

DISPUTING A BENEFIT OR TAX CREDIT DECISION

Durham
County Council



Introduction

Most decisions made about benefits and tax credits can be looked at again if you disagree with them. In this factsheet we will first explain how to dispute benefit decisions made by the Department for Work and Pensions (DWP) and tax credits decisions made by Her Majesty's Revenue and Customs (HMRC). At the end of the factsheet we will explain how to dispute decisions made by local authorities.

DWP and HMRC decisions

There are two stages to disputing a decision made by the DWP or HMRC: asking for a reconsideration of a decision, and appealing against it.

Requesting a reconsideration means that you ask the office that made the decision to look at it again. You can usually phone or write to request a reconsideration. You must ask for a reconsideration first before being able to appeal against it. Once you have received a new decision after a reconsideration, if you are still not happy with it you can appeal against it to Her Majesty's Courts and Tribunals Service. The decision will then be looked at by an independent appeal tribunal.

How do I ask for a reconsideration of a DWP or HMRC decision?

When you receive a decision on your claim, you have one month in which to request a reconsideration. If you have not already been contacted by the benefit authority to discuss the decision, you should telephone the number on the decision letter. At this stage you should keep the reasons you give for disagreeing with the decision as simple as possible. You will be able to give fuller reasons later on.

If you are not happy with a decision on Universal Credit you can use your online journal to request a reconsideration.

When you ask for the decision to be reconsidered you should also ask to be sent copies of all the evidence that was used in making the decision. Ask the decision maker not to take any further action until you have had a chance to respond to this evidence.



Welfare Rights Service
Revenues and Benefits
Durham County Council

www.durham.gov.uk/welfarerights
welfare.rights@durham.gov.uk

If you ask for a reconsideration over the telephone it is a good idea to follow up it up in writing. Send a letter containing your request for a reconsideration to the address on the decision letter and keep a copy for yourself. Don't forget to include in the letter your name, address, date of birth, national insurance number and the name of the benefit and date of the decision.

Once you have received copies of the evidence you've requested, look through it and see if there are any errors. Also check to see that all the evidence has been taken into account when reaching the decision. If you don't think the evidence has been weighed fairly you should explain this. If you think you might benefit from extra evidence to support your claim, for example from your doctor or a support worker or other professional, now is a good time to ask for it. If it is likely to take a while to get new evidence you should explain this to the decision maker so they do not make the new decision before it is received.

You should send any further evidence and your comments on the existing evidence to the address on the decision letter.

If there is a lengthy delay in hearing back from the decision maker about the reconsideration, you might want to give them a ring to make sure everything's progressing as it should.

The whole reconsideration process takes some diligence on your part. You might want to consider contacting an advice agency for support. If you want to do this you should bear in mind the deadline for lodging the reconsideration request and any time you need to allow for gathering further evidence, so contact the advice agency as soon as possible in the process. You should take copies of all the correspondence to any interviews you have with the advice agency.

The new decision

When a new decision is made you will be notified of it in writing. If the decision is in your favour you need take no further action apart from to ensure that any necessary payments as a result of an award are made to you.

If you are still unhappy with the decision, you have one month from the date on the new decision letter in which to appeal against it.

How do I appeal?

You must appeal in writing to Her Majesty's Courts and Tribunals Service ('the Tribunals Service'). Your appeal must be received within one month of the date on the decision letter.

You can find out more about appealing different benefit decisions by going to <https://www.gov.uk/appeal-benefit-decision>. This page contains information about how to appeal, and allows you to make an appeal online or, where applicable, by downloading the relevant appeal form. It also tells you what information you will need to provide with your appeal.



Late appeal

If you miss the one month deadline your appeal may still be heard if the Tribunals Service:

- Is satisfied there is a reasonable chance of your appeal succeeding, and:
- It is in interests of justice to allow you to appeal, and
- You have special reasons for not appealing within the time limits. A special reason could be, for example, ill health which prevented you from appealing in time.

What should I do to prepare for my appeal?

- Get advice and representation: it is important that you get advice about appealing and vital that you are represented. You are more likely to be successful if you are represented at your appeal hearing.
- Ask for an oral hearing and turn up to the hearing—you have a far better chance of success if you attend in person.
- Collect evidence in support of your case—if your case rests on a medical matter get a letter from a doctor.
- Make notes about your situation at the time the benefit authority made their decision.

Domiciliary Hearings if you are too ill to travel

The Tribunals Service can arrange for your appeal to be at your home if you are too ill to travel. You must request a domiciliary hearing in advance and you will need a note from your doctor confirming that you are too ill to travel.

At the hearing

The Tribunal panel is made up of one, two or three members depending on the type of decision being appealed. There is always a legally qualified member, and for incapacity and disability matters there will also be a medically qualified member. A Presenting Officer from the DWP might also attend the hearing to put their case.

You should get a decision on the day of the Tribunal hearing.



If you still do not agree

You can appeal to the Upper Tribunal. This appeal will only succeed if you can show the first tribunal's decision was incorrect in law.

To help you do this, you should apply for a full statement of reasons to the Tribunals Service within one month of getting your decision. Get advice if you want to appeal to the Upper Tribunal.

Expenses

You may be able to claim travelling expenses, and sometimes compensation for loss of earnings or help with the cost of child minding or help paying for someone to look after an elderly or ill relative. You need to arrange this with the Tribunals Service before your hearing.

Local authority (council) decisions

Some benefits are administered by local authorities (councils) and each of these has a different process for disputing. There is no 'mandatory reconsideration' process for these benefits.

Decisions made on claims to Housing Benefit can be appealed in the first instance by writing to the local authority that made the decision within one month; such appeals will be passed on to the Tribunals Service. You can also ask the local authority to look at its decision again rather than appeal straight away; if you do this and do not agree with the new decision you have a month from the date of the new notification in which to appeal against it.

If you are unhappy with a decision made on a claim made under the Council Tax Reduction Scheme, you must write to the local authority to explain why and to ask it to change its decision. There is no time limit for this—you can make the request at any time. The council should look at its decision again and when it has done so it will issue a new decision. If you are still not satisfied with this, you have two months from the date of the new notification in which to appeal against it to a Valuation Tribunal. You will have to send your appeal direct to the Valuation Tribunal office — see <https://www.valuationtribunal.gov.uk/your-appeal-type/council-tax/council-tax-reduction/> for more details.

Decisions on applications made to Durham County Council's Welfare Assistance Scheme can only be reconsidered, but cannot be appealed to a body independent of the benefit authority: the process is still called an 'appeal' but it is an internal review conducted by a senior officer. The appeal can be made in writing, by telephone, or by email.



Appeals against decisions made on Daily Living Expenses applications must be made within five working days of the date of notification of the decision, or a longer period if this is considered reasonable.

Appeals against decisions made on Settlement Grant applications must be made within one calendar month of the date of notification of the decision.

Further advice and assistance

If you live in County Durham and need more information about how to dispute a benefit or tax credit decision, you can contact Durham County Council Welfare Rights Service. ■



Need more advice? CONTACT WELFARE RIGHTS:

By telephone:

Advice Line
03000 268 968
9 am – 12 noon

By email:

welfare.rights@durham.gov.uk

By post:

Welfare Rights • Durham County Council • Revenues and Benefits • PO Box 254
Stanley • County Durham • DH8 1GG

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