

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

- ◆ ask for an explanation
- ◆ challenge the decision about your benefit
- ◆ appeal against the decision using the green form  
in the centre of this booklet

SOUTH  
HOLLAND  
DISTRICT COUNCIL

## **This is what you can do if you think your Housing Benefit or Council Tax Benefit is wrong.**

Ask us to explain to you how we worked it out. We can do this over the phone, in person or in writing. If we reply to you in writing we call this a Statement of Reasons.

Then if you still think it is wrong, you can ask us to look at the decision again. This request must be **in writing**.

**Finally**, if you still believe the decision is wrong, you can appeal. The appeal is made to an independent group of people, known as a tribunal. They can change the decision if they agree that it is wrong.

An appeal can be made straight away but it might help you more, if you asked us to explain our decision first. There are, however, some decisions that you cannot appeal against. Let us know why you want to appeal and we will tell you whether your reason is one of them.

If you want us to explain this to you, to look at the decision again or you want to appeal, you have to do it **within a certain time**. These time limits are explained later on in this booklet.

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## Do you want more information about 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 also tell you if you can appeal.

If you 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.

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 straight to you

## Do you want more information about the decision?

- ◆ if you are a landlord and a decision is made to recover an overpayment of Housing Benefit from you
- ◆ if you are an appointee for another person you may be able to appeal for them, the letter telling you about the decision will tell you if you can appeal. **An appointee is someone appointed by us to act for a person who cannot act for themselves.**

## Have you decided that you want more information about the decision?

Have you received a letter telling you about your Housing or Council Tax Benefit decision?

Get in touch with us **STRAIGHT AWAY**, if you want us to look at the decision again or if you want to appeal against it. You only have **one month** from the date on the decision letter, not the date you contacted the office.

Our contact details are on the back page of this booklet.

## Do you want us to look at our decision again?

### When you get in touch with us you have a choice:

- ◆ you can either ask us to explain the reasons for the decision
- ◆ or you can 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. If you asked for a written statement of reasons the one month timescale will be extended by the time it took us to send the statement of reasons.**

We will send the **statement of reasons** to you as soon as possible.

### If you still disagree with the decision, you can:

- ◆ ask us in writing to look at the decision again (see pages 5-8)
- ◆ appeal against the decision (see pages 9-13) and use the green form in the centre of this booklet

## Do you want us to look at our decision again?

Get in touch with the Benefits Section within **one month** of the date shown on the decision letter. Please see the back page of this booklet for ways to contact us.

If you ask for an explanation first, the **one month** is still counted from the date on the decision letter.

If you ask for a written **statement of reasons** you will have one month from the date on the decision letter plus the time it took us to send you the **statement of reasons**.

There may be special circumstances which mean you cannot contact us within one month. If so we may still be able to change the decision if you tell us what the special circumstances are when you contact us.

If you ask us to look at a decision again more than one month after the date of the decision letter and you do not have special circumstances, we may still be able to change the decision. This will usually be from the date you wrote to us.

# Do you want us to look at our decision again?

## WHAT HAPPENS NEXT?

When 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:**

- ◆ we will change it from the date of the original decision
- ◆ we will send you a letter telling you what the new decision is
- ◆ if you do not agree with the new decision, you can ask us to look at it again, provided you contact us within one month
- ◆ if you do not contact us within one month and do not have special circumstances, the decision will usually be changed from the date you contacted us.

## Do you want us to look at our decision again?

### 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 and tell you if you can appeal against it using the green form in the centre of this booklet
- ◆ if you can appeal, the **one month** time limit starts again from the date on the letter confirming the decision.

## Do you want to appeal against the decision?

**Do you have the right to appeal against the decision? or do you think it is wrong or would you like to appeal to an independent tribunal?**

If the answer is yes to any of the above please fill in the green form in the centre of this booklet. Here are a few helpful hints when filling in the form:

- 1** complete all relevant boxes on the form. You can get help from an advice centre (like the Citizens Advice Bureau) or a solicitor
- 2** write down the reasons for your appeal. This is important because the tribunal does not have to look at anything you do not mention
- 3** make sure that you sign the form
- 4** you can send or bring the form back to the Benefits Section, Council Offices, Priory Road, Spalding. We must receive it within **one month** of the date shown on the decision letter.

## Do you want to appeal against the decision?

Please note if you cannot appeal against the decision, you can still ask us to look at it again. See ***Do you want us to look at our decision again*** on pages 5-8. Remember, if the appeal tribunal finds you have been getting **too much** money your benefit will be **reduced**.

**The Tribunals Service will decide your appeal at a tribunal hearing. The tribunal is made up of people who are not from the Council.**

### **WHAT DOES THE TRIBUNAL LOOK 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 mean you could claim again, you should tell us straight away.**

## Do you want to appeal against the decision?

To get in touch with us see the back page of this booklet or use the details shown on your decision letter. Do not wait for the appeal hearing.

### LATE APPEALS

The Tribunals Service may not be able to accept your appeal if it is received more than one month after the date on the decision letter.

They can only accept a late appeal if there are special circumstances that caused the delay, for example:

- ◆ a death
- ◆ a serious illness
- ◆ being out of the country
- ◆ a postal strike
- ◆ some other special circumstance.

The Tribunals Service cannot accept a late appeal if:

- ◆ the only reason is that you did not understand the law
- ◆ the interpretation of the law has changed since the decision was made.

## Do you want to appeal against the decision?

Your appeal cannot be accepted if you appeal **13 months** or more after the date on the decision letter.

You should include an explanation of why you could not appeal within one month on the green appeal form in the centre of this booklet. Continue on a separate sheet of paper if you do not have enough space.

A legally qualified tribunal member will look at the reasons you have given for not appealing in time and will decide if your appeal can be accepted.

They will look at:

- ◆ whether there were special circumstances for the delay
- ◆ the length of time since you received the decision
- ◆ whether it is in the interests of justice that your appeal is accepted
- ◆ whether your appeal is likely to succeed.

## APPEAL TRIBUNALS

Tribunals have up to two members none of which are from the Council.

Tribunal members will be experts on the issues involved in your appeal.

All tribunals have a legally qualified member to help apply the law to your appeal.

Tribunals may also include someone with financial qualifications.

## After you have made an appeal

When your appeal is received we will explain our decision to you, if we have not already done so. We may also look at our decision again.

If we agree that the original decision is wrong and the new one is to your advantage, we will send you a new decision and your appeal will stop. However, if you do not agree with the new decision you can appeal against it.

If we agree 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 this new decision and you will have another month to dispute this.

If we do not change the decision, we will send your appeal, 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.

**A copy of the appeal papers will be sent to you and your representative if you have one.**

## After you have made an appeal

Read the appeal papers very carefully. If you do not understand something, contact us. Our details are shown on the back page of this booklet. You can also contact an advice centre or solicitor to explain it to you.

The form also asks you questions about how you want your appeal to be looked at.

You can choose between an **oral hearing** and a **paper hearing**.

### ORAL HEARING

This is an appeal hearing, which you can attend. The advantages of this type of hearing are:

- ◆ you will be able to answer any questions that arise
- ◆ you can take someone with you, who can talk on your behalf
- ◆ you can call witnesses to give evidence to the tribunal.

## After you have made an appeal

A member of our Benefits Section may be at the hearing. They may ask you questions and call witnesses

If you choose an oral hearing but find you cannot go, you must let the Tribunals Service know straight away. If you do not let the Tribunals Service know you cannot attend the hearing, the tribunal may hear your appeal without you.

Oral hearings are usually open to the public. Anyone who goes to the hearing is usually involved in the appeal. You can ask to have your appeal heard in private.

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 talk on your behalf.

## After you have made an appeal

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.

If you would like more information about expenses, please contact the Tribunals Service office handling your appeal.

Their address is:

Tribunals Service  
3<sup>rd</sup> Floor  
Auchinleck House  
Broad Street  
Birmingham  
B15 1DG

You can phone them on 0121 634 7200.

## After you have made an appeal

If you live abroad you will have to pay your own fares to and from Great Britain. You may be able to claim expenses while you are here and during the appeal hearing.

### **PAPER HEARING**

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

You should use the form we will send you with the appeal papers to add any more information, which you think will help your case. Do not delay sending information as you will not be told the date of a paper hearing. The appeal will be heard and the Tribunals Service will send you the decision.

If the tribunal thinks it needs you to go to an oral hearing they can refuse your request for a paper hearing.

**If you choose a paper hearing but change your mind, you can have an oral hearing, but you must let the Tribunals Service know in writing straight away.**

## If you disagree with the tribunal's decision

When your appeal has been heard you will be given a decision letter explaining the tribunal's decision. A copy will also be sent to us.

If your appeal is unsuccessful and you wish to make a further appeal to the Social Security Commission you must have a copy of the **statement of reasons**. This explains the tribunal's decision including the facts and the law used. You must ask the Tribunals Service for a copy of this within **one month** of the date you are given or sent the decision letter.

If you would like a record of the appeal hearing you can get a copy from the Tribunals Service up to 6 months after the hearing. Please see page 18 of this booklet for their address.

If your appeal is successful, we will put the decision right as soon as we receive our copy of the tribunal's decision. It may not be put right straight away if we decide to appeal to the Social Security Commissioners.

## **APPEALS TO THE SOCIAL SECURITY COMMISSIONERS**

The Commissioners are barristers, solicitors or advocates. They have at least ten years' experience and are appointed by the Queen on the advice of the Lord Chancellor. They are independent of both the Department of Social Security and the Council.

### **Who can appeal to the Commissioners?**

Appeals can be made by:

- ◆ anyone who has already appealed to the Tribunals Service
- ◆ the Council
- ◆ the Department of Social Security.

### **What can you appeal to the Commissioners about?**

You can only appeal to the Commissioners about a point of law. You cannot appeal to the Commissioners about:

- ◆ the facts of the case
- ◆ the results of a tribunal or their conclusions.

## HOW TO APPEAL

- 1** 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.
- 2** You cannot appeal unless you first get the **statement of reasons** from the tribunal's decision.
- 3** You should read the statement of reasons carefully. If you think the tribunal did not carry out the law correctly, you can ask for extra time to appeal to the Commissioners. You must do this within **one month** of the date the **statement of reasons** was sent to you.
- 4** If you appeal to the Commissioners, you must send the **statement of reasons** with your application. If you do not, your application may not be looked at.

## If you disagree with the tribunal's decision

- 5** A legally qualified member of the tribunal will decide if your appeal can be sent to the Commissioners or if the appeal should be looked at again by a different tribunal.
  
- 6** You can ask an advice centre, solicitor or another suitable person or organisation to help you with your application.

## LATE APPLICATIONS

Late applications for a **statement of reasons** or for extra time to appeal to the Commissioners 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.

### ADVICE CENTRES

Advice centres, like the Citizens Advice Bureau and law centres, can represent you and help you understand the reasons for decisions about Housing Benefit and Council Tax Benefit. 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.

Our benefits staff may also be able to help you.

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.

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 Appeals Service.

For details of solicitors and advice centres, contact:

The Legal Services Commission  
Fothergill House  
16 King Street  
Nottingham  
NG1 2AS

UK Freephone **0800 0856643**  
**[www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk)**

### **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 page 26.

# HOW TO GET IN TOUCH WITH US



Ring us on 01775 761161 this is shown on the top right hand side of your decision letter and ask for the contact name which is shown top left of the letter



Email us using [benefits@sholland.gov.uk](mailto:benefits@sholland.gov.uk)



Write to us at South Holland District Council, PO Box 8, Priory Road, Spalding, PE11 2XQ



Fax us on 01775 711253



Call in and see us at the Council Offices in Priory Road, Spalding – any weekday from 8.30am to 4.30pm



Visit us at [www.sholland.gov.uk](http://www.sholland.gov.uk)

Name:

Address: