

Factsheet 74 November 2009

Challenging welfare benefit decisions

About this factsheet

This factsheet is aimed at people who want to know more about what happens after an application for a welfare benefit is submitted. It covers decisions, how to challenge negative decisions, Social Fund reviews and making complaints.

The information given in this factsheet is applicable in England. Different rules may apply in Wales, Northern Ireland and Scotland. Readers in these nations should contact their respective national Age Concern organisations for information specific to where they live – see section 9 for details.

For details on how to order other Age Concern Factsheets and information materials go to section 9.

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1 Recent developments

- On 3 November 2008, the social security appeals tribunal changed its name to the First-tier Tribunal. From this date the social security and child support commissioner also changed its name to the Upper Tribunal.

2 Decisions

Decisions to award benefits and Social Fund payments are made by Department for Work and Pensions (DWP) staff. Housing and Council Tax Benefit decisions are made by officers of the local authority. These DWP staff and officers of the local authority are called decision makers. Decision makers make decisions on behalf of the Secretary of State.

The decision maker may need further information from you before making a decision on your application. You can be asked to provide further information if your claim form was not filled out completely or correctly. A decision maker may also ask for more evidence if they feel they are not fully satisfied by an answer given in your claim form. Failure to provide this information may result in your benefit being suspended or your award being terminated. It may also prejudice them against you and affect their conclusions.

The DWP and local authority have set time limits within which they have to make benefit decisions. For Pension Credit, your claim decision must be made and received by you within 6–8 weeks of the claim form being posted. If you have not received a decision within this time limit you may want to contact the DWP or local authority to find out whether they received your claim form. If they do not have the form, send them a copy or fill out another form mentioning the first form. If the DWP or local authority does not accept that you sent in a form then you should ask for a backdated payment. Asking for a backdated payment may mean you do not lose out on payment of benefit you were entitled to. Different benefits have different backdated payment time limits: for example Housing Benefit and Council Tax Benefit can only be backdated three months.

After a decision has been made you can ask for an explanation if you want to know more about why the decision was made. You can also ask for written reasons for the decision if they were not included in the decision notification.

If you feel that a decision is wrong, you can ask for a revision, a supersession or appeal against it (explained below).

3 Revisions

A revision is where a decision maker looks at a decision again to see whether it can be changed. Your benefit could be increased, decreased or stopped following a revision. It is best to ask for a revision in writing. For Housing Benefit or Council Tax Benefit the request must be made in writing to your local authority. Your decision notification letter should let you know how you could ask for a revision.

A DWP or local authority decision maker may ask for further information when looking at a revision. A DWP decision maker may ask you to have a medical examination but a local authority decision maker cannot ask you to do this.

There are two types of revisions, the 'any grounds' revision and the 'any time' revision.

3.1 The 'any grounds' revision

A request for an 'any grounds' revision must be made within a one month strict time limit. This time limit can only be extended in special circumstances. The mere fact that you think that the decision maker's decision is wrong is enough for it to be looked at again. You must however provide evidence and explain why you think the decision is wrong.

You may go straight to the First-tier Tribunal if you do not want to ask for a revision. A revision is a quicker way of asking a decision maker to change a decision than appealing. Some people may not want to appeal in the tribunal as they feel they are not able to represent themselves. If you feel this way you could ask an advice agency such as the Citizens Advice Bureau if they could represent you.

Note

If you don't have the decision changed after the revision, you may still appeal at the First-tier Tribunal.

3.2 The 'any time' revision

An 'any time' revision can be made at any time after the decision maker's decision. The main grounds for this type of revision are:

- an official error
- an appeal against a decision
- an award of a qualifying benefit (see section 4 for further detail)
- a mistake about or ignorance of facts.

There is no time limit for seeking an 'any time' revision.

3.3 How to apply for a revision

You will need to apply for a revision through the benefits office that sent you your decision notification (within a one month time limit if you are applying for an 'any ground' revision). You can ask for a revision by phone or in writing. If you request a revision on the phone, you should follow this up with a letter of reasons and additional evidence.

Within your request for revision you should state the points that you disagree with. You should also provide further information and evidence to support your case.

3.4 Challenging a revision

You will receive a decision in writing. You may be able to appeal the original decision in a First-tier Tribunal if it was not revised and you have the right of appeal.

4 Supersessions

The main reasons for asking for supersession are:

- changes in circumstances
- mistakes about or ignorance of facts
- where a decision is legally wrong
- where a qualifying benefit has been awarded: that is, where you receive a benefit (known as the linked benefit) and either you or a member of your family are awarded another benefit (known as the qualifying benefit), which has the effect of increasing the linked benefit, the linked benefit can be superseded.

Benefit arrears payable after supersession are restricted, and therefore it is better to ask for a revision or an appeal. A decision cannot be superseded if it can be revised unless there are grounds for supersession that are not covered by the revision rules.

A request for a revision can be treated as a request for supersession by the DWP and the local authority. A notification of a change in circumstances is also treated as a request for supersession.

The DWP or your local authority may ask for you to provide supporting evidence for your supersession application.

Supersessions can be complicated. For further information contact your local advice centre or call the Age Concern Information Line on 0800 00 99 66.

5 Appeals

You have a one-month time limit to ask for an appeal from the date on which notification of the original decision, superseding decision or revised decision was sent to you.

Note

There are some decisions with no right of appeal (although you will still have the right to have the decision revised). In some circumstances you may be able to challenge these decisions by judicial review. Your decision letter will state whether you have the right to appeal.

If you request a written statement of reasons for the decision, you will be given an extra 14 days to appeal. If your decision notification includes a written statement of reasons this extension will not apply to you. If you are requesting a written statement of reasons then the time limit for appealing runs until 14 days after the later of:

- the date on which the one-month appeal period ends (The one-month appeal period runs from the date on which notice of the decision against which you are appealing is sent to you.)
- the date on which the written statement of reasons was provided.

You must make an appeal in writing. You can appeal by completing and sending form GL24 called *If you think our decision is wrong* to your benefits office. Your decision notification letter will have more details of how you can appeal. Please make sure you complete the form fully, because if you do not it will be sent back to you. You will be given an extra 14 days to return the amended form and lodge your appeal.

5.1 Late appeals

No appeal can be accepted more than 13 months after the notification date of the decision being appealed. If you make a late appeal and the decision maker does not accept your appeal for this reason, the decision maker must refer your case to the First-tier Tribunal. The First-tier Tribunal will then decide whether this appeal was made in time based on the reasons for the late appeal and any special circumstances.

5.2 **Appealing to the First-tier Tribunal**

Appeal tribunals are independent of the DWP. They can consist of one, two or three members depending on the type of appeal. The members will always include a legally qualified tribunal judge with either a doctor or accountant (if there are difficult financial matters about trust funds or business accounts).

They need not consider issues not set out in the appeal letter, so full details must be given in the appeal letter.

They cannot consider changes that occur between the relevant decision being made and the appeal being heard, so a new claim may be necessary if circumstances change in that time. For example, where a person appeals against a refusal of Attendance Allowance and then later develops a new condition, they must make a fresh claim.

You are given the choice of attending an appeal hearing in person (called an 'oral' hearing) or agreeing to the tribunal deciding the appeal in your absence (called a 'paper' hearing). You are more likely to win if you attend an oral hearing.

Notice of the tribunal's decision is given in writing. It is usually brief but a full decision will be provided if requested. This must be done in writing within one month of the decision being made.

If an appeal is successful, benefit should be backdated.

If an appeal is not successful, it is possible to appeal to an Upper Tribunal but only on specific legal grounds.

6 **Social Fund reviews**

To challenge a community care grant, crisis loan or budgeting loan decision a review must be requested. This must be done in writing to the Social Fund Officer at the local DWP office within 28 days of date of the decision. This is an internal review.

If you are unhappy with the first review decision, a further (2nd tier) review can be requested. This must be done in writing within 28 days of the first review decision. It can be sent to the local DWP office that will forward it to the Social Fund Inspectors, or sent direct to the Inspectors at the Independent Review Service (see section 8 for contact details).

Late requests for review can be accepted if there are 'special reasons'. These are not defined, but can include reasons such as ill health or a domestic problem.

7 Complaints

You may want to make a complaint against the DWP, local authority or Tribunal Service if:

- they delayed in dealing with your claim
- they gave you poor or negligent advice
- staff were rude or badly behaved when dealing with you
- they used poor administration with your case.

For more information about making a complaint, contact your local advice centre or call the Age Concern Information Line on 0800 00 66 99.

8 Useful organisations

- **Citizens Advice Bureau (CAB)**

National network of free advice centres including advice about national housing provision.

Tel: 020 7833 2181 (for contact details only – not telephone advice)

Website: www.citizensadvice.org.uk

- **Direct Gov**

The official government website for citizens with easy access to information about public services including money, tax and benefits, and a specific section for the over-50s.

Website: www.direct.gov.uk

● **Disability and Carers Service**

The service responsible for administration of Carer's Allowance, Attendance Allowance and Disability Living Allowance.

Tel: 0845 7 12 34 56

Website: www.dwp.gov.uk/about-dwp/customer-delivery/disability-and-carers-service

● **Independent Review Service**

A service aimed at those who have an interest in the Social Fund and its review process. It has a wide range of information that will help frontline decision makers, representatives, advisers and customers.

Tel: 0800 096 1926 (for general enquiries), 0800 096 1928 (for enquiries about decisions or complaints)

Website: www.irs-review.org.uk/

● **Pension Credit Helpline**

Tel: 0800 99 1234

● **Pension Service, The**

Provides details of State Pensions, including forecasts and how to claim your pension.

Tel: 0845 60 60 265

Textphone: 0845 60 60 285

Website: www.thepensionservice.gov.uk

● **Shelter**

A national charity providing telephone advice to people with housing problems on tenancy rights, homelessness, repairs and Housing Benefit.

Tel: 0808 800 4444 (free call) (textphone for deaf callers)

Website: www.shelter.org.uk

9 Further information from Age Concern

Visit the Age Concern website, www.ageconcern.org.uk, or call our national Information Line on 0800 00 99 66 (free call) if you would like:

- to order copies of any of the Age Concern information materials mentioned in this factsheet
- to request information in large print
- further information about our full range of information products
- contact details for your nearest local Age Concern.

Books from Age Concern

Age Concern publishes a wide range of books for older people and those who care for and work with them. The following title may be of particular interest:

Your rights to money benefits 2009/10. All you need to know about the full range of benefits for the over 60s. £5.99

To order this book, or to view our full range of books, please visit our website www.ageconcern.org.uk/bookshop or call our book order line 0870 442 2120.

Age Concern and Help the Aged

Age Concern England and Help the Aged have joined together to form Age UK, a single charity dedicated to improving the lives of older people.

Age Concern and Help the Aged across the UK

To find out more about Age Concern and Help the Aged's work in Northern Ireland, Scotland and Wales, contact:

Age Concern Northern Ireland
Tel: 028 9032 5055
Website: www.ageconcernni.org

Scottish Helpline for Older People (Age Concern Scotland)
Tel: 0845 125 9732
Websites: www.olderpeoplescotland.org.uk
www.ageconcernscotland.org.uk

Age Concern Cymru & Help the Aged in Wales

Tel: 029 2043 1555

Website: www.accymru.org.uk

Support our work

Age Concern is the largest provider of services to older people in the UK after the NHS. We make a difference to the lives of thousands of older people through local resources such as our befriending schemes, day centres and lunch clubs; by distributing free information materials; and through our national freephone helpline – the Age Concern Information Line 0800 00 99 66.

If you would like to support our work by making a donation please call Supporter Services on 020 8765 7527 (national call rate, Monday to Friday 9.15am–5pm) or visit www.ageconcern.org.uk

Legal statement

Age Concern England (charity number 261794) has merged with Help the Aged (charity number 272786) to form Age UK, a charitable company limited by guarantee and registered in England: registered office address 207-221 Pentonville Road, London, N1 9UZ, company number 6825798, registered charity number 1128267.

Age Concern and Help the Aged are brands of Age UK. The three national Age Concerns in Scotland, Northern Ireland and Wales have also merged with Help the Aged in these nations to form three registered charities: Age Scotland, Age Northern Ireland, Age Cymru.

Disclaimer and copyright information

This guide is not a comprehensive statement of the law in this subject and Age Concern and Help the Aged cannot give individual legal or financial advice. Some rules may have changed since the publication of this guide. If you have any queries that this guide does not answer, seek further advice from one of the organisations suggested.

Please note that the inclusion of named agencies, companies, products, services or publications in this factsheet does not constitute a recommendation or endorsement by Age Concern and Help the Aged. While every effort is made to ensure accuracy, Age Concern and Help the Aged cannot be held responsible for errors or omissions.

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