



Isle of Man
Government

Reilys Ellan Vannin



Social Security

If you think our decision is wrong

What to do if you think our decision on a social security benefit is wrong

- Asking for an explanation
- Disputing a decision about your benefit
- Appealing against a decision about your benefit

About this leaflet

This leaflet tells you what to do if you think that a social security decision is wrong.

It gives general guidance only and should not be treated as a complete and authoritative statement of the law.

We have made every effort to ensure that the information in this leaflet is correct at the time of printing. However, changes in the law may make the leaflet become gradually less accurate.

If you think our decision is wrong

If you have applied for, or are getting, a social security benefit, you may need to know what you can do if you think our decision is wrong.

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

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

There are time limits for asking us to look at decisions again and for appealing. We tell you about these time limits in this leaflet. We want to make sure that you and your family get the right help, at the right time, in the right way.

If you are not satisfied with the service we have given you, please see Leaflet SSD 21 and send it to -

**Social Security Division
Markwell House,
Market Street,
Douglas,
IM1 2RZ.**

Email: socialsecuritycomments@gov.im

Web: www.gov.im

What you can do about our decision

- 1. If you want to know more about the different kinds of decision**
 - see **About the decision** on page 4.
- 2. It may help if you ask us to explain our decision**
 - see **Do you want more information about our decision?** on page 5.
- 3. If you want us to look at our decision again**
 - see **Do you want us to look at our decision again?** on page 6.
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- 5. If you want to know what happens after your appeal**
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 - see **If you disagree with the Appeal Tribunal's decision** on page 14.

About the decision

There are different kinds of social security decisions. The kind of decision makes a difference to what you can do if you think the decision is wrong.

Benefit decisions

If you get a decision in writing about your social security benefit you can ask us to look at it again. If we look at the decision again and we either do not change the decision or change it but not in a way which satisfies you then you may be able to appeal. 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 a social security benefit, or
 - had a change of circumstances which affects your benefit, or
 - been told you will have to pay back benefit.
- You may be able to ask us to look at a decision again or if we have looked at the decision again and you are still not satisfied with the outcome you may be able to appeal against it. There are special rules if you are not claiming the benefit yourself.
- If you are an appointee for another person you can ask us to look again at a decision about their benefit and if we have looked at the decision again and you are still not satisfied with the outcome 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 the Social Security Division of the Treasury or by the Courts to act for a person who cannot act for themselves.)

- You can appeal on someone else's behalf if they have said in writing that you can. You do not have to be legally qualified to do this. You could be an adviser, a family member or anyone else the customer has asked to represent them.

Do you want more information about our decision?

- If you have received a letter telling you about our decision and you want more information, contact us straight away.
- You must do this straight away because if you want us to look at our decision again or if we have looked at the decision again and you want to appeal against it, you must do so within **one month** of the date on the decision letter.

When you contact us, you have a choice:

- You can ask us to explain the reasons for our decision. If you are not satisfied by our explanation, you can:
 - ask us to look at the decision again – see page 6, **or**
 - if you have asked us to look at the decision and you are not satisfied with the outcome, appeal against our decision – see page 8.

If you want more information, ask us to send you 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 on the decision letter. We will endeavour to send you the 'statement of reasons' within 14 days of receiving your request.

If we send you the statement within one month of the date on the decision letter, the one month you have from that date to ask us to look at the decision again, or appeal against it, will be extended by **14 days**. But if we could not send the statement within one month of the date on the decision letter, the 14-day extension will not begin until the date the statement is sent to you.

- Instead of asking us to explain the decision, you can ask us for a written 'statement of reasons' straight away.

When you have received the 'statement of reasons' –

- You can ask us to look at the decision again (see below); and
- If you have asked us to look at the decision again and you are still not satisfied with the outcome or we have revised the decision in your case on our own initiative and you are not satisfied with our decision, then you can appeal against our decision (see page 8).

Do you want us to look at our decision again?

- If
 - you have received a letter telling you about our decision, or
 - you have received a written 'statement of reasons' for our decision,or
 - we have explained the decision, and you still think it is wrong and you want us to look at our decision again,get in touch with us within **one month** of the date of the decision letter.
- 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.

What happens next?

- When you ask us to look at a decision again, we will first 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 ask us within one month), 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 got in touch with us.
- We will send you a letter telling you what our 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.

Do you want to appeal against our decision?

If you think our decision is wrong and you have asked us to look at your decision again, then you have the right to appeal against it, you can use a form available from any social security office or alternatively you may obtain a form from the Tribunal Section at the General Registry.

- We will tell you if you have the right to appeal against the decision
 - in our letter telling you the decision, **or**
 - in the written statement of reasons for our decision
- Complete all the relevant boxes on the form.
- Write down the reasons for your appeal and make sure that you sign and date the form.
- Send the completed form to the Clerk to the Appeal Tribunals at the General Registry within one month of the date on the decision letter. The address is on the form.
- Your appeal will be heard by an independent tribunal.
- A number of law firms are available on the Island to offer free representation by articled clerks (people who are training to be Manx Advocates) for people who appeal to the tribunal. For a list of these firms contact the Isle of Man Law Society Tel: 662910 or email: enquiries@iomlawsociety.co.im
- 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 6.

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 tell us about it straight away. Do not wait for the appeal hearing.**

Late appeals

- The tribunal may not be able to accept your appeal if your form is received more than one month after the date on the decision letter.
- The tribunal can only accept a late appeal if there are special circumstances that caused the delay. These could be a death, a serious illness or 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 you are asked to complete.
- A legally qualified appeal tribunal chairman will look at the reasons you have given for not appealing in time and will decide if your appeal can be accepted. He or she 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.

- A late appeal cannot be accepted if the only reason is that you misunderstood the law, or if what the law means 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.

More information about Appeal Tribunals

- Tribunals are normally made up of three people who are not from the Treasury.
- All tribunals have a legally qualified chairman to help apply the law to your appeal.
- Tribunals may also include someone with medical qualifications, someone with financial qualifications and someone with experience or knowledge of disability issues.

After you have made an appeal

- After you have appealed we will offer you an explanation of our decision.
- 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 Appeal Tribunal. We will also include any other important 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, or an advice centre or an advocate to explain.
- You will also receive an enquiry form. You must complete this form and send it to the Clerk to the Tribunal at the General Registry within **14 days**. If you do not your appeal may stop.
- The enquiry 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 or issues that arise. People who go to the hearing may do better than those who do not.

Oral hearing

- This is an appeal hearing 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 at a tribunal.
- A representative from the Treasury will 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 Clerk to the Appeal Tribunals at the General Registry 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 Clerk to the Appeal Tribunals know you cannot go to the hearing, the tribunal can stop your appeal.
- Oral hearings are usually open to the public, although you can ask to have your appeal heard in private in certain circumstances.

Expenses

- If you choose an oral hearing you may be entitled to expenses, for example your travel costs. If you want more information about expenses, contact the Clerk to the Appeal Tribunals.

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 sent to you with the appeal papers to add any further information you think will help your case.
- Do not delay sending any additional information as you may not be told the date of a paper hearing.

- The appeal will be heard and the Clerk to the Appeal Tribunals will send you the decision.
- If you choose a paper hearing but later change your mind, you can ask to have an oral hearing. Write to the Clerk to the Appeal Tribunals at the General Registry straight away.

The result

- You will be given a 'decision notice' explaining the tribunal's decision as soon as possible after the appeal hearing.
- 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 Social Security Commissioner. See 'if you disagree with the appeal tribunal's decision' on page 14.
- 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 a copy of the tribunal's decision. We may not do this if we decide to appeal to the Social Security Commissioner (see page 14).

If you disagree with the Appeal Tribunal's decision

Appeals to the Social Security Commissioner

- If you do not agree with the Appeal Tribunal's decision you may be able to appeal to the Social Security Commissioner.

Who can appeal to the Commissioner?

- Appeals can be made by:
 - anyone who has already appealed to the Appeal Tribunal, or
 - Adjudication Officers from the Treasury.

What you can appeal to the Commissioner about

- You can only appeal to the Commissioner on a point of law. You cannot appeal to the Commissioner about:
 - questions of facts, or
 - a tribunal's medical findings or conclusions.

How to appeal

- Your decision letter from the Clerk to the Appeal Tribunals 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' for the tribunal decision. See 'The result' on page 13.
- You should read the statement of reasons carefully. If you still do not agree with the reasons for the decision, you can apply for leave to appeal to the Social Security Commissioner. You must do this within **one month** of the date the 'statement of reasons' was sent to you.

- If you appeal to the Commissioner, you must send the 'statement of reasons' with your application. If you do not, your application may not be looked at.
- The Chairman of the Appeal Tribunals will decide if your appeal can be sent to the Commissioner.
- You can ask an advice centre or an advocate to help with your application.

Late applications

- Late applications for a 'statement of reasons' or for leave to appeal to the Commissioner 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.

Other organisations that may be able to help

Advice Centres

- Advice centres, like the Manx Citizens Advice Service, can represent you and help you understand the reasons for decisions about social security benefits. They can also help you fill in forms or 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 may have about the decision that you think is wrong. Trade unions may also offer free advice to their members. They may also be able to speak for you at the tribunal that hears your appeal.
- Age Isle of Man will be able to give advice to you if you are over 50.

Advocates

- You may be able to get advice from an advocate under the Legal Advice and Assistance Scheme.
- You can find out about this from an advocate. But if you decide to use an advocate, the Scheme does not cover the cost of an advocate to help you at a hearing. You cannot get money for things like advocate's fees from the Treasury.
- A number of law firms are available on the Island to offer free representation by articled clerks (people who are training to be Manx Advocates) for people who appeal to the tribunal. For a list of these firms contact the Law Society Tel: 662910 or Email: enquiries@iomlawsociety.co.im



The information in this leaflet can be provided in large print or
on audio tape, on request

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Markwell House, Market Street
Douglas, Isle of Man. IM1 2RZ
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