

**WHAT CAN YOU DO IF YOU THINK OUR DECISION ABOUT YOUR HOUSING
OR COUNCIL TAX BENEFIT IS WRONG?**

This leaflet tells you what you can do if you are unhappy with our decision.

- **ask us to explain how we worked it out**
- **ask us to look again at our decision**
- **appeal against our decision**

1. Ask us to explain

If we have written to you with our decision about your housing or council tax benefit, and you think the decision is wrong, you can ask us to explain it. If you still think it is wrong after we have explained it to you, we will look at it again.

For some decisions, you can appeal to an independent tribunal who can change the decision if they agree that it is wrong.

There are time limits for asking for decisions to be looked at again and for appealing. We tell you about these time limits in this leaflet.

2. What is a decision letter?

A decision letter is when we write and tell you about a decision we have made concerning your housing or council tax benefit. If you are not happy with our decision, 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.

We will usually send you a decision letter because you have:

- made a claim for housing or council tax benefit, or
- had a change of circumstances which affects your benefit, or
- been told you have to repay benefit if there has been an overpayment.

There are special rules if you are not claiming the benefit yourself. For example, **if you are a landlord**, we may have made a decision about whether or not housing benefit is to be paid directly to you; or whether we will recover an overpayment of housing benefit from you.

If you are an *appointee** for another person, you can ask us to look again at a decision about their benefit and you may also be able to appeal for them. The decision letter will also tell you if you can appeal.

**An appointee is someone that we have confirmed can act for a person who cannot act for themselves.*

3. Do you want more information about the decision?

Contact us about the decision letter straight away. If you want us to look at the decision again, or if you want to appeal against it, you must do so within **one month** of the date on the decision letter, not the date you contact the office.

You have a choice:

- a) you can ask us to explain the reasons for the decision, and/or
- b) if you want more information about our decision, to help you decide what to do, ask us for a written *statement of reasons*, 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 you the *statement of reasons* as soon as possible.

If you still disagree with the decision, you can:

- ask us to look at it again
- appeal against the decision

If you asked for a written *statement of reasons*, the one month time limit will be extended by the time we took to send the *statement of reasons*.

4. Do you want us to look at the decision again?

After we have explained how we have worked out your benefit, if you still think our decision is not right, you can ask us to look at the decision again:

Please remember:

- You must contact us within **one month** of the date of the letter. If you asked for an explanation first, the one month is still counted from the date of the decision letter. If you asked for a written *statement of reasons*, we will add on the time we took to send it.
- If there are special circumstances which mean you cannot contact us within one month, we may still be able to change the decision. Tell us what the special circumstances are when you contact us.
- If you ask us to look at a decision again, but outside the one month time limit, and you do not have special circumstances, we may still be able to change the decision. This will usually only be from the date you wrote to us.

5. How you can contact us

Phone us on our Customer Services Helpline on **01395 517446** between 8.30am and 5.00pm.

Come and see us at:

- Knowle, Sidmouth, daily between 8.30am and 5pm
- Exmouth Town Hall, (daily except Wed) from 9am to 1.00pm & 2pm to 4.30pm

Write to us at: Housing Benefits
 East Devon District Council
 Knowle
 Sidmouth
 EX10 8 HL

Come to one of our regular surgeries:

- **Axminster** - fortnightly on Tuesdays from 2nd May 2006 at The Guildhall from 1pm to 4pm
- **Seaton** – fortnightly on Wednesdays from 10th May 2006 at The Town Hall coffee lounge from 9am to 12 noon
- **Honiton** – every Thursday at The Senior Citizens' Centre, New Street from 1pm to 4pm

6. 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 and, if the decision was wrong, we will change it.

If the decision can be changed

- We will change the decision from the original date, as long as you asked us to check it within the **one month** time limit. We will also use the original date if we agree that special circumstances prevented you from asking us to check our decision within the time limit.
- If you do not agree with the new decision, you can ask us to check it again.
- If you asked us to look at our decision again, but **after the one month** time limit, and there were no special circumstances, the decision will usually be changed from the date you asked us to check it.
- 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.

If you would like an explanation of your housing or council tax benefit, or if you would like us to look at the decision again (review the decision) please use the form on the next page.

EAST DEVON DISTRICT COUNCIL KNOWLE SIDMOUTH DEVON EX10 8HL

Request for an explanation or review of a housing or council tax benefit decision.

Name *(please print in full)*

Address

Reference

1. Request for an explanation of benefit.

I would like an explanation of the decision made on ____/____/____ *(fill in date)*

Signed

Date

2. Request for a review of benefit.

I do not think the decision made on ____/____/____ is correct. *(fill in date)*

**I would like you to look at the decision again because:
*(please give your reasons in this space)***

Signed

Date

For more help or information, phone our Customer Services Helpline 01395 517446

7. Can I make an appeal against your decision?

You can make an appeal if:

- a. we have sent you a decision letter or if we have given you a written *statement of reasons* explaining the decision we have made;
- b. we have explained our decision and you still think it is wrong;
- c. the decision letter tells that you have the right to make an appeal.

You can use the form at the back of this leaflet to appeal.

Remember, if the appeal tribunal finds you have been getting **too much money** your benefit will be **reduced**.

If you do not have the right to make an appeal, you can still ask us to look at our decision again.

8. Who will decide on my appeal?

The Tribunal Service will decide your appeal at a tribunal hearing. The tribunal may have up to three members:

- who are not from the Local Authority;
- who are experts on the issues involved in your appeal;
- at least one of whom will be legally qualified to help apply the law;
- some of whom may have financial qualifications.

9. Filling in the appeal form

- Fill in **all** the boxes that apply to your claim. You can get help from an advice centre, such as the Citizens' Advice Bureau (CAB), or a solicitor.
- Write down **all** 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.**
- Send the form back to the benefit office at East Devon District Council within **one month** of the date on the decision letter.

10. What does the tribunal look at?

- The evidence, the law and the circumstances at the time we made the decision. These are the only matters the tribunal can only look at.
- The tribunal cannot look at changes of circumstances that happened after we made the decision.

Contact us immediately, using the details shown on your decision letter, if a change of circumstances could affect your benefit, or mean that you could claim again. Do not wait for the appeal hearing.

11. Late appeals

The Tribunal 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. These could be a death, a serious illness, absence abroad, a postal strike or some other special circumstance.

You should include an explanation of why you could not appeal within one month on the appeal form (see back of this leaflet).

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, and
- whether your appeal is reasonably likely to succeed.

The Tribunal Service cannot accept a late appeal if the only reason for the delay is that you misunderstood the law, or interpretation of the law has changed since the decision was made.

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

12. What happens after you have made an appeal?

- If we have not already done so, we will offer you an explanation of our decision.
- We will look at the decision again, if we have not already done this.
- If we agree that our 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 agree that our original decision is wrong, and the new decision is **not** to your advantage, we will still send you the new decision but **your appeal will continue**. The appeal will now be against the new decision and you will have **another month** to comment on it.
- 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 Tribunal Service. We will also include any other relevant papers.

- We will send you, and your representative if you have one, a copy of the appeal papers.
- Read the appeal papers very carefully. If you do not understand something, you can ask us, an advice centre or a solicitor to explain.
- We will also send you a form that you **must** fill in and send to the Tribunal Service within **14 days** of the date we send it to you. **If you do not, your appeal will stop. You must return the form to:**

**The Tribunal Service ,
Oxford House,
Hills Street,
The Hayes
Cardiff
CF10 2YW.**

The form asks you to 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.

13. Oral hearing

This is an appeal hearing which **you can go to**. The hearing will not be held at the Council's offices. The main centre for tribunals for East Devon is Exeter. The Tribunal Service will arrange this. Here are some important points to remember about oral appeal hearings:

- The tribunal may ask you questions.
- You can ask questions.
- You can take someone with you to represent you.
- You can call witnesses to give evidence to the tribunal.
- One of our representatives may be at the hearing. They may ask you questions and call witnesses.
- If you choose an oral hearing, but cannot attend, you must let the Tribunal Service know straight away. You must have a good reason, such as illness. You may be able to arrange another date. If you do not let the Tribunal Service know you cannot attend, they may hear your appeal without you.
- Oral hearings are usually open to the public, but anyone who goes to the hearing will usually be 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 Tribunal Service know you want to go to the hearing or want to send someone to represent you. The Tribunal 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.
- The Tribunal Service may pay some of **your expenses** for going to the tribunal, for example travel costs. If you want more information about expenses, contact the **Tribunal Service office in Cardiff on 02920 877200**.

If you live abroad you will have to pay your own fares to and from Great Britain. You may be able to get expenses while you are in Great Britain and the appeal hearing is going on.

14. Paper hearings

This is an appeal hearing which **you do not go to**. Important points to remember about paper hearings are:

- The appeal will be heard in your absence and the Tribunal Service will send you the decision.
- You should use the form we 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.
- If the tribunal think they need you to go to an oral hearing, they can refuse your request for a paper hearing.

Remember:

In an oral hearing, you are able to deal with any questions or issues that may arise. If you choose a paper hearing, but change your mind, you can still have an oral hearing. Write to the Tribunal Service straight away.

15. The Result

Whether you have an oral or paper hearing:

- The tribunal service will give you a *decision notice* explaining their decision as soon as possible after the appeal hearing. They will send a copy to the office that made the original decision.
- You can ask for a *statement of reasons*. This will give an explanation of the tribunal's decision that includes the facts and the law used. You must ask for a *statement of reasons* within **one month** of the date the tribunal gives or sends you the decision notice. You must have a copy of the *statement of reasons* if you want to appeal to the Social Security Commissioners (see next page).
- If you want a record of the appeal hearing, you can get a copy of the *record of proceedings* up to 6 months from the date of the hearing.

- If your appeal is successful, we will usually put the decision right as soon as we receive our copy of the tribunal's decision. We may not put it right straight away if we appeal to the Social Security Commissioners (see below).

16. What can I do if I disagree with the tribunal's decision?

If you do not agree with the appeal tribunal's decision, you may be able to appeal to the **Social Security Commissioners**.

The Commissioners 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. They are independent of both the Department for Work and Pensions (DWP) and the Local Authority.

17. Who can appeal to the Commissioners?

Appeals can be made by:

- anyone who has already appealed to the Tribunal Service
- the Local Authority
- the Department for Work and Pensions (DWP).

18. What you can appeal to the Commissioners about?

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

- questions of fact
- a tribunal's findings or conclusions.

19. How do I make an appeal?

- Your decision letter from the Tribunal Service will tell you what to do if you are unhappy with the decision. Read it carefully because it tells you important time limits for an appeal.
- You cannot appeal without first getting the *statement of reasons* for the tribunal's decision.
- 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 Commissioners. You must do this within **one month** of the date the *statement of reasons* was sent to you.
- 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.
- A legally qualified tribunal member will decide if your appeal can be sent to the Commissioners or if the appeal should be looked at again by a different tribunal.

- You can ask an advice centre, solicitor or another suitable person or organisation to help with your application.

20. Can I still appeal to the Commissioners if I am outside the time limits?

Late applications for a *statement of reasons* or for leave 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 in time.

21. What do I do if I 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 help scheme. (see below)

22. Other organisations that can help

Citizens' Advice Bureaux (CABs) and advice centres

Advice centres can represent you and help you understand the reasons for decisions about housing and council tax benefits. They can also help you fill in forms or 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.

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 help scheme. You can find out about this from a solicitor or from the Community Legal Service. If you do 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 solicitors' fees from us or the Tribunal Service.

For details of solicitors and advice centres, contact the Community Legal Service (CLS) on 0845 608 1122. People with speech or hearing difficulties can ring 0845 609 6677. You can also visit their website on www.clsdirect.org.uk.

Your appeal

Complete this form and take or send it to us

About you

Title

Mr/Mrs/Miss/Ms

Your surname

All other names

Your date of birth

National Insurance (NI) number

Get this from your NI number card, payslips, tax papers or letters from social security.

Your address and postcode

Daytime phone number

Code Number

Have you arranged for someone to help you with your appeal?

No

Yes Please tell us their name and address

Their full name

Their address and postcode

Their phone number

Code Number

Sign this box to authorise this person to act for you

About the decision

Name of benefit or benefits

Date at the top of the letter
about the decision

About your appeal

- Use the space on the other side of this form to say why you do not agree with the decision
- You must say **why** you think the decision is wrong. It is not enough to say 'I do not agree with the decision' or 'The money is not enough'.
The reasons you give should be like these examples:
 - 'My rent was £75 per week but you have stated it was £35 per week.'
 - 'I moved into the property on 1 November not 1 December.'
 - 'You have used the wrong wages to work out my benefit. I received £250 only during the Christmas week.'
- If you are appealing against more than one decision, you must say why you do not agree with each one.
- If you are appealing more than one month after the decision was made, you must say why your appeal has been delayed.

Your signature

Your signature

Date

If someone has been officially appointed to act for you or someone has the authority to act for you, they should sign here.

What to do now

- Make sure you have said on the form why you do not agree with the decision.
- It will help if you write **Appeal** on the front of the envelope.
- Your appeal must reach our office within **one month** of the date at the top of the letter telling you about the decision.
- Take or send this form to us.

Your appeal

- Use this space to say why you do not agree with the decision.
- You must say **why** you think the decision is wrong. Use BLOCK CAPITALS.

- If you need more space, use another sheet of paper. Remember to put your name and NI number on any extra sheets of paper.
- **Make sure you have filled in all parts of the form and signed it.**
- Take or send the form to **East Devon District Council, Knowle, Sidmouth, Devon EX10 8HL.**
- If you need more information, please phone us on 01395 517446 or e-mail benefits@eastdevon.gov.uk

For our use

/ /

Appeal form issued to customer

/ /

Appeal received

/ /

Appeal received at sector office

/ /

Invoice number

Summary of your choices if you do not understand our decision about your housing or council tax benefit or you think the decision is wrong

- | | | |
|---|---|--|
| You do not understand the decision. | ➔ | Ask for an explanation or a statement of reasons immediately.
(you can use the form on page 5) |
| You understand the decision but do not agree with it. | ➔ | Ask for a revision within one month of the date of the decision
(you can use the form on page 5)
If you asked for a statement of reasons, we will add on to the one month time limit, the time it took us to send it. |
| You do not agree with the decision and want to appeal against it. | ➔ | You must make your appeal within one month of the date of our decision.
You can use the form on pages 12-14. Remember you must say why you think the decision is wrong. This means that you need to understand how and why we have made the decision. |

The one month time limit can only be extended if there are special circumstances.

You will find details about time limits in this leaflet.