

# Derbyshire Welfare Rights Service

## Challenging Tax Credit Decisions

For basic information on Tax Credits, see our leaflet 'Tax Credits – a brief guide'.

Tax Credits are administered by Her Majesty's Revenue and Customs – HMRC.

The forms referred to below can be found on the gov.uk website.

### **Time Limits for challenging TC decisions**

If you wish to challenge a TC decision, you must usually do so within a time limit of thirty days of the date on the decision letter.

It may be possible to challenge a decision later than that, but it is always best to make a challenge as early as possible.

Disputes on overpayments must usually be sent in within three months (see below).

### **Get help early**

Derbyshire Welfare Rights can assist you with queries, and we can represent you if you have a Tax Credits appeal - it is always best not to wait before seeking advice.

NB - we cannot attend appeals if we do not have sufficient warning.

### **Keep your Tax credit paperwork**

Keep your Tax Credit letters – including copies of what you have sent to HMRC where possible - and have these available when you seek advice – it is very important for us to see in detail what has been decided, and when.

### **If your Tax Credit stops or reduces**

Your Tax Credit award is made on an annual basis, based on the tax year (April-April) and can change during the tax year. HMRC may reduce or stop your award during the year because, for instance, they think that you will end up being overpaid Tax Credits if they don't adjust your award. They may also start to claim back any overpaid TCs.

You should challenge any reduction or stoppage, seek full reasons for the decision and seek advice right away.

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Owing to benefit changes, you may need to claim Universal Credit if your Tax Credit award has stopped. You will usually remain on Tax Credits if you are responsible for more than two children but this is likely to change by 1/2/19 – seek advice.

## **If you have been overpaid Tax Credits**

If HMRC decides that you have been paid too much in Tax Credits (either within the tax year or at the end of the tax year) you will be told in writing of the overpayment and how HMRC proposes to recover it from you.

If you think that the decision is wrong, you should challenge it immediately, and seek advice.

Although you have the right to ask HMRC to look at its decisions again and then to appeal to an independent tribunal (see below) it is not possible to appeal against the recovery of an overpayment, and the law is worded so that even if a mistake or inaction on the part of HMRC caused the overpayment, it is still recoverable from you.

It is however possible to challenge an overpayment under an HMRC 'code of conduct' and to ask HMRC to reduce the overpayment or not to collect it from you - but to take effective action you need to do the following:

### **Challenge the recovery of the overpayment:**

You can only do this through the HMRC's Code Of Conduct (there is a leaflet, COP26, which explains the Code)

The Code of Conduct says that HMRC will take the following in to consideration – Have you:

- given accurate details about your situation, including any changes of circumstances
- checked any TC award notices you were sent – using the checklist that is provided by HMRC
- notified HMRC of any details that are incorrect, missing or incomplete
- acted on these within 30 days (or can you show why you were not able to do so)

Have HMRC:

- given you correct advice based upon what you told them, including changes in your circumstances
- accurately recorded the information that you gave them
- included this information on your TC award notice so that you can check it for mistakes.

### **Fill in form TC 846**

This is a form which allows you to give your reasons why you think the overpayment should not be recovered from you. You can get it from the gov.uk website.

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You usually have to send in TC846 within three months of the notice that you wish to dispute. Seek advice if you are late doing so.

HMRC will not hold off collection of the overpayment whilst they look at your request. If the recovery of the overpayment is causing you financial problems, seek advice at once.

## **If your claim has been transferred to Universal Credit**

Owing to recent benefit changes, some claims for Tax Credits have been transferred or 'migrated' to Universal Credit – if this happens to your claim, any debt, such as an overpayment, that you owe to Tax Credits will be collected via UC.

You should be notified in writing of any such debt when your claim moves to UC.

Challenges to Tax Credit decisions are still handled by HMRC.

Seek advice if you are in this situation.

## **Seeking 'Mandatory Reconsideration' of a decision**

If you wish to challenge a Tax Credit decision, it isn't possible to appeal right away: you need to request 'Mandatory Reconsideration' – that is, you ask HMRC to look at the decision again.

You can do this by calling the Tax Credit helpline on 0345 300 3900 or in writing on form WTC/AP.

Remember there is a time limit of 30 days – you may be able to request a late Mandatory Reconsideration but it is important to make the request within the time limit wherever possible.

Explain why you disagree with the decision – give any extra details you can to point out why you think the decision is wrong.

Remember that decisions to recover overpayments are not appealable – see above.

Seek advice about what decisions are appealable and what other action you can take.

## **Tax Credit Appeals**

You can appeal on form SSCS5, which asks for your details and the reason why you want to appeal.

The form will also ask a number of other questions, such as whether you wish to attend an appeal in person. We always advise that you ask to attend a hearing; this is your chance for your case to be heard face-to-face by a Tribunal that is independent of HMRC.

Remember there is again a time limit of 30 days – you may be able to request a late appeal but it is important to make the request within the time limit wherever possible.

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Your appeal will be heard by an independent tribunal. You will receive paperwork which explains HMRC's decision and how it was made; the tribunal will be sent the same papers.

At the hearing, the Tribunal will ask you any additional questions that will help them to make their decision, and you will be able to add any point that you wish to make.

HMRC may look at their decision again and offer to settle the appeal before a tribunal can hear it - seek advice if this happens.

A Welfare Rights adviser can help you to make your appeal, and can attend the hearing with you. Remember to seek advice as soon as possible, and that we cannot deal with appeals at short notice.

## **Tax Credits and Universal Credit – check if you have been overpaid if your claim moves to UC**

Universal Credit is slowly taking over from six means-tested benefits, which includes the Tax Credits. At the moment, our claim may move to UC if you have a change of circumstances which means that you need to make a new claim: the process of transferring all existing claims to UC will take place between late 2020 and late 2024 - see our short guide to Tax Credits and our leaflet 'Universal Credit – what is happening now and in the future'.

If your TC claim is moved over to UC, this may create a Tax Credits overpayment – this and any existing overpayments will be deducted from your UC award. You should be advised in writing by HMRC if there are overpayments, and you have the rights as described above to challenge these decisions. Seek advice.

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**

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