do?

You must appeal by writing a letter or filling in an appeal form, which you can get from us. You must send your appeal to the office shown on your decision letter within **one calendar month** of the date on the letter.

The Tribunals Service will make a decision about your appeal at a tribunal hearing. The tribunal hearing is made up of people who are independent from us.

It is important that you give your reasons for appealing because the tribunal does not have to look at anything you don't mention in your letter or appeal form. The tribunal can only look at the evidence, the law, and the circumstances at the time the original decision was made.

Remember, if the appeal tribunal finds you have been getting too much money, we will reduce your benefit.

More information

For more information about appeals and the Tribunals Service, please visit our website www.benefit-leaflets.org which will give you a direct link to the Tribunals Service publications.

Where can I get more advice?

Contact us if you want more help or advice.
(You can find our contact details on your Council Tax bill.)

Independent advice

If you need independent advice, contact your local citizens advice bureau.
You can find their phone number and other local advice agencies in the phone book and at your local library.

Other formats

You can get the information in this booklet in large print, in Braille and in other languages.
There is also an audio version on-line.
Visit our website
www.benefit-leaflets.org
for more information.

