

Challenging Overpayments

If you have been paid too much benefit it's called an 'overpayment'. It's important to report any changes to the office that deals with your benefit as soon as possible and to answer any letters you get about overpayments promptly. If you have been overpaid Tax Credit then the Revenue and Customs may decide to recover some or all of the overpayment.

You will get a letter letting you know you've been overpaid. The letter will normally tell you:

- how much you've been overpaid
- why the overpayment happened
- whether you have to pay the money back
- whether you can appeal against the overpayment decision
- what's going to happen next

If you think you've been overpaid but haven't heard anything, don't wait for your benefit office to contact you. Get in touch with them straight away to explain the situation. They'll look into it and tell you if you're getting the right amount of benefit. Overpayments usually happen when your benefit hasn't been adjusted to match your changed circumstances. If your circumstances have changed, you must tell the office that deals with your benefit straight away. Overpayments can also be caused by administrative errors.

Some examples of changes you need to report include:

- Starting work
- a change of job or a change in the hours you work
- a change in the amount of income you get
- moving house
- a change in your health - maybe an illness or disability has got better or worse
- your child leaving home
- taking in a lodger
- moving in with a partner, or a partner moving in with you

Challenging a Tax Credit Overpayment

If you wish to challenge the overpayment you should;

Ask for an explanation of the overpayment.

It is advisable to contact the Tax Credits Helpline on 0845 300 3900 and ask for an explanation of how the overpayment has occurred. Ask for form TC647 which explains a person's tax credit entitlement and award in more detail. If the reason for the overpayment is still not clear then a letter should be sent to the Tax Credit office for an explanation. If not satisfied with the reply then it is possible to 'dispute' the overpayment recovery decision, as follows:

Disputing the decision If Revenue and Customs have overpaid tax credits, they have the discretion not to recover all or some of it. There is no right to appeal against a decision to recover a tax credit overpayment but it is possible to appeal against a decision on the amount of tax credits.

You will be sent a copy of the DWP code of practice (COP 26) booklet about overpayments, this explains why they may want to recover an overpayment and why they may not. It may form the basis of any challenge. Also Revenue and Customs may give more time to repay, or may not recover at all if they can be persuaded that it would cause hardship to repay the overpayment.

There are two stages to disputing the recovery decision. Internal and External

Internal dispute stage This is an internal process dealt with within Revenue and Customs. Firstly, a person needs to 'dispute' the decision then if not satisfied, 'complain'. Use the form TC846 to say why the tax credits should not be repaid. It is important to give as much information as possible including why it was thought the award/decision was incorrect. Include any copies of letters; the original claim form; or dates of any telephone calls made if you have them.

When this form is received, Revenue and Customs should suspend recovery of the overpayment. The suspension will only last until a decision is made. If there is more than one overpayment it will only be the one that is being disputed that will be suspended. A decision will then be sent out. The decision will show if the overpayment remains recoverable and why. It should also say that unless the person can supply new additional, relevant information they will not look at it again. If the original decision is confirmed then recovery will resume.

If still unhappy with the decision from the dispute stage then the next course of action is to 'make a complaint'.

There are 2 potential steps:

- Firstly, write to the Complaints Manager at the office that made the dispute decision. Write 'complaint' at the top of the letter. The letter should include details of the dispute as well as a request to suspend recovery of the overpayment until a response has been received. Recovery should then stop while the complaint is being considered. A 'complaint decision' will then be sent out. If the original decision is confirmed then recovery will resume again.
- Secondly, if still unhappy with the 'complaint decision', a further complaint can be made. This time the complaint should be made to the Director/Senior Officer of Tax Credits. Write 'Complaint to the Director/Senior Officer' at the top of the letter. This complaint can also request a review of the handling of the previous complaint. The letter should also include a request to suspend recovery of the overpayment until a response has been received. A decision should then be sent out. This letter will end the internal complaints procedure.

External dispute stage This stage is independent of Revenue and Customs. It involves the Adjudicators Office and the Parliamentary Ombudsman. Both can deal with Tax Credit complaints.

A complaint must be made to the Adjudicator's office within six months of the decision from the Director/Senior Tax Credits Officer.

How to contact the Adjudicator's Office: [Adjudicators Online link](#)

You can write to:

The Adjudicator's Office

8th Floor

Euston Tower

286 Euston Road

London NW1 3US

You can telephone: 0300 057 1111 or 020 7667 1832

You can contact them between 9am and 5pm, Monday to Friday

Fax 0300 057 1212 or 020 7667 1830

The complaint letter should again contain reasons why the Tax Credits office should not be recovering the overpayment. Again, the arguments should include the code of practice (COP 26) on overpayments

The Parliamentary Ombudsman Like the Adjudicator's office, the Parliamentary Ombudsman is independent of Revenue and Customs. A complaint to the Ombudsman is best done via a person's MP. The Ombudsman will not normally look at a complaint if it is 12 months or more since the Tax Credit or Adjudicator's decision was received.

[Visit the Ombudsman website.](#)

Beyond this stage a person can apply for Judicial Review.

Judicial Review

This is the only way to mount a legal challenge via the courts. Judicial review is only possible in certain cases. To apply for judicial review a person must get help from a solicitor. An application must be made within 3 months of the decision that is to be challenged.

Do you have to pay the money back?

If the overpayment was your fault - perhaps you didn't report a change in your circumstances or gave wrong information - you'll have to pay it all back.

If it was caused by administrative error you may be asked to pay it back, particularly if you could reasonably be expected to realise you were being overpaid.

Housing Benefit and Council Tax Benefit

If there's been an overpayment because of an administrative error, you may have to repay it if, at the time of the payments, you could reasonably have been expected to realise you were being overpaid.

Tax credits

HM Revenue and Customs (HMRC) send you an award notice whenever your award changes. They ask you to make sure that the information about your personal circumstances shown on your award is correct and complete. If anything is wrong, missing or incomplete you need to contact HMRC.

How you pay back overpayments

If you're no longer in receipt of the benefit that was overpaid, you'll usually receive a bill to cover the overpayments.

Before you start making repayments, you'll be given time to:

- say if you think the decision to make you repay the money is wrong
- agree a payment plan with the office that deals with your benefit

If you are still in receipt of benefit, a certain amount will be taken off your benefit until you've paid back all the overpayment. You have the right of appeal against most overpayments; deductions will normally be made from your benefit one calendar month from the date you were told about the overpayment.

Housing Benefit

If Housing Benefit's paid directly to your landlord, he or she may be asked to repay the money depending on whether they caused or contributed to the overpayment. But if the overpayment was your fault, you may have to repay it.

Tax credits

Your tax credits award is usually reduced until the money's paid back. How much it's reduced by depends on the type and amount of your award. If you no longer qualify for tax credits, you can repay the money as a lump sum or in instalments.