

# Welfare Benefits

Your legal rights



There are many different benefits available, depending on your needs and your circumstances. But you may not know what you are entitled to, or how to apply for a benefit, or what to do if you think you have been unfairly refused a benefit. This leaflet explains how the benefits system works at the moment, but more changes are planned later in 2008.

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The leaflets in this series give you an outline of your legal rights. They are not a complete guide to the law and are not intended to be a guide to how the law will apply to you or to any specific situation. The leaflets are regularly updated but the law may have changed since this was printed, so information in it may be incorrect or out of date.

If you have a problem, you will need to get more information or personal advice to work out the best way to solve it. See 'Further help' on page 22 for sources of information and advice.

## Who can claim benefits?

Most people in the UK are likely to qualify for some kind of welfare benefit or tax credit at one time or other, but many of them miss out because they don't know what they can claim.

If you have come from another country to live here, you may not be able to claim all of these benefits, depending on your immigration status and your circumstances.

### What types of benefit might I be able to claim?

Here we explain the different types of benefits and tax credits, and how you can work out whether you may get them. Benefits and tax credits are to support people in need. There are different types of benefit for different types of need. If you think you may be able to get any of the benefits described, you can get more detailed leaflets from the Department for Work and Pensions (DWP) and Her Majesty's Revenue and Customs (HMRC), explaining:

- how they work;
- whether you qualify; and
- how much they are worth.

For information about how to claim benefits mentioned in this leaflet, see 'Where do I claim?' on page 12.

## If you have a low income

If you have a low income, you can claim several benefits that can give you a basic amount to live on. To get them, you will need to pass a 'means test', so you will have to give details of all your income and savings. If you live with a partner, a civil partner, or your husband or wife, their income and savings are also taken into account when deciding if you can get these benefits.

### Income Support

This is available to people on a low income who do not have to look for work before they can receive benefit, such as:

- carers of disabled people;
- lone parents with children (currently children under 16, but changing to children under 12 from November 2008); and
- people who are sick or disabled (if you are claiming for the first time, from November 2008 you will get income-related Employment and Support Allowance instead of Income Support).

To claim, you must be under 60 years old and not working, or working less than 16 hours a week. If you have a partner who lives with you, you can get Income Support only if they too are not working or work less than 24 hours a week.

If you claim Income Support and you are the parent of a child who lives with you, but whose other parent lives elsewhere, for now you will be treated as having applied to the Child Support Agency (CSA). You will have to give information about the child's other parent, unless this would put you or your children at risk. If you keep back this information without having a good reason for doing so, your Income Support may be reduced. The Government plans to end the rule that treats people on Income Support as having applied to the CSA by the end of 2008.

### **Jobseeker's Allowance**

You may get this if you are looking for work – see 'If you are unemployed' on page 6.

### **Working Tax Credit**

This is to help top up low earnings. You may qualify if:

- you have a child or are disabled, and you or someone you live with as your partner works for 16 hours or more a week
- you are over 50, have been on benefits and then start working for 16 hours or more a week; or
- you (or your partner) are over 25 and work for at least 30 hours a week.

### **The Social Fund**

This is a system of loans and grants to help cover unexpected costs or payments for certain events, such as funeral or maternity expenses, or furniture and household equipment. Most Social Fund payments are for people who are already on one of the means-tested benefits.

### **Housing Benefit and Council Tax Benefit**

These are paid by your local authority (council) and can help pay your rent or council tax if you have a low income, whether or not you are working.

### **Mortgage interest costs**

Some or all of the interest on your mortgage may be paid for you if you have a mortgage on your home and you qualify for Income Support, Pension Credit or income-based Jobseeker's Allowance.

The mortgage interest costs will normally be paid direct to the bank or building society you have your mortgage with. You may not get these costs paid when you first receive benefit, because there is usually a waiting period. It may be several months before you get the full amount, and even then it may not cover all your mortgage payments.

You may be able to get other types of help if you are on a low income and have children to support. See 'If you have children to look after' on page 6.

### **If you are having a baby or adopting a child**

If you have a job, you may get Statutory Maternity Pay (SMP) or Statutory Adoption Pay (SAP) from your employer. These benefits are the minimum amount that an employer must pay you while you are off work having a baby or when you have just adopted a child. Whether you can get these benefits depends on how much you earn and how long you have been working.

SMP or SAP is paid for 39 weeks.

If you do not qualify for SMP, you may be able to claim Maternity Allowance instead from the Department for Work and Pensions.

You may be able to claim Statutory Paternity Pay for up to two weeks' paternity leave if:

- you are the father of a new baby and you will have some responsibility for raising the child; or
- your partner (including a same-sex partner) has recently given birth or adopted a baby and you will both be responsible for raising the child.

Whether or not you can receive Statutory Paternity Pay depends on:

- your earnings; and
- how long you have been working.

If you are not the biological father of the child, you can get Statutory Paternity Pay only if you live with the mother or adopter and the child.

For more information about what you may be able to receive from your employer if you are having a baby or adopting, see the Community Legal Advice leaflet, 'Employment'.

If you are having a baby, you can get free prescriptions and dental treatment while you are pregnant and for a year after your baby is born. If you are on a low income and getting certain benefits or tax credits, you may also qualify for a lump-sum (one-off) payment called a Sure Start Maternity Grant. You must claim this within the three months after your child is born, though in some cases you can claim before you give birth. You can also claim for an adopted child who is less than a year old, but you must claim within three months of the adoption order.

## If you have children to look after

If you have a child, there are several benefits you may be able to claim.

- You can normally claim Child Benefit for your child or children, regardless of your earnings.
- If your income is below a certain level, you may also qualify for Child Tax Credit.
- If you or your partner works 16 hours or more a week and you are on a low income, you may be able to claim Working Tax Credit, which can include an amount towards the cost of childcare.
- If your child is disabled, you may be able to claim Disability Living Allowance for them, and Carer's Allowance for looking after them.
- If you look after a child whose parents have both died, or if one has died and the other is missing or in prison, you may be able to claim Guardian's Allowance.

If you have a child born since 1 September 2002, you will usually be sent vouchers to open a Child Trust Fund account, which is a type of savings or investment account for children. You do not have to

claim these vouchers – they should automatically be sent to you if you have received Child Benefit. The account belongs to the child, but they cannot get the money until they are 18. The Child Trust Fund website has more information – see 'Further help' on page 22.

## If you are unemployed

You can get Jobseeker's Allowance if you are able to work but you do not have a job or you work less than 16 hours a week. There are two types of Jobseeker's Allowance:

- contribution-based; and
- income-based (means-tested).

You may qualify for the contribution-based benefit if you have paid National Insurance contributions in recent years. If you are on a low income, you may get income-based Jobseeker's Allowance based on your circumstances and income, either on its own or on top of contribution-based Jobseeker's Allowance.

To qualify for benefit, you must prove to the Jobcentre that you are looking for work, and you must be available for work (you can't normally be a full-time student, for example).

If you are claiming contribution-based Jobseeker's Allowance by itself, you

claim only for yourself. If you are getting any income-based Jobseeker's Allowance, you claim for yourself and a partner who lives with you (including a same-sex partner). The Department for Work and Pensions (DWP) will take into account your partner's income and savings, as well as yours, when deciding whether you can get income-based Jobseeker's Allowance. You can't get income-based Jobseeker's Allowance if your partner works for 24 hours or more a week.

Some couples must make joint claims for Jobseeker's Allowance, which means they both have to look for work and attend the Jobcentre.

If you apply for income-based Jobseeker's Allowance and you are the parent of a child who lives with you, but the other parent lives elsewhere, for now you will be treated as having applied to the Child Support Agency (CSA). You will have to give information about your child's other parent, unless this would put you or your child at risk. If you keep back this information without a good reason, your income-based Jobseeker's Allowance may be reduced. By the end of 2008, the government plans to end the rule that treats people on income-based Jobseeker's Allowance as having applied to the CSA.

## If you are ill and can't work

If you are off work sick, you may qualify for:

- Statutory Sick Pay (and possibly also contractual sick pay from your employer) for the first 28 weeks;
- Incapacity Benefit (on top of any contractual sick pay you receive from your employer) if you are still ill and can't work after 28 weeks.

If you are self-employed or unemployed, you cannot receive Statutory Sick Pay, but you may be able to claim Incapacity Benefit while you are sick if you have paid National Insurance contributions within the last three years. Otherwise, you may be able to claim Income Support, but only if you are on a low income and meet the other conditions.

If you are sick and you became unable to work when you were under 20 (or 25 in certain circumstances), and have never worked since then, you may qualify for Incapacity Benefit. Otherwise, you may get Income Support if you are on a low income and meet the other conditions. Some people may be getting Severe Disablement Allowance because they can't work, but you cannot make a new claim for this benefit now because it has ended.

In November 2008 the system is changing for people who need to claim benefits because they are ill and can't work. Instead of Income Support and Incapacity Benefit, you will need to claim for a new benefit called Employment and Support Allowance. However, if you are already claiming Income Support and Incapacity Benefit, you will not change to the new benefit.

If you had a period on benefits because you were too ill to work, and you are still disabled when you return to work, you may qualify for a higher rate of Working Tax Credit to top up your earnings.

### **If you have been injured at work**

As well as the Statutory Sick Pay or Incapacity Benefit already mentioned, you may be able to claim Industrial Injuries Disablement Benefit if you:

- have an accident at work; or
- suffer from one of a list of diseases caused by your work.

You must have been an employee when you were injured or when you contracted the disease, and the injury or disease must have happened because of your work. To claim this benefit, you do not have to prove that your employer was at fault, but you should speak to a solicitor in case you can also take legal action against your employer.

### **If you have a disability**

Depending on how long an illness or disability lasts and how your disability affects you, you may qualify for:

- Disability Living Allowance if you are under 65; or
- Attendance Allowance if you are 65 or over.

Disability Living Allowance is for people who have mobility problems or need help with personal care (for example, getting up and dressed, bathing and laundry), or both.

Attendance Allowance is for people who need help with personal care only. If you are 65 or over and you have mobility problems, you can't claim for benefits to help with this, unless you were already receiving the benefit before you turned 65.

You can claim Disability Living Allowance or Attendance Allowance whether or not you work. These allowances are not treated as income for the purpose of deciding whether you qualify for other means-tested benefits, such as Income Support, tax credits, Pension Credit, Council Tax Benefit or Housing Benefit. Disability Living Allowance and Attendance Allowance do not depend on any income you have, and you do not have to have paid any National Insurance contributions to get them.

If you were injured or became ill due to service in the armed forces, you may also be able to claim a war pension or financial help from the Armed Forces Compensation Scheme. For more about this, see the Community Legal Advice leaflet, 'Veterans'.

You may qualify for reduced Council Tax if:

- your home is adapted or must otherwise meet certain requirements because of your disability; or
- you need to use a wheelchair to get around your home which means you need a larger house or flat than you otherwise would.

### **If you care for a disabled person**

If you care for a person with a disability, you may qualify for Carer's Allowance if you:

- spend at least 35 hours a week caring; and
- earn £95 a week or less.

You do not have to have paid National Insurance contributions to get Carer's Allowance. It is taken into account when working out whether you qualify for other means-tested benefits.

### **If you are just starting work**

If you stop being entitled to Income Support, income-based Jobseeker's

Allowance, Severe Disablement Allowance or Incapacity Benefit after several months because you start work or because you increase your hours of work or your earnings, you may be able to get 'extended payments' of Housing Benefit and Council Tax Benefit. This means you will carry on getting these benefits for four weeks at the same rate as before you started work.

Within four weeks of starting work, you must tell the Council Tax department at your local council and the office that pays your benefits about your change in circumstances.

If you have been getting Income Support or income-based Jobseeker's Allowance with an amount for your mortgage interest payment and you come off these benefits after several months to go into work, you may be able to carry on getting help with mortgage interest for four weeks. This is to help tide you over until you receive your wages. But you must tell whoever pays your benefit as soon as you start work, otherwise you may not receive it.

If you come off Income Support, Jobseeker's Allowance, Incapacity Benefit or Severe Disablement Allowance after several months because you go into work, you may also be entitled to a one-off lump sum called a Job Grant. You

must tell whoever pays your benefit about your change of circumstances as soon as you go into work.

You may be able to receive other types of help, such as help with childcare, when you start work or are looking for work. For example, if you are a lone parent, you may be able to get extra money on top of your wages for the first year in a job. Ask the Jobcentre if there is any other help that you might be entitled to.

### **If you are receiving maintenance for your children**

If you are receiving child support maintenance under the rules that applied before March 2003, this will be included in the assessment for your Income Support or income-based Jobseeker's Allowance. If you then start work or increase your hours or pay and these benefits stop, you may be able to claim a one-off Child Maintenance Bonus. You must claim this within four weeks of the benefit ending. If you are receiving maintenance under the rules that have applied since March 2003, then £10 a week of your maintenance will be disregarded (ignored) in the assessment for your Income Support or income-based Jobseeker's Allowance. The Government expects to increase the amount disregarded, and extend it to all parents getting

child support maintenance, by the end of 2008. When this happens, Child Maintenance Bonus will stop.

Any maintenance you receive is ignored in the assessment for your tax credits, and £15 a week of your maintenance is ignored in the assessment for your Housing Benefit and Council Tax Benefit. From 27 October 2008 this will change, and all child maintenance will be ignored in the assessment for these benefits.

### **If you have retired or are about to retire**

You may receive the State (retirement) Pension when you reach pensionable age (for now, 65 for men and 60 for women). You do not have to retire to get State Pension – you may receive it whether or not you are still working.

The amount you receive will depend on how much National Insurance you or your husband or wife or civil partner have paid or been credited with during your working lives. However, once you turn 80, you may get some State Pension whether or not you have paid National Insurance.

When you reach pensionable age, you can choose to defer (put off) receiving your State Pension. Depending on how long you defer, when you eventually claim it you can get either:

- a lump sum (as well as your weekly pension at its normal rate); or
- an increased amount of weekly pension.

You may be able to receive another benefit, called Pension Credit, if you are 60 or over. This depends on your circumstances but you can get it whether or not you are still working. It is made up of two parts:

- a Guarantee Credit; and
- a Savings Credit.

You may get either or both parts but you can get the Savings Credit only if you or your partner is 65 or over. The Guarantee Credit tops up your income to a guaranteed level for your circumstances. You may get some Savings Credit if you have savings or other income on top of your basic pension. Savings Credit can be paid on its own or as well as Guarantee Credit. If you are 60 or over, you will also receive free prescriptions and you may receive a Winter Fuel Payment each year, depending on your circumstances.

### **If your husband, wife or civil partner dies**

If your husband, wife or civil partner dies and they have paid

National Insurance contributions in the past, you may be able to claim a lump-sum Bereavement Payment of £2,000.

If you have children and you are under pension age, you may qualify for Widowed Parent's Allowance.

If you were 45 or over but under pension age when your husband, wife or civil partner died, and you are still under pension age, you may get a Bereavement Allowance for up to a year after they died.

You cannot get Widowed Parent's Allowance and Bereavement Allowance at the same time.

Widowed Parent's Allowance and Bereavement Allowance can be stopped if you marry, enter into a civil partnership or start living with someone as a partner.

If your husband, wife, civil partner or partner died as the result of service in the armed forces, you may qualify for a War Widow's or War Widower's Pension, or financial help from the Armed Forces Compensation Scheme. For more about this, see the Community Legal Advice leaflet, 'Veterans'.

If you are on a low income, you may also qualify for other means-tested benefits and a Funeral Grant from the Social Fund.

## Special groups of people

For most of the benefits mentioned in this guide, special rules apply to certain groups of people, such as:

- hospital in-patients;
- people from abroad;
- students;
- prisoners; and
- people who live in care homes or other residential accommodation.

You should get further advice if you are in any of these groups.

## Where do I claim?

Different agencies and authorities are responsible for different benefits. You must get in touch with the right one to apply for each benefit. See 'Further help' on page 22 for their phone numbers and other details.

### Jobcentre Plus

Jobcentre Plus deals with most claims from people of working age. You should usually start your claim by phoning Jobcentre Plus on the national freephone number (see 'Further help' on page 22). If you are calling from a mobile phone, and have to pay for the call, you can ask Jobcentre Plus to call you back.

The date of the claim is the date of your phone call. It's best to start your claim by phone, but if you don't want to phone, you can either:

- go to your local Jobcentre Plus office to ask for help; or
- download claim forms or make an online claim (for most benefits) from the the Directgov website – see 'Further help' on page 22 for the address. But if you get your claim form without contacting Jobcentre Plus first, the date of your claim will be the date the office receives your form.

### The Pension, Disability and Carers Service

The Pension, Disability and Carers Service deals with claims for State Pension and Pension Credit for people over 60 and with claims for Disability Living Allowance, Attendance Allowance and Carer's Allowance.

You will usually be sent a claim form for State Pension before you reach state pension age. You can also start your claim for State Pension or Pension Credit by phoning the Pension, Disability and Carers Service. Staff there can help you to complete a claim form over the phone.

To claim other benefits from the Pension, Disability and Carers Service:

- for Attendance Allowance or Disability Living Allowance, call the Benefit Enquiry Line; or
- for Carer's Allowance, call the Carer's Allowance Unit.

Alternatively, you can download a claim form for these benefits or fill in an online claim form at the Directgov website (see 'Further help' on page 22 for the address). But, if you make a claim without contacting the Pension, Disability and Carers Service, the Benefit Enquiry Line or Carer's Allowance Unit first, the date of your claim will be the date the appropriate office receives your claim.

### **Her Majesty's Revenue and Customs (HMRC)**

HMRC, formerly the Inland Revenue, deals with:

- tax credits, through its Tax Credit Office;
- Child Benefit and Guardian's Allowance, through its Child Benefit Office;
- questions about National Insurance; and
- the Child Trust Fund.

You can get claim forms for tax credits, Child Benefit and Guardian's Allowance from:

- any DWP office – for example, a Jobcentre;
- HMRC enquiry centres;
- the HMRC website; and
- the telephone helplines for tax credits and Child Benefit.

If you are having a baby, you should receive a Child Benefit pack in hospital with information and a claim form. If you don't receive a pack, ask your midwife or health visitor.

### **Your local authority (council)**

Your local council deals with Housing Benefit and Council Tax Benefit. You can get a claim form from your local authority Housing Benefit and Council Tax Benefit Department.

### **Service Personnel and Veterans Agency**

Claims for War Pensions or for financial help from the Armed Forces Compensation Scheme are made to this agency, which is part of the Ministry of Defence, though most military service organisations will also be able to help you with claims. See the Community Legal Advice leaflet 'Veterans' for more information.

## What must I do when I claim?

For many types of benefit, you will have to provide a lot of personal information about yourself, your family and your finances. You may also have to provide some proof that you qualify for the benefit. You must give your National Insurance number, and you may have to prove your identity to show that the NI number belongs to you. If you do not have a National Insurance number, you must apply for one. Depending on the benefit, you may also have to attend an interview about work and training as part of your claim.

If your claim form is not completed properly, you may not get the benefit. If you are filling in the forms yourself or you want advice about your claim form, contact your local Citizens Advice Bureau.

You can claim for yourself, and, for some benefits, for a partner who lives with you and for your dependent children. You can also claim on behalf of other people if they are unable to manage their own affairs. For more about this, contact the Office of the Public Guardian – see ‘Further help’ on page 22 for details.

## Who decides whether I will get the benefit or not?

An official, often called a ‘decision-maker’, decides whether you can receive a benefit and, if so, how much you will receive. You will get the decision in writing, and if you don’t understand the decision you can ask for an explanation. The decision letter will also include details of how you can challenge the decision and whether you can appeal if you disagree with it.

## Can I get benefit for a period before I make my claim?

If you claim late, whether you can get benefit for a period before you claim (called ‘backdating’) depends on the benefit. Some benefits can be backdated without a reason, for example Child Tax Credit, Working Tax Credit, Child Benefit, Carer’s Allowance, Incapacity Benefit, Pension Credit and State Pension. Income Support and Jobseeker’s Allowance can be backdated only for certain reasons, for example because the phone lines were busy or not working, or the DWP gave you wrong advice.

Disability Living Allowance and Attendance Allowance cannot be backdated. Housing Benefit and Council Tax Benefit can be backdated if you have a good reason for not claiming earlier, though you will not usually need to give a reason if you or your partner is aged 60 or over.

If you think you should have received benefits for a period before you claimed, you should ask for your claim to be backdated. The maximum period benefits can be backdated is:

- for most benefits, three months;
- for Income Support and Jobseeker's Allowance, between one and three months, depending on the reason for claiming late; and
- for Housing Benefit, Council Tax Benefit and Pension Credit, 12 months (though this is changing to three months in October 2008).

You should find out the rules for the benefit you are claiming so that you can give your reasons for backdating if needed.

### **How will I get paid?**

When and how often you are paid depends on the type of benefit you are claiming. You will usually be paid benefit directly into a bank or building society account or a Post Office card account. You can be paid by a cheque that you can cash at the Post Office only if it would be too difficult for you to manage an account or you cannot open one.

Tax credits must usually be paid into an account, and you will be asked for your account details when you apply for tax credits. If you do not have a

bank account, you should be able to open a special Post Office card account, or a basic bank account, which is available from many banks and building societies.

Statutory Maternity, Paternity and Adoption Pay are paid to you by your employer and will appear on your pay packet or payslip.

Housing Benefit can be paid direct to you or to your landlord, or to your rent account if your landlord is the local authority that pays you Housing Benefit. Council Tax Benefit is usually paid by reducing your Council Tax bill.

### **Do I have to do anything after I start getting benefits?**

This depends on which benefits you are getting. Generally, once you are receiving benefit, you must tell the agency that pays you about any change in your circumstances. These include things such as changes in your income, splitting up or moving in with a partner, or if one of your children leaves school.

For Jobseeker's Allowance, you must also have interviews with a personal adviser, who will try to help you get work. You will need to show that you are making efforts to get a job. For some other benefits, you may also have to attend interviews with a personal adviser about work and

training. In some cases, your partner may also have to attend separate interviews. Your benefit may be cut if you or your partner does not attend the interviews.

For Pension Credit, some people who claim do not have to report certain changes in their income for up to five years, but this rule does not apply to everyone. You should seek further advice if you are claiming Pension Credit.

For tax credits, rules on change of circumstances are different to those for most other benefits, and you should get further advice. If you don't tell the Tax Credit Office in time about some changes, you may have to pay a penalty fine, or increases in the credit paid may not be fully backdated, or both. You may also be overpaid tax credit, which you will have to pay back later. Remember to check the rules for each different benefit you receive, as one agency may need you to tell it of some changes while others will not.

### **What happens if I get paid too much?**

If you are paid too much benefit, you may be asked to repay it. This may happen if you don't tell the agency about a change in your circumstances or if you give them wrong information – even by mistake.

If the problem is more serious, for example if you lie about your circumstances, you may be investigated for fraud, and may be prosecuted or fined.

Sometimes the agency dealing with your claim may make a mistake and pay you too much benefit. For most social security benefits, you have the right to appeal against having to repay an overpayment. But with tax credits you have no formal right of appeal against having to repay, only the possibility that the Tax Credit Office may write off some or all of the overpayment if they made a mistake. You will usually be expected to have checked your award notice and the payments being made to you, and report errors within one month.

If you don't think you should have to repay a tax credit overpayment, you need to fill in a form called TC846, available from the Tax Credit Office, explaining why. If the Tax Credit Office doesn't accept your argument, you could ask to repay the money at a lower rate, called 'asking for additional payments', though this will take longer. If you were overpaid but are no longer claiming tax credit, you may also be asked to pay back money as a lump sum. If you cannot afford to do this, you should explain this to the Tax Credit Office and ask if you can pay the money you owe over a period of time.

You can appeal against a tax credit decision:

- that adds interest to a tax credit overpayment;
- that asks you to pay a penalty; or
- if you think the amount of your tax credit (and therefore the overpayment) is wrong.

You could also complain if you think that the overpayment was caused or made worse by the Tax Credit Office not responding to information or delaying a reassessment of your tax credit. You should always get specialist advice if you are asked to repay overpaid social security benefit or tax credit.

### **What if I disagree with a decision about my claim?**

You can challenge a decision on benefits or tax credits if you think your claim has been wrongly refused or you have not had the right amount.

#### **If you want to challenge a benefit decision**

You must first contact the agency that made the decision and tell them in writing that you want it to look at the decision again. You should keep a copy of your letter.

If you want to challenge a benefit decision, it is a good idea to get expert advice to ensure that you tell the agency or appeal tribunal everything that may persuade it to change the decision. See 'Further help' on page 22 for where to find expert advice.

If you want the agency to look at a decision again, you must normally do this within one month of the original decision. This time limit can be increased to 13 months in some cases. In other situations (for example, if the agency involved made a mistake when deciding your claim) there is no time limit. If it changes the decision in your favour, the benefit will normally be paid from the date of the original decision. However, if there is a time limit, and you did not challenge the decision in time, the benefit may be paid only from the date you asked the agency to look at the decision again.

If you are not happy with the new decision, you can still appeal to an appeal tribunal. You should do this within a month of the new decision. However, you can appeal straight away if you want to, without asking for the decision to be reconsidered first. For example, if the reasons why the decision is wrong are complicated, it may be quicker to appeal.

## If you want to challenge a tax credit decision

After the initial decision has been made on your claim for tax credit, it can be revised (changed) if your circumstances change. Remember that if you do not report some changes in time, you could get a penalty fine, be overpaid or lose tax credit.

You may also ask for a revision if you think the Tax Credit Office made a mistake in its initial decision. But you may not ask for a revision if your claim has been refused or your tax credit stopped.

You have the right to appeal if:

- you think the initial decision was wrong;
- your tax credit award is stopped; or
- your claim was refused.

You have 30 days from the date of the decision to appeal. If you disagree with a revised decision you can appeal against this, too. You have 30 days from the date of the revised decision.

After a final decision on your claim, at the end of the tax year the Tax Credit Office can still try to find out whether your entitlement was correct. You can appeal against any decision made because of this. You have 30 days after the decision was made to appeal.

If you can show that the Tax Credit Office made a mistake with its final decision, the decision can be revised. You can ask for this without having to appeal.

## If you want to appeal against a decision

You can appeal against:

- an initial decision;
- a final decision; or
- a decision changed because you asked the agency to look at it again.

The usual time limit for making an appeal is one month from when the decision was made for social security benefits, and 30 days for tax credits. You may be able to appeal up to one year after this time limit ends if:

- you can show that your appeal has a reasonable chance of success; or
- it is 'in the interests of justice'. This means if something serious happened (for example you were ill, or your partner died) that made it difficult for you to appeal within the normal one-month or 30-day time limit.

## How to make an appeal

If you are making an appeal, you must write to the office that made the

decision you are appealing against. The Department for Work and Pensions, Tax Credit Office, Child Benefit Office and your local authority each has its own appeal forms, which you should fill in if you can. If you can't get a form, they will accept a letter.

The appeal form or letter needs to describe the decision you are appealing against and the main reason you think it is wrong.

After you have appealed against a social security benefit decision, a decision-maker will look at the decision again to see if it should be changed. If the decision is not changed in your favour, it will automatically go to an appeal tribunal. For tax credits, the Tax Credit Office can decide to settle the case with you before a hearing takes place.

If your appeal goes to an appeal tribunal, you have the choice of:

- going to an oral hearing, where you can present your case in person; or
- letting the tribunal decide your case on your claim form and appeal form or letter.

It is normally better to go to an oral hearing where you can explain your case in front of the tribunal. You can take someone with you if you wish,

and it is best if this is someone with legal expertise. You must let the tribunal know which type of hearing you want, otherwise your appeal may not be heard at all.

### **How the appeal tribunal works**

At an appeal tribunal, you can explain why you think a decision should be changed. The tribunal will include a solicitor or barrister and sometimes a doctor, an accountant or, if necessary, a person with experience of disability issues. The number and type of people on the tribunal will depend on the type of question. A representative of the DWP, Tax Credit Office, Child Benefit Office or local authority may also be there. They will present the case of the agency that made the decision.

The tribunal normally makes the decision on the same day, and will give you a written notice of the decision. It may also give you a full statement of the reasons for its decision (the 'full decision'), or you can write to ask for this within one month of the decision. You should ask for the full decision if you think you may want to challenge the decision.

Normally the appeal tribunal's decision is final. You can appeal further to the Social Security Commissioners, but only on a 'point of law', for example if:

- a tribunal misinterprets the law;
- there is no evidence to support the decision;
- the tribunal does not give a clear conclusion on the facts of the case; or
- the tribunal does not provide adequate reasons for its decision.

If the agency appeals, it will not normally pay you your benefit or tax credit until the appeal is heard. Once a Commissioner has ruled on a case, you can appeal to the Court of Appeal, and finally to the House of Lords, but only on important points of law.

If you do not have a right of further appeal, you may be able to challenge a decision by a process called 'judicial review'. But this is complicated, and you will need expert legal advice to do this.

### **What if I've been treated badly?**

You may be unhappy with an agency that's been dealing with your benefits because:

- you think you've been treated unfairly;
- you think you've been given bad advice; or
- the service has been poor, for example because of delays or errors.

You can complain about the agency first by writing to it to give it a chance to explain and apologise or compensate you. Each agency has a complaints procedure and you can ask for information about this.

You can complain whether or not you also want to challenge a decision.

If you are unhappy with an agency's response to your complaint, you may be able to take your case further:

- If you are unhappy about how your local council has dealt with your benefits, contact the Local Government Ombudsman.
- If you want to complain about Her Majesty's Revenue and Customs (for tax credits, Child Benefit, Child Trust Fund or National Insurance problems), contact the Adjudicator's Office.
- For complaints about the Department for Work and Pensions, contact the Independent Case Examiner (ICE). Instead of contacting the ICE, or if you are unhappy with how the ICE deals with your complaint, you can contact your Member of

Parliament (MP), who can help you apply to the Parliamentary Ombudsman (the Parliamentary Commissioner for Administration). You can also do this if you have a complaint about HMRC, but the Ombudsman would normally expect you to take your complaint to the Adjudicator's Office first.

However, these bodies can look only at cases where your application or your complaint has not been dealt with properly. You cannot complain to them simply because you disagree with a decision.

## The Human Rights Act

If you are unhappy about how you or your family is treated in the benefit and appeal system, you may be able to challenge the rules on benefits themselves (rather than the actual decision that has been taken, or the way your case has been handled). The European Convention on Human Rights gives you many rights, including a right to:

- peacefully enjoy your possessions. These can include benefits based on contributions you have made, such as National Insurance contributions;
- enjoy respect for family life; and
- have a fair hearing in any dispute.

The Human Rights Act makes these rights part of UK law, which means that you could use these arguments when you challenge a benefit decision. However, challenging benefit rules is a complicated step, and not one you should take without expert legal advice. For more information on this, see the Community Legal Advice leaflet, 'The Human Rights Act'.

## Further help

### Community Legal Advice

Provides free information direct to the public on a range of common legal problems.

Call 0845 345 4 345.

If you qualify for legal aid, you can also get free advice from a specialist legal adviser about benefits and tax credits, debt, education, employment and housing. You can also find a local legal adviser or solicitor.

Click [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk) to find out more.

### Citizens Advice

Your local Citizens Advice Bureau is listed in the phone book.

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

### Age Concern

phone: 0800 009 966

[www.ace.org.uk](http://www.ace.org.uk)

### Directgov website

This website gives more information about individual benefits and tax credits, and access to online claim forms.

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

### Department for Work and Pensions

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

### Jobcentre Plus

Jobcentre Plus offices are listed in the phone book.

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

The national number for making a claim is 0800 055 6688.

### Pension, Disability and Carers Service

Benefit Enquiry Line (for disabled people, their carers and representatives):

0800 882200

To find details of your local pension centre  
phone: 0845 606 0265

For State Pension

phone: 0845 300 1084

For Pension Credit

phone: 0800 99 1234

For Carer's Allowance

phone: 01253 856 123

For Attendance Allowance and Disability Living Allowance

phone: 08457 123 456

### Her Majesty's Revenue and Customs (HMRC)

See 'HMRC' in the phone book for details of local enquiry centres

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

Tax Credit Helpline: 0845 300 3900

Child Benefit Office: 0845 302 1444

### Child Trust Fund

See 'HMRC' in the phone book for details of local enquiry centres

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

Tax Credit Helpline: 0845 300 3900

Child Benefit Office: 0845 302 1444

### DIAL UK

A network of advice centres for disabled people.

phone: 01302 310 123

[www.dialuk.info](http://www.dialuk.info)

### Disability Law Service

phone: 020 7791 9800

[www.dls.org.uk](http://www.dls.org.uk)

### The Adjudicator's Office

phone: 0300 057 1111 or 020 7667 1832

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

### Service Personnel and Veterans Agency

phone: 0800 169 2277

[www.veteransagency.info](http://www.veteransagency.info)

### Tribunals Service

For general information about appeal tribunals.

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

### Office of the Public Guardian

phone: 0845 330 2900

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

## **The Community Legal Service**

The Community Legal Service has been set up to help you find the right legal information and advice to solve your problems.

You can get help through a national network of organisations including Citizens Advice Bureaux, Law Centres, many independent advice centres and thousands of high street solicitors. All of these services meet quality standards set by the Legal Services Commission. Look for the Community Legal Service logo, shown below.

Many of the organisations offer some or all of their services for free. If you cannot afford to pay for advice you may be eligible for financial support through the Community Legal Service Fund (legal aid). You can order leaflets about funding from the LSC leaflet line on 0845 3000 343. You can also use a legal aid eligibility calculator on the website: [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk)

*Community  
Legal Service*



## **The Legal Services Commission (LSC)**

The Community Legal Service and the Community Legal Service Fund are managed by the Legal Services Commission. To find out more about us, visit our website at [www.legalservices.gov.uk](http://www.legalservices.gov.uk) or find the details for your local Legal Services Commission office in the phone book.

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