



## Herefordshire Council

### How to appeal against a decision on your Housing or Council Tax Benefit

## Benefits Service

When 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 the decision you may be able to appeal to an independent tribunal called The Tribunal Service. The letter telling you about the decision also tells you if you can appeal.

### Check what to do

This leaflet tells you what you must do. **It is very important to act quickly. You may lose benefit if you delay.**

- If you receive a decision in writing it is usually because you have
  - claimed Housing or Council Tax Benefit
  - had a change of circumstance which affects your benefit
  - been told that you may have to pay back benefit
- You may be able to ask us to look at a decision again even if you yourself are not claiming benefit. For example, if you are a landlord and a decision is made about whether Housing Benefit should be paid directly to you or whether an overpayment of Housing Benefit should be recovered 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 be able to appeal for them. The letter telling you about the decision will tell you if you can appeal.

**If you think the decision is wrong you can ask us to explain it. You do not have to appeal straight away. If you would like us to explain how we worked out your benefit please contact us. You must do this within one month of the date on this decision letter. We will send you a statement of reasons for our decision as soon as possible. If you think that we have missed something or made a mistake, please tell us straight away. You can do this by calling into one of our offices as listed on page 6, by telephoning us on 01432 260333 or by writing to us at Herefordshire Council, the Benefit Section, PO Box 224, Hereford HR1 2XW.**

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

Please write asking us to look at our decision again within one month of the date on the decision letter. If you have already asked us for a statement of reasons you will have one month from the date of the decision letter plus the time we took to send you the statement of reasons. If you delay longer than this, we will normally only change our decision from the date you wrote to us.

### What happens next?

- When you ask us to look at a decision again we will check that the decision is correct.
- A different benefits officer will usually do this.
- If the decision was wrong we will change it.
- We will send you a letter telling you about the new decision.
- If you do not agree with the new decision you can ask us to look at it again.
- If the first decision was right we will send you a letter telling you that we cannot change it. The letter will confirm the first decision. It will also tell you if you can appeal against it.
- Whether we change the decision or not, you will still have one month to appeal against the decision.

## Do you want to appeal against the decision?

- Does the decision letter say you have the right to appeal?
- Do you believe the decision is wrong?
- Do you want to appeal to an independent tribunal?

If you answer 'yes' to all of these please use the form at the back of this booklet to appeal.

## What happens next?

The Tribunal Service will decide your appeal at a tribunal hearing. The local Tribunal Service is based in Birmingham. Our local tribunal meets in Hereford or Worcester and is made up of qualified people who are not from the Council.

## To make your appeal you need to

- Fill in the appeal form. You can get help from the Citizen's Advice Bureau or a solicitor. (You will find some useful addresses and telephone numbers on page 7 of this booklet.)
- Write down the reasons for your appeal. This is important because the Tribunal does not have to consider anything you do not write down. Remember to sign the form.
- Send the form to one of our offices within one month of the date on the decision letter.
- Remember, if The Tribunal Service decides that you have been getting too much money your benefit will be reduced.

## 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 about.

## What the Tribunal won't look at

- The Tribunal cannot look at changes of circumstances which happened after we made the decision. The Tribunal will also not comment on the level of service you received from the Council nor the way you were dealt with by the Council. If you wish to make a formal complaint against the Council regarding any of these matters you should submit your complaint in writing to this office or complete a [Contact Us Online Form](#) on the Council's website at [www.herefordshire.gov.uk](http://www.herefordshire.gov.uk). You can also telephone the Info by Phone Section on 01432 260 500 where you will be helped to register your complaint or you can send an e-mail to [info@herefordshire.gov.uk](mailto:info@herefordshire.gov.uk). Finally you could always call into any Info in Herefordshire Centre as on page 6, where a member of the Customer Services team will be able to help you with your complaint.

You still need to tell us straight away about any change of circumstances which might affect your benefit.

## 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 reasons for the delay. These could be the death of someone close to you, a serious illness, absence from home, a postal strike or some other unusual event.
- You should give the reasons why you could not appeal within one month when you fill in the form at the back of this booklet.
- A legally qualified tribunal member will look at the reasons you have given for delaying your appeal and will decide if it can be accepted. They will look at:
  - whether there were special reasons for the delay
  - the length of time since you received the decision
  - whether it is in the interests of justice that the appeal is accepted, and
  - whether your appeal is reasonably likely to succeed.

- The Tribunal Service cannot accept a late appeal if the only reason is that you misunderstood the law or interpretation of the law has changed since the decision was made.
- Your late appeal cannot be accepted if you appeal more than 13 months after the date on the decision letter.

## **Appeal Tribunals (called First Tier Tribunals)**

- Tribunals are made up of one or two members neither of whom is from our Local Authority.
- Tribunal members will be experts on the issues affecting your appeal.
- All Tribunals have legally qualified members who help to apply the law to your appeal.
- Tribunals may include someone with financial qualifications, for example if your case concerns self employed accounts.

## **When we receive your appeal**

- We will send you an explanation of the decision you have appealed about 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 our first decision was wrong and a new decision is to your advantage we will change it and send you the new decision. Your appeal will stop. If you do not agree with the new decision you can make a fresh appeal against it.
  - If we decide that the first decision was wrong and the new decision is not to your advantage we will send you the new decision. Your appeal against the first decision will continue. You will have another month to comment on the new decision.
- If we do not change the decision we will send your appeal, and an explanation of the law and the facts used to make the decision, to the Tribunal Service. We will also send other relevant papers.
- We will also send copies of all the appeal papers to you and to your representative if you have one.
- Please read the appeal papers very carefully. If you do not understand something ask us or a Citizens Advice Bureau or a solicitor to explain it.
- After the Tribunal Service receives all the details of your appeal, they will send you an Enquiry Form. You must fill it in and send it to the Tribunal Service within 14 days of the date they send it to you. If you do not, your appeal may not be heard.
- 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. If you choose to go to an oral hearing you will be able to deal with any questions that arise. People who go to their hearing usually do better than those who do not.

## **Oral hearing**

- This is a meeting of the appeal tribunal which you can go to.
- 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 will be at the hearing. They may also ask you questions and call witnesses.

## Oral hearing

- If you choose an oral hearing but find you cannot go, you must tell the Tribunal Service straight away. 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 tell the Tribunal Service that you cannot go to the hearing, the Tribunal may hear your appeal without you.
- Oral hearings are usually open to the public but people seldom go to the hearing unless they are 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.

## Expenses

- 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 handling your appeal.
- 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.

## Paper hearing

- This is an appeal hearing which you do not go to.
- Send the information promptly as you will not be told the date of a paper hearing.
- The appeal will be heard and the Tribunal Service will send you the decision.
- If the Tribunal think they need 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 choose to have an oral hearing. Write to the Tribunal Service straight away.

## 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 also be sent to the office that made the original decision.
- You can also ask for a statement of reasons from the Tribunal Service. This gives an explanation of the Tribunal's decision including the facts and the law used. You must normally 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 decide to make a further appeal to the Social Security Commissioners. See **"If you disagree with the Tribunal's decision"** section overleaf.
- 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 decide to appeal to the Social Security Commissioners.

## If you disagree with the Tribunal's decision

- If you do not agree with the Tribunal's decision you may be able to make a further appeal to the Social Security Commissioners in the Upper Tribunal.
- The Commissioners are the equivalent of High Court Judges and are appointed by the Queen on the advice of the Lord Chancellor. They are independent of both the Department of Work and Pensions and the Local Authority.

## Who can appeal to the Commissioners?

- anyone who has already appealed to the Tribunal Service
- the Local Authority
- the Department of Social Security.

## What you can appeal to the Commissioners about

You can only appeal to the Commissioners on a point of law, i.e. how the law has been applied or interpreted in your case. You cannot appeal to the Commissioners about:

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

## How to appeal

Your decision letter from the Tribunal Service will tell you what to do if you are unhappy with the Tribunal's decision. Read this carefully. It tells you important time limits for a further appeal.

You cannot appeal unless you first get the statement of reasons from the First Tier Tribunal's decision.

See "**The Result**" on previous page.

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 a Citizen's Advice Bureau officer, solicitor or another suitable person or organisation to help with your application if you need help.

## Late Applications

- 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 reasons for the delay.
- You will need to be able to show why you did not make your request on time.

## Customer Services Info Offices

### The Hereford Centre

**Garrick House  
Widemarsh Street  
Hereford  
HR4 9EU**

Phone: 01432 260500

Office hours

Monday to Thursday 8.45am to 5.15pm  
Friday 8.45am to 4.45pm  
Saturday 9am to 1pm

### Customer Services Info Office

**11 Corn Square  
Leominster  
Herefordshire  
HR6 8YP**

Phone: 01432 260500

Office hours

Monday to Thursday 8.45am to 5.15pm  
Friday 8.45am to 4.45pm

### Customer Services Info Office

**Swan House  
Edde Cross Street  
Ross on Wye  
Herefordshire  
HR9 7BZ**

Phone: 01432 260500

Office hours

Monday to Thursday 8.45am to 5.15pm  
Friday 8.45am to 4.45pm

### The Bromyard Centre

**Cruxwell Street  
Bromyard  
Herefordshire  
HR7 4EB**

Phone: 01432 260500

Office hours

Monday to Friday 8.15am to 9.30pm  
Saturday and Sunday 9am to 5.30pm

### Customer Services Info Office

**St Katherines  
Ledbury  
Herefordshire  
HR8 1EA**

Phone: 01432 260500

Office hours

Monday to Thursday 8.45am to 5.15pm  
Friday 8.45am to 4.45pm

### The Kington Centre

**64 Bridge Street  
Kington  
HR5 3DJ**

Phone: 01432 260500

Office hours

Monday, Wednesday,  
Friday and Saturday 9am to 1pm  
Tuesday 9am to 6pm  
Thursday 12 noon to 6pm

## Other organisations that can help

The Citizens Advice Bureau  
The Annexe  
Town Hall  
St Owen Street  
Hereford HR1 2JB  
Tel: 08448 269685

Hereford Welfare Rights Team  
St Nicholas House  
St Nicholas Street  
Hereford HR4 0DD  
Tel: 01432 363756

If you are a Herefordshire Housing Tenant you may wish to contact  
Herefordshire Housing Ltd  
Legions Way  
Hereford  
HR1 1LN  
Tel: 01432 384000

## 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 fee from us or the Tribunal Service.

For details of solicitor and advice centres contact:

The Legal Services Commission  
4 Abbey Orchard Street  
London SW1P 2BS  
Tel: 0845 3454345

The Legal Services Commission for the Midlands  
1st Floor, Cannon House  
18 The Priory Queensway  
Birmingham B4 6BS  
Tel: 0121 232 5500

Or log onto [www.legalservices.gov.uk](http://www.legalservices.gov.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 above.

## Also available

The information in this booklet can be made available in other formats. If you require translation, interpretation services or someone to sign in BSL for you, please contact The Benefits Service on 01432 260333 or email us at [benefit@herefordshire.gov.uk](mailto:benefit@herefordshire.gov.uk) or log onto the Council's website on [www.herefordshire.gov.uk](http://www.herefordshire.gov.uk).

# Your appeal

Complete this form and take or send it to us.

## About you

Title

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

Daytime phone number

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

Yes  Please give their name and address

Their full name

Their address

Sign this box to authorise this person to act for you (and so that we can share information with them)

## 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'.

The reasons you give should be like these examples:

- 'My rent was £95 per week but you have stated it was £75 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 tell us on the next page why you do not agree with the decision. If you need more space, please use the back of the page.

- Remember to put your name and National Insurance number on any extra sheets of paper you use.
- Make sure you have filled in all parts of this form and signed it above.
- Please return your completed form to Herefordshire Council, The Benefits Section, PO Box 224, Hereford, HR1 2XW or bring the form into one of the Customer Services Info Offices listed on page 6.

## 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. Please write clearly





