

Tax credits and complaints



June 2018

Child Poverty Action Group works on behalf of the one in four children in Scotland growing up in poverty. It doesn't have to be like this. We use our understanding of what causes poverty and the impact it has on children's lives to campaign for policies that will prevent and solve poverty – for good.

We provide training, advice and information to make sure hard-up families get the financial support they need.

Tax credits and complaints is one of a series of Child Poverty Action Group in Scotland leaflets giving guidance to advisers and those working with families in Scotland about aspects of the tax credit system of particular concern.

Introduction

There are two types of tax credit; *child tax credit* and *working tax credit*. You may get either or both. Tax credits are administered by Her Majesty's Revenue and Customs (HMRC).

Tax credits are gradually being replaced by universal credit. If you are currently getting tax credits, you can continue to get them unless you make a claim for universal credit, and will be able to renew your claim until you are transferred onto universal credit. The process of transferring most people from tax credits to universal credit is planned to happen between July 2019 and 2023. See [Tax credits: moving on to universal credit](#) for more information.

Problems often arise with tax credits. Sometimes the way to sort them out is by making a complaint. This is a formal process and has a number of stages which are outlined below. However, it is important to know that a complaint is not always the appropriate, or only, course of action. For some problems, the right procedure would be mandatory reconsideration then appeal or to request a judicial review. To find out more, see CPAG in Scotland's factsheets [Tax credits and challenging decisions](#) and [Tax credits and judicial review](#).

Knowing when to complain

HMRC operates according to a [Charter](#), setting out claimants' rights and obligations.

You can expect HMRC to:

- respect you
- help and support you to get things right
- treat you as honest
- treat you even-handedly
- be professional and act with integrity
- tackle people who deliberately break the rules and challenge those who bend the rules
- protect your information and respect your privacy
- accept that someone else can represent you
- do all it can to keep the cost of dealing with it as low as possible.

A complaint may be the right course of action when it looks as if HMRC has not kept to these standards.

In return, HMRC expects claimants to:

- be honest
- respect its staff
- take care to get things right

HMRC's complaints procedure is set out on its website and in its leaflet, [Complaints \(C/FS\)](#)

If a complaint involves a specific area of tax credit administration – for example overpayments, examinations or penalties, you can look at the staff guidance manual on that particular topic. These can be found at www.gov.uk/government/collections/tax-credits-hmrc-manuals

It may help to categorise at the outset what the complaint is about. It might be, for example, that:

- discretionary powers have been improperly used – for instance in deciding to recover an overpayment
- advice has been poor quality or misleading
- there have been long delays
- mistakes have been made, for example computer or processing errors
- staff behaviour has been inappropriate
- award notices have been confusing
- the Tax Credit Helpline has been difficult to contact

You can view [Your Charter](#) and [Complaints \(C/FS\)](#) and other official publications from www.gov.uk

Overpayments

Very often complaints are about the recovery of overpayments. As noted above, sometimes making a complaint is not always the most appropriate course of action. For example, if HMRC has made a decision that you have been overpaid and that decision is wrong, you can request a mandatory reconsideration and then appeal against it – rather than making a complaint.

However, even where HMRC has made a decision that you have been overpaid and this has been calculated correctly, it does not have to automatically recover the overpayment. HMRC should use its discretion and decide whether to recover the overpayment or to write it off. So, if the overpayment has been correctly calculated but you think that recovery is unfair or would cause you hardship, you cannot request a review/appeal the recovery decision but you can ask HMRC to use its discretion not to recover the overpayment.

Official leaflet [What happens if we've paid you too much tax credit? \(COP26\)](#) explains the circumstances in which an overpayment may be written off. If you think HMRC has not considered your request in line with the guidance in COP26 you should make a complaint.

The complaints procedure

Making a complaint is a process which must be done in the right order.

- Informal complaints
- Formal complaint to a Complaints Manager
- Review by a senior officer
- Make a complaint to the Adjudicator's Office
- Ask your MP to refer the complaint to the Parliamentary Ombudsman

Informal complaints

Raise the problem informally with the Tax Credit Helpline first. You can ask to speak to a team leader or manager. Only if this line of action has been tried and failed should a formal complaint be considered.

Formal complaints

A formal letter of complaint should be headed 'complaint' and addressed to:

Complaints Manager
Tax Credit Office
PO Box 145
PR1 4AT

In your written complaint, include your name, address, national insurance number and contact telephone number if possible. Specify what you think is wrong, what outcome you would like and when you expect a response.

Although it is best to complain in writing, complaints may also be made via the Tax Credit Helpline. Make sure it is clear that you are making a formal complaint. Keep a record of the date, time and details of any conversations regarding the complaint.

Involving your MP

You may wish to involve your MP at any stage of the complaint, and HMRC policies are designed to ensure that a complaint received from an MP is dealt with quickly.

Review

If you are unhappy with the response of the caseworker, you can ask a senior officer to review the complaint. Again, it is best to request this in writing.

This may resolve any outstanding issues. If not, the complaint may then be taken to the Adjudicator.

Remedies

The basic remedies which may be proposed at any stage of the process are:

- an apology from HMRC;
- an explanation of what went wrong. Where possible any mistake should be corrected so that the claimant is put in the same position as if the mistake had not been made;
- payment of costs incurred because of any mistake or delay. Postage, telephone calls, travel expenses, financial charges and professional fees could be included here. Any claim for costs should be supported by receipts and invoices;
- payments for worry and distress to the claimant – these typically range from £25 to £500 if a complaint is handled poorly or takes an unreasonable time to resolve;
- an agreement not to recover overpayments of tax credits – where this is reasonably in line with Tax Credit Office guidance in COP26.

Make a complaint to the Adjudicator's Office

If you have exhausted HMRC's internal complaints procedure, received a final response and are still not satisfied, you can ask the Adjudicator to investigate your complaint. The Adjudicator's Office was set up as a fair and unbiased referee to look into complaints about HMRC.

Contact with the Adjudicator must be made within six months of the outcome of the review. The Adjudicator will not deal with a complaint which has been or is being looked at by the Parliamentary Ombudsman or where the subject of the complaint is an issue for the courts or appeal tribunal. This means it is not possible to go to the Ombudsman first and then the Adjudicator. But it is possible to ask the Ombudsman to review a recommendation made by the Adjudicator.

The Adjudicator will try to negotiate a solution, but if this is not possible, will issue a formal letter of recommendation setting out what could be done to put things right. There is no legal power to enforce this, but HMRC will usually comply. Alternatively, the Adjudicator may find that HMRC has acted reasonably, and confirm its action.

The Adjudicator's Office
8th Floor Euston Tower
286 Euston Road
London NW1 3US

Tel: 0300 057 1111 Fax: 0300 057 1212

Website: www.adjudicatorsoffice.gov.uk

Before contacting the Adjudicator, it may be useful to look at:

- The Adjudicator's Office leaflet AO1
- The Adjudicator's Annual Report – detailing the type of complaints made and how they were resolved

These can be obtained from the Adjudicator's office, or its website.

The Adjudicator's Office aims to reply to your initial contact within 10 working days, but it can take a lot longer to fully investigate your complaint. During 2014-15 the Adjudicator's Office found in the claimant's favour in 80.8% of tax credit complaints, and made recommendations for overpayments to be written off, as well as significant payments for costs, poor complaint handling, worry and distress.

Asking your MP to refer the complaint to the Parliamentary Ombudsman

Finally, it is possible to complain about the service received from the Tax Credit Office, or from the Adjudicator, to the Ombudsman. In most cases, because of the very high numbers of complaints about tax credits, the Ombudsman will only consider cases which have already been considered by the Adjudicator.

Referrals to the Ombudsman are made via your MP. The Ombudsman cannot be approached directly. The usual procedure is to approach your MP with details, asking that the case be referred to the Ombudsman. The Ombudsman's website (see below) has an online form that may be used to submit complaints to your MP. This should normally be done within 12 months of the outcome of the Adjudicator's investigation. The Ombudsman will acknowledge receipt of your complaint within two working days, and shortly afterwards will write to you explaining whether they can help and if so how they will handle your complaint.

After making enquiries, the Ombudsman can make recommendations about how to put things right. There is no formal power to enforce these, but they are almost always followed.

The level of tax credit complaints to the Ombudsman has been high. The Ombudsman has published two reports, *Tax Credits: Putting Things Right* in June 2005 and *Tax Credits: Getting It Wrong?* in October 2007, which highlight some of the issues raised in the complaints received and make recommendations for changes in policy and practice.

Further information can be obtained from:

The Parliamentary and Health Service Ombudsman
Millbank Tower
Millbank
London SW1 4QP
Helpline: 0345 015 4033
Fax: 0300 061 4000
Email: phso.enquiries@ombudsman.org.uk
Website: www.ombudsman.org.uk

Further information and advice

Child Poverty Action Group in Scotland

0141 552 0552 advice line for advisers on benefits and tax credits,
Monday to Thursday 10am to 4pm, Friday 10am to 12 noon

Email: advice@cpagscotland.org.uk

email advice for advisers on benefits and tax credits

Website: www.cpag.org.uk/scotland/taxcredits

for more tax credit leaflets from CPAG in Scotland

CPAG publishes the *Welfare Benefits and Tax Credits Handbook*, a comprehensive guide to benefits and tax credits for claimants and advisers.

CPAG in Scotland's advice line is only for advisers. If you are having problems with your own tax credit or benefit claim and are in need of advice you should contact your citizens advice bureau or other local welfare rights service.

HM Revenue and Customs

Tax Credit Helpline 0345 300 3900
(textphone 0345 300 3909)

Website: www.gov.uk/benefits-credits/tax-credits

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