

If you think our  
decision is wrong

Housing and Council Tax Benefit



# If you are unhappy with our decision you can:

1. Ask us to explain how we worked it out.
2. Ask us to look at your claim again.
3. Appeal against our decision.

You must be the person affected by our decision to ask us for any of these options.

## Do you need help with this leaflet?

Maybe English is not your first language, you have difficulty reading it because the print is too small, or you are not sure what it means.

Please phone **01395 517446**.

# I. Explaining

## The decision about your claim

When you make a claim for housing benefit, we will give you a decision in writing. If you disagree with our decision, or do not understand it, this booklet will tell you what you can do. We will usually send you a decision because you have:

- made a claim for housing or council tax benefit
- had a change of circumstances which affects your benefit
- you have to pay benefit back.

The amount of benefit we pay you is a matter between us and you. Only you can ask us to look again at our decision about how much benefit we pay you.

There are special rules if you are not claiming the benefit yourself. **An appointee** is someone that we agree can act on your behalf if you cannot act for yourself. An appointee can ask us to look again at a decision about your benefit and may also be able to appeal on your behalf. The letter telling you about the decision will tell you if the appointee can appeal on your behalf.

## Landlords and appeals

Landlords only have certain rights to appeal if they don't agree with our decision about your housing benefit. Landlords **can** appeal:

- if we decide not to pay your benefit direct to them
- if we ask them to pay back any benefit we have overpaid you.

Your landlord **cannot** appeal about how much benefit we give you.

The introduction of Local Housing Allowance has not changed landlords' rights of appeal.

## The Rent Officer's decision

You cannot appeal against this decision. If you disagree with the Rent Officer's decision of what is a reasonable rent to pay for the property you live in, you can ask for a redetermination (for them to look at the decision again). Contact us for advice on how to do this.

## What if I think your decision is wrong or I don't understand it?

Contact us 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 contacted the office.

### You can:

- ask us to explain the reasons for the decision
- ask us to look at our decision again
- appeal against our decision.

For certain decisions, you may be able to appeal to an independent tribunal who can change our decision if they agree that it's wrong. The decision letter will also tell you if you can appeal.

There are time limits for asking for decisions to be looked at again and for appealing. These time limits are important and can affect your benefit. We tell you about time limits in this booklet.

# 2. Reviewing

## Find out more about our decision

If you want more detail about our decision to help you decide what to do, you can 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 the statement of reasons as soon as possible.

After we have explained how we have worked out your benefit, if you are still unhappy with our decision, you can ask us to look at it 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 us for a written 'statement of reasons', we will add on the time we took to send it.
- Send us any evidence to support your case.

- 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.

## What happens next?

When you ask us to look at a decision again, we will check that we have made the right decision. A different member of staff will usually do this.

We will look at any evidence you send to support why you think the decision is wrong. If we decide that our original decision was wrong, we will change it.

### If we can change our decision

We will change it 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 asked us to look at our decision again, but **after the one month** time limit, and there were no special circumstances, we will usually change it from the date you asked us for the check.

We will write to you telling you what the new decision is.

If you do not agree with the new decision, you can ask us to check it again or you can appeal against it.

### If we cannot change our decision

We will write to you explaining why and confirming our original decision.

The letter will tell you if you can appeal to an independent tribunal.

If you can appeal, you have **one month from the date on this letter** to contact us. You can contact us using the form at the back of this booklet.

If you would like us to explain our decision about your housing or council tax benefit, or if you would like us to look at the decision again (review the decision) please use Form 1 at the back of this booklet.

## 3. Appealing

### Who can make an appeal?

If we have decided that we cannot change our decision, but you still think it's wrong, you may have the right to appeal to an independent tribunal.

You can make an appeal if:

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

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

If you decide to appeal to a tribunal, and the tribunal finds that you have been getting too much money, your benefit will be reduced.

### Can I appeal against any decision?

You can ask us to look again at any decision you think is wrong but there are some decisions you can't appeal against, for example:

- what information and proof we need you to give us
- if we did not look at our decision again because you asked us too late
- if we decided not to backdate your benefit because you were slow to, or did not, tell us about a change in your circumstances
- if we pay you by cheque or how often we pay you
- that we have a right to recover an amount we have overpaid you
- how we recover the amount we overpaid you
- our decision about a Discretionary Housing Payment.

### Who decides on an appeal?

The Tribunal Service will decide your appeal at a tribunal hearing. The tribunal could 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 or medical qualifications.

## I want to appeal against your decision. What should I do?

You can use the form at the end of this leaflet to appeal. 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. Our address is on page 9 of this booklet.

You do not have to appeal yourself. You can ask someone else to make the appeal on your behalf if you have said in writing that they can do so. They do not have to be legally qualified to do this. It could be a family member or anyone else who has agreed to represent you.

## Late appeals

The Tribunal Service may not be able to accept your appeal if they receive it 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 or serious illness, a postal strike or some other special circumstance.

You should give an explanation on the appeal form of why you could not appeal within one month.

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 reasonably likely to succeed.

The Tribunal will **not** accept your appeal if:

- you misunderstood the law, or if the way the law is applied has changed since we made our decision
- if you appeal 13 months or more after the date on the decision letter.

## What does the tribunal look at?

The tribunal **can** only look at:

- the evidence
- the law
- the circumstances at the time we made the original decision.

The tribunal **cannot** look at:

- any changes to your circumstances that happened after we made the original decision.

If a change to your circumstances may affect your claim to benefit, or mean that you could claim again, contact us immediately, using the details shown on your decision letter. **Do not wait for the appeal hearing.**

## What happens after I have made an appeal?

If we have not already done so, we will offer you an explanation of our decision. If you accept the explanation, you may decide not to continue with an independent tribunal.

If you want to continue, we will look at the decision again, if we have not already done this.

If we agree that our original decision was wrong, and the new decision is to your advantage (for example, we give you more benefit), 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 was wrong, and the new decision is **not** to your advantage (for example, we shorten the period you can receive benefit), we will still send you the new decision but your appeal will continue. The appeal will now be against the new decision. 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 papers very carefully. If you do not understand something, ask us (or an advice centre or 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 send it back in time, your appeal will stop.** You must return the form to:

The Tribunal Service  
Eastgate House  
Newport Road  
Cardiff CF24 0YP

The form asks you to choose between an **oral hearing** and a **paper hearing**. If you choose 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.

## What is an oral hearing?

This is an appeal hearing which you can go to in person. It will not be held at the Council's offices. The main centre for tribunals for East Devon is Exeter. The Tribunal Service arranges them. Some important points to remember about oral appeal hearings are:

- 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, 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 don't let the Tribunal Service know, they may deal with the appeal without you.

Oral hearings are usually open to the public, but members of the public do not often go to them. Usually, anyone who goes to the hearing will be involved in the appeal. In certain circumstances, your appeal can be 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.

## What is a paper hearing?

This is an appeal hearing which you **cannot** go to. Some 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 because 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.

### Oral or paper?

If you choose a paper hearing, but change your mind, you can still have an oral hearing. Write to the Tribunal Service straight away.

## What about my costs?

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 662180**.

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.

## The result

Whether you have an oral or paper hearing:

- The tribunal service will give or send you a 'decision notice' explaining their decision as soon as possible after the appeal hearing. They will also send a copy to us.
- You can ask for a 'statement of reasons'. This will give you 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 on the decision notice.
- You must have a copy of the statement of reasons if you want to appeal to the Social Security Commissioners (see below).
- If you think there was a mistake in the tribunal process (for example, you did not receive a document that was used at the hearing, or, you could not go to the hearing), you can ask for your case to be dealt with again by another tribunal.
- You should write to the Tribunals Service, giving your reasons for wanting another tribunal within **one month** of the date on the decision notice or statement of reasons. If you ask after the time limit, you should explain why.
- 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. But, we may not put it right straight away if we appeal to the Social Security Commissioners (see below).

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

You may be able to appeal to the Social Security Commissioners. They are experienced lawyers who specialise in benefits law. The Commissioners are independent of both the Department for Work and Pensions (DWP) and the Local Authority.

## Who can appeal to the Social Security 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)
- People who have to repay an overpayment of benefits.

You can only appeal to the Commissioners on a point of law. You **cannot** appeal to them about the facts they have used or a tribunal's findings or conclusions

## How do I make an appeal to the Commissioners?

Your decision letter from the Tribunals Service will tell you what to do if you are unhappy with the decision. Read it carefully because it gives 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 (permission) to appeal to the Commissioners. You must do this within **one month** from the date on the statement of reasons.

Your application for leave to appeal must be in writing and 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 you.

## Can I still appeal if I am outside the time limits?

The Tribunals Service will only accept late applications for a statement of reasons, or for leave to appeal to the Commissioners, if there are special reasons or circumstances that caused the delay. You will need to show why you were not able to apply on time.

## Other organisations that can help

### Citizens' Advice Bureaux (CABs) and Advice Centres

Advice centres can give you help and support. They can help you understand the reasons for decisions about housing and council tax benefit decisions. They can help you fill in forms or write a letter and may also go with you to the appeal tribunal.

It will help the advice centre if you show them any letters you have about the decision you think is wrong. Trade unions may also offer free advice or may speak on your behalf at an appeal tribunal.

### Local CAB offices

**Exmouth:** Town Hall, Exmouth.

Open Monday to Friday from 10.00am to 12.30pm and 2.00pm to 4.00pm. Tel: **01395 264645**.

**Honiton:** Honiton Library, New Street. Open Monday, Tuesday, Thursday and Friday from 9.30am to 12.30pm. Tel: **01404 44213**.

**Sidmouth:** The Community Partnership Building, Mill Street. Open on Mondays from 9.30am to 12.30pm. Tel: **01404 44213**.

**Axminster:** Lea Combe House, Lyme Close. Open on Fridays from 10.00am to 1.00pm. Tel: **01404 44213**.

You can find addresses for other advice organisations in the business section of the telephone book, the Thomson Local directory, the Yellow Pages or at a library.

## Solicitors

You may be able to get free advice from a solicitor under the legal help scheme. You can find out about this from a solicitor or from the Community Legal Service.

For details of solicitors and advice centres in your area, 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 the CLS Direct website on **[www.clsdirect.org.uk](http://www.clsdirect.org.uk)**.

### Legal costs

If you decide to use a solicitor, the legal help scheme doesn't cover the cost of a solicitor to help you at an appeal tribunal.

You cannot get any money for solicitors' fees from us, the DWP, Jobcentre Plus or the Tribunal Service.

# Summary of choices

You do not understand the decision.

- Ask for an explanation or a statement of reasons immediately.
- You can use Form 1 on pages 10 and 11 in this booklet.

You understand the decision but you do not agree with it.

- Ask for a review within **one month** of the date of the decision.
- You can use Form 1 on pages 10 and 11 in this booklet.
- If you asked for a statement of reasons, we will add onto the **one month** time limit, the time we took 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 Form 2 on pages 12 to 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 booklet.

# Contact us



## Phone:

Our Benefits and Council Tax Helpline **01395 517446**.  
Open Monday to Friday between 8.30am and 5.00pm.



## Visit us at:

- **The Council Offices, Knowle, Sidmouth**  
Open Monday to Friday from 8.30am to 5.00pm
- **Exmouth Town Hall** open Monday, Tuesday, Thursday and Friday from 9.00am to 1.00pm and 2.00pm to 4.30pm
- **One of our regular surgeries** in Axminster, Seaton or Honiton  
(phone **01395 517446** for dates and times)



## Write to us:

Housing Benefits  
East Devon District Council  
Knowle, Sidmouth EX10 8HL



## Email us:

[benefits@eastdevon.gov.uk](mailto:benefits@eastdevon.gov.uk)

## Visit our website:

[www.eastdevon.gov.uk](http://www.eastdevon.gov.uk)

# Form 1

## Ask East Devon District Council for an explanation or review of a Housing Benefit or Council Tax Benefit decision

Your full name:

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 \_\_\_\_ / \_\_\_\_ / \_\_\_\_ (fill in date) is correct.

I would like you to look at the decision again because:

*(Please give your reasons in this space. Continue on the back of this page if you need more room)*

Signed: \_\_\_\_\_

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

**For help or information, phone our Council Tax and Benefits Helpline 01395 517446.**



# Form 2

## Your appeal

Fill in this form and take or send it to us at East Devon District Council, Knowle, Sidmouth EX10 8HL.

### 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:

Your daytime phone number:

Have you arranged for someone to help you with your appeal?    Yes     No

Please tell us their name and address

Their full name:

Their address and postcode:

Their daytime phone number:

Sign in 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 next page 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'. Here are three examples of the sort of reasons that would be valid:
  - 1 'My rent was £75 per week but you have stated it was £35 per week.'
  - 2 'I moved into the property on 1 November not 1 December.'

- 3 'You have used the wrong wages to work out my benefit. I only received £250 during the Christmas week.'

These are just a few examples to show the sort of detail you need to give.

- If you are appealing against more than one decision, you must say why you do not agree with each one that you appeal against.
- If you do not appeal within one month after the decision was made, you must say why your appeal has been delayed.

## Sign your appeal

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

- Use the appeal form on the next page to tell us why you do not agree with the decision.
- 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.



