Challenging Benefit Decisions

The following is general advice about the system of ‘mandatory reconsideration’ and appeals. For more detailed advice and support call our Helpline 01629 531535 (11am-4.30pm Monday, Tuesday, Thursday and Friday).

If you wish to challenge a benefits decision, the way in which you do so is different depending upon which benefit you applied for and when the decision on your claim was made. Most benefits are now subject to a ‘Mandatory Reconsideration’ system.

If you have applied for a benefit, you should receive a written decision on your claim. That decision should also make clear what your rights are, and how to take further action. Please keep any written decisions that you receive. NB if you claim Universal Credit you will receive decisions on your online UC account.

You may get a call from the ‘decision maker’ at the Department for Work and Pensions to explain their decision. This is not an appeal and does not take the place of the Mandatory Reconsideration OR APPEAL process described below.

Even if you have received a verbal explanation, you can still challenge the decision.

Mandatory reconsideration before appeal

All Departments for Work and Pensions (DWP) benefit decisions made after 28th October 2013 are subject to this system.

Decisions made by Her Majesty’s Revenue and Customs (HMRC) about Tax Credits, Child Benefit and Guardian’s Allowance are also subject to this system.

If you wish to challenge a decision about Statutory Sick Pay, Maternity, Paternity or Adoption Pay contact our Helpline.

Housing Benefit decisions are not subject to Mandatory Reconsideration – see below.

Requesting Mandatory Reconsideration

You may still appeal to an independent tribunal but you must first apply for a ‘mandatory reconsideration’ (MR) of the decision – this is a request to the DWP or HMRC asking them to look at their decision again.

You must make your request for reconsideration within one calendar month of the decision that you are disputing (30 days in the case of Tax Credits). It is possible to seek a late reconsideration, but you will need to show why your request is late. If the DWP or HMRC refuses to carry out the reconsideration because you are late, seek advice.
You need to state that you dispute their decision, and where possible give your reasons for this. You can request reconsideration over the phone but it is also a good idea to put your reasons in a letter, and to keep a copy.

For most benefits, there is no official form for requesting a reconsideration. DWP now supply an MR1 form, which you may use but you can also write your own letter, make a phone call, or ask an adviser to write to DWP on your behalf.

If you claim Universal Credit, you may seek MR in writing, by telephone or online via your UC Journal.

If sending a letter, write to:
UCFS Post Canterbury BC
Nutwood House
Chaucer Road
Canterbury
Kent CT1 1ZZ

Seek advice if you have any problems with applying for MR.

For Tax Credits, you can use form WTC/AP (available from hmrc.gov.uk or call our helpline), although telephone requests for mandatory reconsideration will be accepted.

There is no time limit for the decision maker to carry out Mandatory Reconsideration, but the DWP/HMRC will try to keep delays to a minimum.

You may wish to ask for copies of the evidence the DWP or HMRC used in making their decision. You can look through this to see if you disagree with any of the details given or the way in which facts have been interpreted.

If you have any further evidence that will help the DWP think again, send it to them as soon as possible. You will be given a month to get this evidence to them.

"If you would like advice, please seek it at this stage: don’t wait until you need to appeal."

Another decision maker will look at the decision, and s/he may contact you to discuss your case and to request more information.

At the end of the process, a new decision called a Mandatory Reconsideration Notice will be sent to you. It is very important that you keep this Notice. You will need it if you wish to appeal. You will get one copy of the Notice for yourself and one to send on with any appeal you make.

If you lose the Notice, you can ask the DWP or HMRC for a copy – seek advice if you are having problems at this stage.
How do I appeal if I am still not happy?

You can appeal to an independent tribunal once you have the Mandatory Reconsideration Notice. You will need to include a copy of this with your appeal. You may appeal at this point even if the DWP or HMRC has partially changed its decision.

Appeals must be lodged with her Majesty’s Courts and Tribunals Service (HMCTS) – do NOT send your appeal to the DWP or HMRC, they will only send it back to you.

*There will not be an appeal form included with the Mandatory Reconsideration Notice and you cannot get one from the Jobcentre. See below for how to get one.*

Do I need to appeal in writing?

Yes. You need to give the reasons for your appeal, and provide a copy of the Mandatory Reconsideration Decision Notice (see above).

You can write a letter or use an appeal form – but your letter should contain all the information that the appeal form asks for.

What appeal form do I need?

For DWP appeals, use form SSCS1 – you can find this at https://www.gov.uk/government/publications/appeal-a-social-security-benefits-decision-form-sscs1

Or call our Helpline.

The leaflet SSCS1A also gives further details about how to appeal and what happens once you have appealed.

The form will ask you for personal details (name, address etc), details of the decision you are appealing and your reasons for appealing, details of any representative you may have, and whether you would like an ‘oral’ hearing (talking to the tribunal in person) or a hearing decided just on the papers without you attending.

We recommend strongly that you choose an oral hearing. Seek advice from our helpline if you are not sure what to do.

For Tax Credits, the appeal form is form SSCS5. You can find this at https://www.gov.uk/government/publications/appeal-a-tax-credit-child-benefit-or-guardians-allocation-decision-form-sscs5 - or call our helpline.
**Is there a time limit?**

You must appeal within one month (30 days for Tax Credits) from the date the Mandatory Reconsideration Notice was sent to you.

HMCTS will contact the DWP/HMRC about the appeal, and they should reply to HMCTS within 28 days.

The DWP/HMRC should then acknowledge your appeal and look at their decision again. If they cannot change it in your favour, they will pass it on to her Majesty’s Courts and Tribunals Service (HMCTS) who will then manage the case until it can be heard by an independent tribunal.

It is possible to request a ‘late appeal’ if you have good reasons for this. Seek advice if making a late appeal.

There is also information on these government websites:

https://www.gov.uk/appeal-benefit

http://www.justice.gov.uk/tribunals/sscs/appeals

**Appealing against Housing Benefit decisions**

If you wish to challenge a Housing Benefit decision, you have two options:

1. **Ask the Local Authority to look at their decision again, giving your reasons why you think their decision is wrong.**

   This is called a ‘revision’ – the Authority looking at their own decision again to see if they can change it. This is NOT an appeal, and if the Authority do not change their decision, you may appeal to an independent tribunal.

   You can request a revision by phoning the Authority, but we recommend that you also put your request in writing and keeping a copy.

   There is a time limit of one calendar month for requesting a revision – but it may be possible for a ‘late revision’ to be allowed in some circumstances. Some decisions may be revised at any time. If the Authority reviews its decision but does not alter it in your favour, you can appeal (see below).
2 Appeal to an Independent Tribunal

You may appeal to a tribunal right away rather than request a revision. To do this, you can write a letter or request an appeal form from your Local Authority. Send the form or appeal letter to the Local Authority.

The Authority should then acknowledge you appeal and look at their decision again. If they cannot change it in your favour, they will pass it on to her Majesty’s Courts and Tribunals Service (HMCTS) who will then manage the case until it can be heard by an Independent Tribunal.

You should normally appeal within one calendar month of the decision you are disputing. It is, however, possible to make a late appeal in some circumstances – seek advice.

You need to give details such as your name and address, your National Insurance Number, the benefit you are appealing about, the date of the decision letter about your benefit, and your reasons why you think the decision is wrong.

NB you should normally appeal within one calendar month of the decision you are disputing (30 days in the case of Tax Credits). It is however possible to make a late appeal in some circumstances – seek advice.

Help from the Council’s Welfare Rights Service

If you would like help with challenging a decision, please contact our Helpline.

We can assist you through the process and we can act as your representatives, which can include going with you to a tribunal hearing.

Please seek assistance as soon as possible – we need as much notice as possible that you would like help with an appeal. We are not able to attend at short notice.
Additional information can be found on our website, visit [www.derbyshire.gov.uk/welfarebenefits](http://www.derbyshire.gov.uk/welfarebenefits)

To keep up-to-date with benefit changes in Derbyshire go to [www.derbyshire.gov.uk\benefitnews](http://www.derbyshire.gov.uk\benefitnews)

**Benefits Helpline – 01629 531535 or email [welfarebenefits@derbyshire.gov.uk](mailto:welfarebenefits@derbyshire.gov.uk)**

**Monday, Tuesday, Thursday, Friday**

11.00am – 4.00pm