



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

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

- **Asking for an explanation.**
- **Disputing a decision about your benefit.**
- **Appealing to the independent tribunal against a decision about your benefit.**

### The decision

If you get a decision in writing from us about housing or council tax benefit, 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.

You will receive a decision in writing it is usually because you have:

- claimed housing or council tax benefit;
- had a change of circumstances which affects your benefit;
- been told you have to pay back benefit;
- been told about housing benefit being paid to you as a landlord.

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 a decision is made to recover an overpayment of housing benefit from you.

### Do you want more information about the decision?

#### **You have received a letter telling you about your housing or council tax benefit decision.**

If you want more information about that decision contact us straight away. You must do so within one month of the date on the decision letter. You can phone, write to or visit us.

#### **When you contact us**

You have a choice:

- you can ask us to explain the reasons for the 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 below);
- appeal against the decision (see opposite).

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.

### Appealing against decisions by the rent service

You cannot appeal about the amounts for the various levels of local housing allowance (LHA), or the broad rental market areas (BRMA) on which they are based. You can only appeal if you think we have used the wrong level of LHA for your circumstances. You also cannot appeal to the Tribunals Service in relation to any other decisions by the rent officer.

### What happens next?

If 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.

### 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 were unable to ask within that time, 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 Monday following the date we received the request.

- We will send you a letter telling you what the new decision is.

### 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 giving 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.

### Do you want to appeal to an independent tribunal?

If **yes**, the Tribunals Service will decide your appeal. This will be at a hearing by the first tribunal. The tribunal is made up of people who are not from the council.

Complete the form on page 6 or send a separate letter giving 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/letter.

Send your appeal to the Isle of Wight Council, Civic Centre, Sandown, Isle of Wight PO36 9EA within one month of the date on the decision letter. Alternatively, take your appeal to any designated housing benefit and council tax benefit office (see page 7).

If you cannot appeal against the decision you can still ask us to look at it again.

### Appeal tribunals

First tribunals are made up of a tribunal judge and in some cases up to two members, none of whom is from the council.

All tribunals are chaired by the tribunal judge who is legally qualified to help apply the law to your appeal.

If necessary tribunals may also include someone with financial qualifications..

## 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 means 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

An appeal may not be accepted if it is received more than one month after the date on the decision letter.

A late appeal can only be accepted if there are special circumstances that caused the delay. These could be a death, a serious illness, a postal strike or some other special circumstance.

If the appeal is late you must explain in your letter why you could not appeal within one month.

A late appeal cannot be accepted if the only reason is that you misunderstood the law, or interpretation of the law has changed since the decision was made.

If we do not accept a late appeal the matter will be referred to a tribunal judge for a decision.

Your late appeal cannot be accepted if we receive it 13 months or more after the date on the decision letter.

## Now you have made an appeal

Now 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 decide 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 decide 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, with our response, and an explanation of the law and facts used to make the decision, to the Tribunals Service. We will also include any other relevant papers.

We will send a copy of the appeal papers to you and to 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 can send further information or evidence to the Tribunals Service within one month of our response. Meanwhile the Tribunals Service will write to you to explain what you must do next.

They will ask 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 you do not respond promptly to the Tribunals Service your appeal will stop.

## Oral hearing

This is an appeal hearing which you can go to. It is held in your local area (in Great Britain). If you go to an oral hearing you will be able to deal with any questions or issues that arise.

The tribunal may ask you questions.

You can ask questions.

You can take someone with you to represent you.

If you live abroad and want an oral hearing, let the Tribunals Service know you want to go to the hearing or want to send someone to represent you.

The Tribunals 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 representative if you have one;
- delayed until you are in Great Britain.

## Expenses

The Tribunals Service may pay some of your expenses for going to the tribunal, for example travel costs.

## Paper hearing

This is an appeal hearing which you do not go to.

## 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 council.

You can also ask for a statement of reasons. This gives a full 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 Upper Tribunal. See [If you disagree with the First Tribunal's decision](#).

## If you disagree with the first tribunal's decision

### Appeals to the upper tribunal

If you do not agree with the first tribunal's decision you may be able to appeal to the upper tribunal.

The members of the Upper Tribunal 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. Again they are independent of both the Department for Work and Pensions and Councils.

### Who can appeal to the Upper Tribunal?

Appeals can be made by:

- anyone who has already appealed to the Tribunals Service (first tribunal);
- the council;
- The Department for Work and Pensions.

### What you can appeal to the upper tribunal about

You can only appeal to the upper tribunal on a point of

law. You cannot appeal about:

- questions of facts;
- a first tribunal's findings or conclusions.

### How to appeal

Your decision letter from the Tribunals 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.

### Statement of reason

You should read the statement of reasons carefully. If you think the tribunal did not apply the law correctly, you can apply for leave to appeal to the upper tribunal. You must do this within one month of the date the statement of reasons was sent to you.

If you appeal to the upper tribunal, you must send the statement of reasons with your application. If you do not, your application may not be looked at.

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 upper tribunal 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.

### What happens next?

A different first tribunal judge will consider if the decision can be reviewed immediately, or if it should be referred to the upper tribunal. If it is reviewed each party will be asked for their further comments, and the new decision can also be challenged. If it is not reviewed, and if it is not referred to the upper tribunal, the Tribunals Service will tell all parties why they have not done so. That decision can also be challenged within one month direct to the upper tribunal.

If it is referred to the upper tribunal each party will be asked for their further comments before the case is heard. Again the hearing can be oral or paper but will be held in London.

The decision of the upper tribunal can be challenged, but only on a point of law, within three months to the Court of Appeal.

## Other organisations that can help

### Advice centres

Advice centres, like the Community Legal Advice Centre, can represent you and help you understand the reasons for decisions about housing and council tax benefits. 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 Thomson Local directory, 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 Tribunals Service.

For details of solicitors and advice centres, contact:

The Legal Services Commission, 85 Grays Inn Road,  
London WC1X 8AA

UK Freephone: 0207 759 0000

## 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.

## Notes about the appeals form

- Remember that your appeal must reach the council within one month of the date at the top of the letter telling you about the decision.
- If you are submitting a late appeal i.e. more than one month after the decision was made, you must say why your appeal has been delayed.
- If you need more space, use another sheet of paper. Remember to put your name and address at the top of all extra pages.

**Appeals form**Title Surname All other names Address Have you arranged for someone to help you with your appeal?  Yes  NoTheir full name Their address Sign this box to authorise this person to act on your behalf Date at the top of the decision letter 

Use this space to say what the decision is that you are appealing against and why you do not agree with the decision (If you require more space, please use additional sheets and attach them to this form)

Once completed take or send this form to any designated housing and council tax benefit office (see page 7 for details).

Signature Date

## Where can I get more advice?

If you want more help or advice, you can contact us at:

### Council Offices

Civic Centre,  
Sandown,  
Isle of Wight  
PO36 9EA

**Tel:** 01983 823950

**Email:** [housing.benefit@iow.gov.uk](mailto:housing.benefit@iow.gov.uk)

### Opening times:

8.30am to 5pm, Monday, Wednesday, and Thursday.

8.30am to 4.30pm Friday.

This office is closed all day on Tuesdays.

Late night for phone calls to the benefit team on  
Wednesday evenings until 6pm.

### Customer Services Centre

County Hall,  
Newport,  
Isle of Wight  
PO30 1UD

### Opening times:

8.30am to 5pm, Monday, Tuesday, Wednesday and  
Thursday.

8.30am to 4.30, Friday.

### Ryde Help Centre

Ryde Library,  
101 George Street,  
Ryde,  
Isle of Wight  
PO33 2JE

### Opening times:

9am to 5pm, Monday, Tuesday and Friday

### Freshwater Library

41 School Green Road,  
Freshwater,  
Isle of Wight  
PO40 9AP

### Opening times:

9.30am to 12.30pm, and 1.30 to 4.30pm, Tuesday

If you would like more information on benefits, please refer to our website at [iwight.com](http://iwight.com) and follow our quick link to **revenues and benefits**. Alternatively visit [direct.gov.uk](http://direct.gov.uk)

You can also get more help from the following websites:

[www.dwp.gov.uk](http://www.dwp.gov.uk) – Department for Work and Pensions

[www.therentservice.gov.uk](http://www.therentservice.gov.uk) – The Rent Service

[www.adviceguide.org.uk](http://www.adviceguide.org.uk) – Citizens Advice

## Independent advice

### If you need independent advice, contact your

**local citizens advice bureau.** You can find their phone number (and the numbers for other local advice agencies) in the phone book and at your local library, or by contacting your local council.

**This leaflet is a guide and does not cover every circumstance. Some of the information in this leaflet may have been simplified and some information may become out of date because of changes to the law. We recommend that you get independent advice before making financial decisions based on this leaflet.**

Isle of Wight Council, Revenues and Benefits,  
Council Offices, The Broadway, Sandown, PO36 9EA

Telephone (01983) 823950

Email [housing.benefit@iow.gov.uk](mailto:housing.benefit@iow.gov.uk)

Web [www.iwight.com](http://www.iwight.com)

If you have difficulty understanding this document, please contact us on 01983 821000 and we will do our best to help you.