

Orkney Islands Council Housing Benefit Appeals Information Leaflet



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

If you think the decision about your benefit is wrong, you can take the following steps:

- ask us to explain it;
- ask us to look at it again;
- appeal to an independent tribunal who can change the decision if they agree that it is wrong.

Asking for more information about the decision

If you want more information to help you decide what to do, you should ask us for a *written statement of reasons*. You must do this within **one month** of the date of the decision letter.

What to do if you disagree with the decision

If you disagree with the decision you can ask us to look at it again. You must do this within **one month** of the date of the decision letter. If you asked for a *written statement of reasons* the time limit of one month will be extended by the time we take to send the *statement of reasons*.

If there are special circumstances that mean that 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. This could be a death in the family, a serious illness or some other special circumstance.

If the only reason for a late appeal is that you misunderstood the law or did not get around to appealing sooner your appeal will not normally be accepted. Your appeal cannot be accepted if you appeal **13 months** or more after the date on the decision letter.

If you wish to appeal against the benefit decision you can write to us or complete an appeal form – which can also be downloaded from our website.

What will happen next?

When you ask us to look at a decision again, we will check that the decision is correct. 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.

What happens 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. We will also send your appeal, and an explanation of the law and facts

used to make the decision, to the Appeals Tribunal who will decide if the decision was wrong.

You will also be sent a form to complete and send to the Appeals Tribunal within **14 days** of the date the form was sent to you. **If you do not, your appeal will stop.**

What the tribunal will look 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. They cannot look at the circumstances that happened after we made the decision.

What is an Appeal Tribunal?

Tribunal members will be experts on the issues involved in your appeal. There will be a legally qualified member to help apply the law to your appeal and there may also be someone with financial qualifications. The members will not be from the Council.

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 or issues that arise. People who go to their hearing usually do better than those who do not.

What is an oral hearing?

This is an appeal hearing that 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.

If you choose an oral hearing but find you cannot go, you must let the Appeals Tribunal know straight away. You may be able to arrange another date. If you cannot let the Appeals Tribunal know you cannot go to the hearing, they may hear your appeal without you.

An oral hearing is usually held in public. You can ask to have your appeal heard in private. The appeal hearing will be held in Kirkwall.

What is a paper hearing?

This is an appeal hearing that you do not go to. The appeal will be heard and the Appeals Tribunal 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.

The result of an Appeals Tribunal

You will be given a *decision notice* explaining the Tribunal's decision as soon as possible after the appeal hearing. If your appeal is successful we will usually put the decision right as soon as we get a copy of the outcome.

You can also ask for a *statement of reasons* explaining the Tribunal's decision.

What happens if I disagree with the Tribunal's decision?

If you do not agree with the tribunal's decision you may be able to appeal to the Social Security Commissioners.

The Commissioners are barristers, solicitors or advocates of not less than ten years standing and are appointed by the Queen.

You can only appeal to the Commissioners on a point of law. You cannot appeal against questions of facts or a tribunal's findings or conclusions.

Further Advice

If you need more information you can contact:

The Benefits Section, Corporate Services, Orkney Islands Council, Council Offices, Kirkwall, Orkney, KW15 1NY.

Telephone: 01856 873535 Extension 2116

email: benefits@orkney.gov.uk website: www.orkney.gov.uk

HM Courts & Tribunal Service

Website: <http://www.justice.gov.uk/tribunals/sscs>

Independent Advice can also be sought from: Orkney Citizens Advice Bureau
Anchor Buildings, Bridge Street, Kirkwall, KW15 1HR. Telephone 01856 875266

Document reviewed – November 2013