



the **MORAY** council

***What to do if you think the
decision about your
Housing Benefit
is wrong***

- asking for an explanation
- disputing a decision about your benefit
- appealing against a decision about your benefit

If you think the decision about your Housing Benefit is wrong

If you have received a decision about Housing Benefit, you may need to know what you can do if you think it is wrong.

If you think the decision is wrong, you can ask us to explain it. If you still think it is wrong after we have explained it to you, we will look at it again.

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

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

Check what to do

1

It may help if you ask us to explain our decision:
check [Do you want more information about the decision?](#)

↳ see page 2.

2

If you want us to look at our decision again:
check [Do you want us to look at our decision again?](#)

↳ see page 3.

3

If you want to appeal against the decision:
check [Do you want to appeal against the decision?](#)

↳ see page 5.

4

If you want to know what happens after you make an appeal:
check [After you have made an appeal.](#)

↳ see page 7.

5

If you want to know what to do if you think the result of an appeal is wrong:
check [If you disagree with the tribunal's decision.](#)

↳ see page 10.

6

If you need help with your appeal:
check [Other organisations that can help.](#)

↳ see page 11.

The decision

If you get a decision in writing from us about your Housing Benefit, you can ask us to look at it again. If we do not change our decision you may be able to appeal to an independent tribunal. The letter telling you about the decision will tell you if you can appeal.

- If you receive a decision in writing it is usually because you have
 - claimed Housing Benefit
 - had a change of circumstances which affects your benefit
 - been told you have to pay back benefit.
- You may be able to ask us to look again at a decision or appeal against it. There are special rules if you are not claiming the benefit yourself. For example, if you are a landlord and a decision is made about whether Housing Benefit is to be paid directly to you or if you are a landlord and a decision is made to recover an overpayment of Housing Benefit from you.
- If you are an appointee for another person you can ask us to look again at a decision about their benefit and you may be able to appeal for them. The letter telling you about the decision will tell you if you can appeal. *An appointee is someone appointed by us to act for a person who cannot act for themselves.*

1 Do you want more information about the decision?

- You have received a letter telling you about your Housing Benefit decision.

Do you:

- Want more information about that decision?

If YES, contact us about the decision letter straight away.

- You must do this straight away because if you want us to look at the decision again or if you want to appeal against it, you must do so within one month of the date on the decision letter, not the date you contact the office.
- You can phone, write or visit us at your local area office located in Elgin, Buckie, Forres or Keith. You can find their details on page 16.

When you contact us

You have a choice:

- You can ask us to explain the reasons for the decision and/or
- if you want more information to help you decide what to do, ask us for a written *statement of reasons* for the decision 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* to you as soon as possible.
- If you still disagree with the decision, you can:
 - ask us to look at it again ↳ see page 3
 - appeal against the decision ↳ see page 5.
- If you asked for a written *statement of reasons*, the one month you have to ask us to look at the decision again or to appeal against it will be extended by the time we took to send the *statement of reasons*.

2 Do you want us to look at the decision again?

- You have received a letter from us telling you the decision or a *written statement of reasons* explaining the decision
- Or we have explained our decision and you still think it is wrong.

Do you:

- Want us to look at the decision again?

If YES, we will look at the decision again.

- Let the area office that sent you the decision letter know within **one month** of the date of the letter. If you ask for an explanation first, the one month is still counted from the date of the decision letter. If you ask for a written *statement of reasons*, you will have the one month from the date of the decision letter plus the time we took to send you the *statement of reasons*.
- 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 more than one month after the date of the decision letter and you do not have special circumstances, we may still be able to change the decision. But 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 the decision is correct.
- A different member of staff will usually do this.
- If the decision is wrong we will change it.

If the decision can be changed:

- If you asked us to look at our decision again, within one month, or had special circumstances which meant you could not, we will change the decision from the date of the original decision.
- If you do not agree with the new decision, you can ask us to look at it again.
- If you asked us to look at our decision again after one month and did not have special circumstances, the decision will usually be changed from the date you asked us on.
- We will send you a letter telling you what the new decision is.

If the decision cannot be changed:

- If the decision cannot be changed, we will send you a letter telling you that we cannot change it. The letter will confirm the original decision.
- The letter will tell you if you can appeal against the original decision.
- If you can appeal, the **one month** time limit starts again from the date of the letter confirming the decision.

3 Do you want to appeal against the decision?

- You have received a letter from us telling you the decision or a written *statement of reasons* explaining the decision
- Or we have explained our decision and you still think it is wrong.
- The letter telling you about the decision will tell you if you have the right to appeal against it.

Do you:

- Have the right to appeal against the decision?
- Believe the decision is wrong?
- Want to appeal to an independent tribunal?

If YES to all, use the form at the back of this leaflet to appeal.

The Tribunal Service will decide your appeal at a tribunal hearing. The tribunal is made up of people who are not from The Moray Council.

- Complete all relevant boxes on the form. You can get help from an advice centre or a solicitor. See [Other organisations that can help](#) on page 11.
- Write down 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 council's area office shown on page 16 within one month of the date on your decision letter.
- If you cannot appeal against the decision you can still ask us to look at it again. See [Do you want us to look at our decision again](#) on page 3.
- Remember, if the appeal tribunal finds 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 against.
- The tribunal cannot look at changes of circumstances that happened after we made the decision.
- **If a change of circumstances could affect your benefit or mean you could claim again, you should report it straight away. Do not wait for the appeal hearing. Contact us using the details shown on page 16.**

Late appeals

- The Tribunal Service may not be able to accept your appeal if it is received more than one month after the date on the decision letter.
- They can only accept a late appeal if there are special circumstances that caused the delay. These could be a death, a serious illness, absence abroad, a postal strike or some other special circumstance.
- You should include an explanation of why you could not appeal within one month on the form at the back of this leaflet.
- A legally qualified tribunal member will look at the reasons you have given for not appealing in time and will decide if your appeal can be accepted. They will look at:
 - whether there were special circumstances for the delay
 - the length of time since you received the decision
 - whether it is in the interests of justice that your appeal is accepted, and
 - whether your appeal is reasonably likely to succeed.
- The Tribunal Service cannot accept a late appeal if the only reason is that you misunderstood the law, or interpretation of the law has changed since the decision was made.
- Your appeal cannot be accepted if you appeal **13 months** or more after the date on the decision letter.

Appeal tribunals

- HB Tribunals are made up of a single legally qualified Tribunal Judge who is independent of The Moray Council.
- The Judge will be an expert on the issues involved in your appeal.

4 After you have made an appeal

- After you have appealed we will offer you an explanation of our decision if we have not already done this.
- We will look at the decision again if we have not already done this.
- If we agree that the original decision is wrong and the new decision is to your advantage, we will send you a new decision and your appeal will stop. If you do not agree with the new decision, you can appeal against it.
- If we agree that the original decision is wrong but the new decision is not to your advantage, we will send you a new decision. Your appeal will continue against the new decision. 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 facts used to make the decision, to the Tribunal Service. We will also include any other relevant papers.
- A copy of the appeal papers will be sent to you and your representative if you have one.
- Read the appeal papers very carefully. If you do not understand something, ask us, an advice centre or a solicitor to explain.
- You will be contacted by The Tribunal Services about the next stages in your appeal.

Oral hearing

- This is an appeal hearing 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 may be at the hearing. They may ask you questions and call witnesses.
- If you choose an oral hearing but find you cannot go, you must let the Tribunal Service know 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 let the Tribunal Service know you cannot attend the hearing, the tribunal may hear your appeal without you.
- Oral hearings are usually open to the public, but only anyone with a vested interest in the hearing will normally be involved in the appeal. You can ask to have your appeal heard in private.
- If you live abroad and want an oral hearing, let the Tribunal Service know you want to go to the hearing or want to send someone to represent you. The Appeals 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. If you go to an oral hearing, you will be able to deal with any questions or issues that arise.
- You should use the form we will send you with the appeal papers to add any more information which you think will help your case.
- Do not delay sending information as you will not be told the date of a paper hearing.
- 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 Appeals 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 be sent to the local area office that made the original decision.
- You can also ask for a *statement of reasons*. This gives an explanation of the tribunal's decision including the facts and the law used. You must 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 appeal to the Second Tier Tribunal. See *If you disagree with the tribunal's decision* on page 10.
- If you want a record of the appeal hearing, you can get a copy of the *record of proceedings* up to 6 months from the date of the hearing.
- If your appeal is successful, we will usually put the decision right as soon as we receive our copy of the tribunal's decision. We may not put it right straight away if we appeal to a Second Tier Tribunal.

5 If you disagree with the tribunal's decision

Appeals to a Second Tier Tribunal

- If you do not agree with the appeal tribunal's decision you may be able to appeal to a Second Tier Tribunal.
- The 2nd tier tribunal judges are barristers, solicitors or advocates of not less than ten years' standing and are appointed by the Queen on the advice of the Lord Chancellor. They are independent of both the Department of Social Security and The Moray Council.

Who can appeal to the 2nd tier tribunal judges?

- Appeals can be made by:
 - anyone who has already appealed to the Appeals Service
 - the Moray Council
 - the Department of Social Security.

What you can appeal to the 2nd tier tribunal judges about:

- You can only appeal to the 2nd tier tribunal judges on a point of law. You cannot appeal to the 2nd tier tribunal judges 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 decision. Read this carefully. It tells you important time limits for your appeal.
- You cannot appeal unless you first get the *statement of reasons* from the tribunal's decision.
See **The Result** ↪ on page 9.
- 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 2nd tier tribunal judges. You must do this within one month of the date the statement of reasons was sent to you.
- If you appeal to the 2nd tier tribunal judges, 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 2nd tier tribunal judges or if the appeal should be looked at again by a different tribunal.
- You can ask an advice centre, solicitor or another suitable person or organisation to help with your application.

Late applications

- Late applications for a *statement of reasons* or for leave to appeal to the Second Tier Tribunal can only be accepted if there are special circumstances or special reasons that caused the delay.
- You will need to show why you were not able to make your request on time.

6 Other organisations that can help

Advice centres:

Advice centres such as the Citizens Advice Bureau can represent you and help you understand the reasons for decisions about Housing Benefits. They can also help you to fill in forms or to write a letter. They will sometimes go with you to the tribunal that hears your appeal.

It will help the advice centre if you show them any letters you have about the decision that you think is wrong. You can find them at:

Citizens Advice Bureau
30 Batchen Street, Elgin IV30 1BH Telephone: 01343 550088

If you are a member of a trade union, they also offer free advice to their members. They may also be able to speak for you at the tribunal that hears your appeal.

The Moray Council's Welfare Benefits Team can also help and advise you. They can be contacted by telephone on 01343 563421.

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 fees from us or the Tribunal Service.

For details of solicitors and advice centres, contact:

The Legal Aid Board
Franchise Development Group
85 Grays Inn Road, London
WC1X 8AA UK Freephone 0500 282 3000

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.

Your appeal

Complete this form and take it or send it to us

About you

Title

Mr/Mrs/Miss/Ms

Your surname

All other names

Your date of birth

/ /

National Insurance (NI) number

--	--	--	--	--	--	--	--	--

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

Your address

Postcode

Daytime phone number

Code

Number

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

No

Yes

Please tell us their name and address

Their full name

Their address

Postcode

Sign this box to authorise this person to act for you

--

About the decision

Name of benefit or benefits

Date at the top of the letter
about the decision

About your appeal

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

Your signature

Your signature

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

Date

What to do now

- Make sure you have said on the other side of this form why you do not agree with the decision.
- Take or send this form to us.
- It will help if you write **Appeal** on the front of the envelope.
- Remember, your appeal must reach The Moray Council's area office within **one month** of the date at the top of the letter telling you about the decision.

Your appeal

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

- If you need more space, use another sheet of paper. Remember to put your name and NI number on any extra sheets of paper that you use.
- Make sure you have filled in all parts of this form and signed and dated it.
- Take or send this form to The Moray Council area office that sent you the decision.

For our use

Appeal form issued to customer

/ /

Appeal received

/ /

Appeal received at sector office

/ /

For alternative formats, languages or further information, please ask an English speaking friend or relative to:

Jeżeli chcieliby Państwo otrzymać informacje w innym formacie, języku lub dodatkowe informacje, mówiący po gielsku znajomy lub członek rodziny może do nas:

Para outros formatos, idiomas ou para obter mais informações, peça para um amigo ou parente que fale a língua inglesa entrar em contato conosco:

如要索取其他的版式、各種語文的翻譯本，或需要更詳細的資訊，請叫一位會說英語的朋友或親屬與我們聯繫：

Phone: 01343 563319

Email: equalopportunities@moray.gov.uk

Write to: Project Officer (Equal Opportunities), Chief Executive's Office
High Street, Elgin, IV30 1BX

Contacting us

If you need any help with this form, contact us. You can telephone 01343 563456 or write to **The Revenues Section, Council Office, High Street, Elgin, IV30 1BX.**

You can e-mail revenues@moray.gov.uk

You can visit any of the following offices:

- Council Office, High Street, Elgin, IV30 1BX.
- The Institute, 138-144 Mid Street, Keith, AB55 5BJ.
- 13 Cluny Square, Buckie, AB56 1AJ.
- Auchernack, High Street, Forres, IV36 1DX.

For more information on Housing Benefit Benefit visit our web site: www.moray.gov.uk

