



Housing Benefit and Council Tax Benefit

DISPUTES AND APPEALS

Index

SUBJECT	PAGE NUMBER
Introduction	2
Who can dispute a decision?	3
Do you want an explanation of the decision?	3
Do you want us to look at the decision again?	4
Appealing against the decision	4
Appeal Tribunals	5
Late disputes	6
Decisions you cannot appeal against	7
What happens after the Appeal Tribunal's decision?	7
Where to go for independent help and advice	7
Contacting the Council	8
Contacting the Tribunals Service	8

Introduction

Every time we make a decision that affects your Housing Benefit or Council Tax Benefit we will send you a decision letter. If you think any part of the decision is wrong you can dispute it in 3 ways:

1. Ask for an explanation of the decision – this is known as a written statement of reasons.
2. Ask us to look at the decision again – this is known as a reconsideration.
3. Appeal against the decision.

We recommend that if you do not understand our decision that you ask for an explanation.

If you think the information used to make our decision is wrong or you have additional information that we were not aware of, then you should ask us to look at the decision again.

If the information we have is correct and complete, but you think we have interpreted it incorrectly then you should appeal.

Full details of these 3 options are explained in this booklet.

You are only allowed a certain amount of time to dispute a decision and these time limits are explained in this booklet.

If you want to dispute our decision, a disputes or appeals form is enclosed with this booklet. You should answer all the questions, sign the form and hand it in at the Customer Services Centre at Lancaster or Morecambe Town Hall or post it to the Council. The address can be found at the back of this booklet.

If you wish to dispute a decision, do not delay returning the disputes and appeals form to the Council.

If there is no disputes or appeals form enclosed, you can obtain one by contacting the Benefits Team or calling into one of our Customer Services Centres. Contact details for the Benefits Team can be found at the end of this booklet.

Who can dispute a decision?

The claimant

The claimant can dispute most decisions that affect their Housing Benefit or Council Tax Benefit. There are certain decisions that a claimant cannot dispute and these are explained at page 7 of this booklet.

The landlord or agent

Landlords and agents cannot dispute most decisions made by the Council. They can only dispute decisions that directly affect them. These are:

- A decision about who the payments of Housing Benefit should go to
- A decision that an overpayment of Housing Benefit is recoverable
- A decision that the overpayment can be recovered from the landlord or agent

Any other decision made by the Council can only be disputed by the claimant or their appointee.

Appointees

If the Council have appointed you to act on behalf of another person you can dispute a decision in the same way as that person. This also applies if you:

- Have general power of attorney,
- Have power of attorney to deal with benefit matters or
- Are a deputy appointed by the Court of Protection with power to deal with benefit matters.

Do you want an explanation of the decision?

If you have received a letter about Housing Benefit or Council Tax Benefit and you think the decision is wrong, you can ask us to explain it. You can do this formally or informally.

You can request an explanation at any time but it is advisable to do it straightaway because you only have a certain amount of time to ask us to look at the decision again or to appeal.

Informally

You can either telephone the Benefits Team or call into our Customer Service Centres at Lancaster and Morecambe Town Halls. This can be done at any time and you will be given a verbal explanation of our decision.

If you are not satisfied with the explanation you can ask us to look at the decision again or appeal as long as this is done **within one month** of the date on the original decision letter.

Formally

A formal request for an explanation must be made in writing. The easiest way to do this is to complete the enclosed disputes and appeals form and tick the box asking for a written explanation of the decision.

We will send you a written statement of reasons explaining our decision and we aim to do this within 14 days of receiving your request.

If you are not satisfied with the explanation you can ask us to look at the decision again or appeal. If you ask us to look at the decision again you have one month from the date of the original decision letter plus the time it takes us to deal with your written request for an explanation, to ask us to look at the decision again.

If you wish to appeal against the decision, the time period allowed is the later of the following two options:

- One month after the date of the original decision letter plus 14 days
- The date of our written statement of reasons plus 14 days

[Do you want us to look at the decision again?](#)

If you want us to look at the decision again then you should write to us asking us to look at it again. This must be done **within one month** of the date on the decision letter. The easiest way to do this is to complete the enclosed disputes and appeals form and tick the box indicating you want us to look at the decision again.

If you have written to us for an explanation of the decision, you will have one month from the date of the decision letter plus the time it takes us to deal with your request for an explanation, to ask us to look at the decision again.

When you write to us, we will look again at our decision. The same person who made the original decision will not do this. Your claim will be checked thoroughly and any more information you have given in your letter will be taken into account.

We may then:

- Decide the decision was correct and not change it **or**
- Change the decision to your advantage which means you receive more benefit **or**
- Change the decision to your disadvantage, which means you will receive less benefit.

Whatever the outcome, we will write to you and let you know what we have decided and why we have reached that decision. We aim to do this within 28 days of your request.

If you ask us to look at the decision again and it is not changed in your favour, you can then appeal. You must appeal **within one month** of our letter.

[Appealing against the decision](#)

If you wish to appeal, your appeal must be received in writing:

- Within one month of the original decision letter or
- If you have written to us for an explanation of our decision, then you will have at least 14 days from the date we send you a written statement of reasons or
- If you have previously asked us to look at our decision again, then you will have one month from the date of our reply

You must state what decision you are appealing against, give reasons why you think that decision is wrong and sign the appeal. The easiest way to do this is to complete the enclosed disputes and appeals form and tick the box indicating you want to make an appeal to the Tribunals Service.

We will look at the decision again if we have not already done so. If we decide to change the decision to your advantage, we will send you a new decision and your appeal will lapse. You have the right to appeal further against the new decision.

If the decision is changed to your disadvantage, we will send you a new decision and give you one month to comment on the new decision. We may contact you to see if you want your appeal to go to the independent Tribunals Service straightaway rather than waiting one month.

Unless we have changed our decision to your advantage, your appeal will be referred to the independent Tribunals Service. We will prepare a response to your appeal which will include:

- Our decision
- Your appeal
- An detailed explanation of the of the facts and law used to make the decision
- A copy of all the relevant papers we hold

A copy of the response will be sent to the Tribunals Service, you and any representative you have told us about. We aim to do this within 4 weeks of receiving your appeal.

You should read the response very carefully and if you do not understand something you should contact us or an independent advice centre.

The Tribunals Service will send you a form when they receive their copy of the response. This form will ask various questions about your appeal, for example:

- Whether you want to continue with your appeal
- Whether you want to submit further evidence
- Whether you have any special needs such as an interpreter
- Whether you want to attend a Tribunal or whether you want a Tribunal Judge to make a decision based on the papers the Tribunals Service have received
- Details of any representative

You must send this form back to the Tribunals Service within 14 days. If you do not return this form your appeal may be struck out and no further action taken.

Appeal Tribunals

Tribunals are usually made up of a Judge who is completely independent of the Council. They are an expert on Housing Benefit and Council Tax Benefit. You can opt to have your appeal dealt with at an oral hearing or just have a paper hearing.

Oral hearing

This is an Appeal Tribunal you attend. At an oral hearing you will be able to deal with any questions or issues that arise. People who attend Tribunals often do better than those who do not.

If you choose an oral hearing the Tribunals Service will write and tell you when the Appeal Tribunal will be. As well as you, the other people who attend a Tribunal are:

- The Tribunal Judge
- The Tribunal clerk
- The Council's presenting officer
- Any representative you have - this may be somebody from the advice agencies, a relative or a friend
- Any witnesses you or the Council want to call

It is a public hearing but it is unlikely anyone else will attend.

Even though Tribunals are courts of law they are held as informally as possible with all parties sat around a table. The usual procedure is that the Council's presenting officer is asked to present the Council's case. The Judge, you and your representative then have an opportunity to put questions to the presenting officer.

You or your representative will then be asked to present your case and the Judge and the presenting officer will then have an opportunity to put questions to you. The Judge will then give the presenting officer, followed by you or your representative, a chance to summarise their positions.

The Judge asks all parties to leave the room for a short period of time while they make their decision. The parties are then called back into the room and given a short written decision.

Oral hearings are heard at the Town Hall in Lancaster but are completely independent of the Council. If you do not live in the local area you can ask the Tribunals Service to hold the hearing at the venue which is nearest to where you live.

If you choose an oral hearing but find you cannot go, you should let the Tribunals Service know straightaway. You must have a good reason why you cannot go, such as illness. You may be able to arrange another date. If you do not let the Tribunals Service know you cannot go to the hearing, the Tribunal will probably hear your appeal without you.

The Tribunals Service may pay some of your expenses for going to the Appeal Tribunal such as travel costs. If you want more information about expenses contact the Tribunals Service office in Liverpool. Their contact details are given at the end of this booklet.

Paper hearing

This is an Appeal Tribunal where a decision is made by the Tribunal Judge with nobody else present. The decision will be based on the papers sent to the Tribunals Service by you, your representative and the Council. A copy of the Judge's decision will be sent to you and the Council.

You must send the Tribunals Service everything you think is relevant to your appeal so the Judge can make their decision on the full facts. Do not delay sending information as you will not be told the date of a paper hearing.

If you opt for a paper hearing but the Council opt for an oral hearing then the Tribunal will usually hold an oral hearing. You will be notified of the date and a decision will be made whether or not you attend the hearing.

If you choose a paper hearing but change your mind, you can choose to have an oral hearing. Write to the Tribunals Service straightaway if you change your mind.

Late disputes

As explained above, you generally only have one month from the date on the original decision letter to dispute a decision. We may extend the time allowed to appeal if there were special circumstances that meant you could not contact us within one month.

If you are outside the one month you must explain what special circumstances stopped you disputing the decision within one month. If we accept your reasons then your dispute will be looked at.

If it takes you more than one month to ask us to look at a decision again and we do not accept your reasons then the decision will not be looked at again. Your only option is to make a late appeal.

If you appeal late and we do not accept your reasons your late appeal will be forwarded to the Tribunals Service. A Tribunal Judge will look at your reasons and whether there is a reasonable chance that your appeal would be successful.

If they accept your reasons, or consider there is a reasonable chance your appeal would be successful, they will tell us to prepare a response to your appeal and arrange an Appeal Tribunal.

A late dispute cannot be accepted if we receive it more than **13 months** after the date on the original decision letter.

Decisions you cannot appeal against

The law does not allow you to appeal against certain decisions. These include:

- The Rent Service's valuation of your accommodation or the amount of a Local Housing Allowance. You can appeal if you think we are using the wrong Local Housing Allowance.
- The personal allowances and premiums set by central government every April.
- A decision to recover an overpayment from you, when the law allows us to recover it from either the claimant or the landlord. You can appeal if you think the overpayment is not recoverable because we made a mistake or against our decision that an overpayment can be recovered from you.
- A decision to suspend your benefit.

If you appeal against one of these decisions we will still send your appeal to the Tribunals Service. A Judge will look at it and if he agrees the law does not allow you to appeal he will strike your appeal out. He will also strike out appeals that have no reasonable chance of success.

What happens after the Appeal Tribunal's decision?

If your appeal is successful, we will usually put our decision right within 7 days of the Tribunal's decision. We may not put it right if we consider the Tribunal has made an error of law and we decide to appeal to the Upper Tribunal.

If your appeal is unsuccessful you may be able to appeal further to the Upper Tribunal. You should contact the Tribunals Service if you wish to appeal further.

If you want a full explanation of the Appeal Tribunal's decision you should write to them asking for a statement of reasons.

Where to go for independent help and advice

Advice agencies

Citizens Advice Bureau and Welfare Rights Service can represent you and help you understand the reasons for our 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 them if you show them any letters you have about the decision that you think is wrong.

The contact details for the advice agencies are given in the table below.

Advice agency	Address	Tel. no.	Email address
Citizens Advice Bureau - Lancaster	87 King Street Lancaster LA1 1RH	0844 599 4193	enquiries@lancastercab.org
Citizens Advice Bureau - Morecambe	Oban House 87/89 Queen St. Morecambe LA4 5EN	0844 499 4197	post@mcbecab.ndirect.co.uk
Welfare Rights Service	White Cross South Road Lancaster LA1 4XQ	(01524) 37200	lancaster@lancswelfarerights.com

Solicitors and Community Legal Advice

For free, independent and confidential legal advice, or for details of a solicitor, call Community Legal Advice on 0845 345 4345. Their website can be found at www.communitylegaladvice.org.uk

You may be able to get advice from a solicitor under the legal help scheme. If you decide to use a solicitor, the scheme does not cover the cost of a solicitor to help you at an Appeal Tribunal. You cannot get any money for things like solicitor's fees from the Tribunals Service or the Council.

Contacting the Council

If you need further advice or a disputes and appeals form, you can contact the Council's Benefits Team in any of the following ways:

- By telephone on (01524) 582965 between 9.00am and 5.00pm Monday to Friday.
- By calling into the Customer Service Centres at Lancaster Town Hall or Morecambe Town Hall between 9.00am and 5.00pm Monday to Friday.
- By fax on (01524) 582260.
- By e-mail at benefits@lancaster.gov.uk
- Customers with hearing difficulties who have a Minicom machine can contact us via Typetalk on 18001 01524 582965.

General information about Housing Benefit and Council Tax Benefit is available on the Council's website at www.lancaster.gov.uk/benefits

If you need to write to us, the address is:

The Benefits Team
PO Box 4
Lancaster
LA1 1QR

Contacting the Tribunals Service

The Tribunals Service can be contacted in the following ways:

The Tribunals Service
36 Dale Street
Liverpool
L2 5UZ

Telephone number: 0300 123 1142

Minicom number: 0300 123 1264

Website: www.tribunals.gov.uk

This information can be made available in large print, Braille and audio. Please contact the Benefits Team for more details.