

The Appeals Tribunal

A guide for appellants after an appeal has been lodged



Department for

Communities

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This document will be made
Available in a wide range of
Alternative formats. Requests
Should be made to the Appeals
Service Northern Ireland

Introduction

The purpose of this leaflet is to inform of the process after you have lodged an appeal with the Appeals Service Northern Ireland against a benefits or other decision.

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What is the Appeals Service?

The Appeals Service Northern Ireland (TAS) is administered by the Northern Ireland Courts and Tribunal Service (NICTS). The NICTS is an agency of the Department of Justice.

We handle all the administrative arrangements for your appeal including arranging the date, place, and time of your hearing before an appeals tribunal, and issuing the relevant papers connected with the appeal.

We are a separate organisation from the Work and Inclusion Group, Child Maintenance Service, the Northern Ireland Housing Executive, Land & Property Services and the Inland Revenue. TAS also has its own administrative head.

Acknowledgment of Appeal

After you lodge an appeal with TAS, we will send you a letter to acknowledge this and to tell you that we have referred your appeal to the office that made the original decision. Your appeal cannot proceed until we receive a written response from that office.

During this period, you should take the time to consider if you wish to have any additional evidence considered at your appeal (which may include financial, medical or other evidence). If so, please ensure you are aware of the timescales that may be involved in getting it. Do not delay in making your request to the appropriate individual or organisation.

Further information on providing evidence can be found in the “Preparing for your appeal” section on page 8.

The “appeal response”

After you lodge an appeal with TAS, we ask the office that made the decision to provide a written response.

This is called the “appeal response”. It details the reasons for their decision. The “appeal response” assists the tribunal in determining your appeal.

You have been provided with a copy of the “appeal response” to enable you to consider it as part of your appeal.

The “Hearing Enquiry Form” (Reg2(i)(d))

After we receive the “appeal response” TAS will issue you with a “Hearing Enquiry Form.” This form asks you to provide us with some additional information to help us process your appeal.

It is very important that you fill this form in as fully as possible, sign it, and return it to us within 14 days. A pre-paid envelope is provided.

If you wish to appoint a representative to assist, but are unable to arrange one within 14 days, please do not delay returning the form. Just let us have your representative’s details as soon as possible.

When happens when we receive your completed “Hearing Enquiry Form?”

What happens after we receive your “Hearing Enquiry Form” depends on whether you or the other parties to the appeal have asked to **attend a hearing**, this is known as an “oral hearing.”

If no-one asks for an “oral hearing,” we will arrange for the appeal response to be placed before the appeal tribunal to enable it to make a decision. The appeal response is the bundle of documents sent to you and contains your appeal application, and any other document you or other parties to the appeal want the tribunal to consider.

We do not notify you of the date the appeal response goes before the appeal tribunal but will send you the tribunal’s written decision when made.

If you change your mind and decide you want an oral hearing,

you **must write to TAS immediately** and **before** your appeal has been decided.

If you have said on the “Hearing Enquiry Form” that you want an oral hearing, you need to begin preparing for the hearing, if you haven’t already started.

If you wish to place additional evidence before the appeal tribunal please send it to TAS along with your completed form **within 14 days of the date of this form**.

Additional information on the “Hearing Inquiry Form”

Please read and answer the following questions below on your “Hearing Enquiry Form.”

Question 1 – *Do you want to continue with your appeal?*

If you want to continue with your appeal, please tell us if you want an “oral hearing.” You should then fill in the rest of the form and sign and return it in the envelope provided. **You must do so within 14 days of the date of this form.**

At an “oral hearing” you will meet the appeal tribunal, so that you and/or your representative, if you have one, can put your case in person. The advantage of an oral hearing is that you have an opportunity to speak to the tribunal and the tribunal has an opportunity to learn more about your case than it could gather from reading the appeal response alone.

We will give you at least 14 days’ notice of the precise date and time of your “oral hearing.” The time we advise you of

is the **earliest** time your appeal will be heard on the day. Although waiting time is kept to a minimum, **delays may occur because it is impossible to estimate precisely how long each appeal will last.**

If you and the other parties to the appeal do not want an “oral hearing,” your appeal will still be decided by the appeal tribunal but on the basis of the information contained in the appeal response only. If there is anything besides the information in the appeal response you would like the tribunal to take into account when making its decision, you must send it with your completed “Hearing Enquiry Form”, or as soon as possible.

Question 2 – *Do you want to withdraw your appeal?*

Some people change their mind after starting an appeal and for various reasons decide not to pursue it. Please bear in mind that the appeal tribunal cannot change the law. It has to apply the law as it stands, even if that leads to an outcome that you think may be unfair.

Within those limits, the tribunal has the power to change the decision you are appealing against, replacing it with the decision it thinks ought to have been made

Sometimes the tribunal’s decision might leave you worse off.

If you want to withdraw your appeal, just tick the box indicating this, sign the “Hearing Enquiry Form” at the end, and return it to us. When we receive the form we will acknowledge receipt of your withdrawal, inform the appropriate office and will not contact you again regarding your appeal.

Question 3 – *Do you have a representative?*

The Hearing Enquiry Form asks you to name your representative, if you have decided to appoint one, on a Form of Authority.

Your representative will have the authority to act on your behalf on the date of hearing and obtain information from TAS on your behalf if you consent for them to do so; any further applications may require your additional authority.

It is important to note that if you are unable to sort out a representative before completing and returning the Hearing Enquiry Form do not delay returning it. Just let us have your representative's details on a Form of Authority as soon as they become available.

You are also very welcome to bring someone along to the hearing if you just want moral support. There's no need to give that person's name on a form of authority.

A Form of Authority can be obtained online at:
www.nidirect.gov.uk/publications/form-authority

Question 4 – *Do you need an interpreter?*

We have also issued you with a form to be completed if you require additional assistance.

If you need, or would prefer to have, the services of an interpreter at the hearing, we will arrange for an independent professional interpreter to be in attendance. The tribunal will not accept you using a friend or relative to interpret for you. You should inform us in advance of the

language of interpreter required by writing this on the form provided.

Question 5 – Do you need a sign language signer?

If you need, or would prefer to have, the services of someone to sign for you at the hearing, we will arrange for an independent, professional signer. Using a friend or relative to sign will not be acceptable. Please advise us well in advance if you require this service.

Question 6 – *Do you need the use of an induction loop?*

A portable Induction Loop (AFILS) is available for use. If you wish to use this facility please tell us as soon as possible.

Preparing for your appeal

In the appeal response you have been sent, the office which made the decision you are appealing against has explained how they made their decision, and includes documents which they have used to support this. Please study the appeal response carefully. You may disagree with the facts or you may disagree with that offices understanding of the law. The job of the appeal tribunal is to establish the correct facts and how the law should be correctly applied. You will want to consider what evidence you need to support your case, since most appeals involve some dispute over the facts.

First and foremost, there is what you can tell the tribunal. Sometimes it is easy to overlook that what you say to the tribunal is classed as “evidence”.

Secondly, there is what others can tell the tribunal. You could, for example, take one or more witnesses along to the hearing.

Suppose your appeal concerns problems you have in looking after yourself because you have a disability or other medical condition, in those circumstances you may wish to bring along your carer to tell the tribunal about the kinds of help you need.

Thirdly, there is evidence in the form of a document. Should you wish to have any additional evidence considered at your appeal (which may include financial, medical or other evidence) you should forward this to the Appeals Service at the earliest opportunity.

Alternatively you can bring this along to the appeal hearing, however it may lead to a delay to the start time of your tribunal on the day, or the hearing may need to be adjourned. You may wish to seek advice from a representative/legal advisor in relation to any evidence you wish to provide.

If you are obtaining further evidence in support of your appeal, please ensure you are aware of the timescales that may be involved in getting it, and do not delay in making your request to the appropriate individual or organisation.

Please remember that at all times it is your responsibility to obtain any evidence that you feel is relevant to your appeal, not the tribunal or TAS who are neutral.

Any additional/further evidence or documents provided by you will be copied and shared by the Appeals Service in full with the department in accordance with tribunal practice and procedures.

If you are in any doubt you should ask the tribunal if they have the information you want them to have available to them, before they decide your appeal

The law relating to appeals

The legislation governing appeals is:-

- a) The Social Security (Recover of Benefits) (Northern Ireland) Order 1997;
- b) The Social Security (Northern Ireland) Order 1998;
- c) Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999;
- d) Social Security Commissioners (Procedure) Regulations (Northern Ireland) 2001;
- e) Housing Benefit (Decisions and Appeals) Regulations (Northern Ireland) 2001;
- f) Tax Credits (Appeals) Regulations (Northern Ireland) 2002;
- g) Welfare Reform (Northern Ireland) Order 2015;
- h) Employment and Support Allowance Regulations (Northern Ireland) 2016; and
- i) The Universal Credit Regulations (Northern Ireland) 2016.
- j) Data Protection Act (DPA) 2018 and
- k) General Data Protection Regulations (GDPR) with effect from 25th May 2018.

If you want to look up the law on social security including case law please see the website details at the end of this information booklet, or you may prefer to leave that to your representative.

Staff within TAS are neither qualified nor permitted to provide legal advice, or provide you with copies of legislation. It is your responsibility to satisfy yourself into the legality or otherwise of any matter you wish to progress before the tribunal and the costs associated with them.

The “oral hearing”

The appeal tribunal may consist of one, two or three members. Each member has a particular expertise in law, medicine, disability, or finance. The number and combination of members are set by law and depend on the type of appeal.

Tribunals are determined by independent judicial office holders who operate within a set of rules laid down by law and reach decisions on the basis of evidence.

The hearing takes place around a table and the tribunal will play an active part in the proceedings by asking questions to establish the facts of the matter. In appeals relating to disability issues questions will be asked relating to your medical condition, and how this affects your everyday life. These questions at times will be of an intimate or personal nature because the tribunal must ascertain your precise care and/or mobility needs.

Please remember that even if you have a representative, the tribunal will almost certainly want to talk directly with you, person to person, asking you questions and listening to what you have to say. The best evidence comes from a person giving their own account in their own words.

Most appeal hearings last between half an hour and an hour, but as each case is considered on its own merits they may last shorter or longer than this period of time.

Mechanical recordings of proceedings in sound, film, video or any other recording medium is not permitted. The use of tape recorders, digital recorders of sound and, or, vision, video and film cameras is forbidden in tribunal hearing rooms or any adjoining premises.

Where a medical issue arises in an appeal involving **Severe Disablement Allowance** or **Industrial Injuries Benefit**, the tribunal may find it desirable, with your consent, to carry out a medical examination. If so, the examination will be conducted in private by the medically qualified members of the tribunal.

We aim to provide you with a copy of the appeal tribunal's decision within **3 days** of your hearing.

Frequently asked questions

Do I have to provide medical records to a Tribunal?

No. You are not obligated to provide medical records or evidence to an Appeal Tribunal. It is your decision to do so if you feel it will help your appeal. This decision is something you can continue to seek advice on from your representative / legal advisor.

Information in your medical records can help your appeal, but it can also go against you.

Exceptionally, the tribunal itself may commission medical evidence. This will happen only where the tribunal finds that it cannot decide the appeal without further evidence.

Can you get my Medical Records from my GP if I authorise it?

No. TAS cannot act on your behalf to obtain your medical records. If you feel you need them you should contact your GP yourself to request them. You should then carefully consider their contents and decide what parts, if any, you wish to provide to a Tribunal as part of your appeal.

Will it cost me money to get my Medical Records?

*No. Since the 25th May 2018, members of the public have been able to access their medical records from their GP or hospital, except in certain circumstances, **free of charge**.*

When should I gather any further evidence I may wish to submit?

*If you decide you wish the Tribunal to consider any further evidence (this may include financial, medical or other evidence) you should seek to gather this evidence **as soon as possible**.*

Obtaining any further evidence or records well in advance of a hearing gives you the opportunity to look over these records yourself, or with your representative / legal advisor, so that you can be fully and independently informed about what information you may, or may not, wish to provide to the Tribunal.

What should I do with any further evidence I have gathered?

You can either send in any further evidence to TAS in advance of your hearing date, or bring it along with you when you attend your hearing.

Please note, if you choose to send in further evidence in advance of your hearing, try to do this as soon as possible. If you choose to bring your evidence along on the day of your hearing, this may result in a delay to the start time of your hearing, or the hearing may need to be adjourned.

Do not send in any original documentation as further evidence unless specifically requested to do so. Instead, make a copy of any documentation and send in the copy. The Appeals Service

cannot return any original documentation in advance of the hearing.

I have a Child Support or Child Maintenance case, will you keep my address/location confidential?

If you have asked the Child Maintenance Service to keep your location confidential, then your address, or information which could reasonably be expected to lead to your location, will be withheld from the appeal response being issued to the other party.

Can I claim for expenses attending an oral hearing?

Yes you can claim for some expenses. Normally, the clerk at the hearing will give you a form on which to claim your expenses and a cheque will be sent to you later by post. Some information is given here but ask the clerk what you can claim for and what the current rates are.

What travelling expenses can I claim?

*You can claim for public transport costs. If required, the clerk will provide you with a form to enable you to claim a refund of public transport costs incurred. **We are sorry but payments cannot be made to you on the day.***

If you use your own car to travel to the appeal tribunal hearing you may claim expenses at the current mileage rate of 12 pence per mile.

*In exceptional circumstances a taxi fare may be payable but **only if it has been approved in advance by TAS** and provided at least one of the following criteria is met (subject to verification by TAS):-*

- i). *You can provide written evidence from your GP that your disability prohibits you from using public transport; or*
- ii). *You provide details that there are no suitable bus times/schedules to allow you to make your hearing on time.*

I live outside Northern Ireland what travel or other expenses am I entitled to?

Please contact TAS using the contact details below before making any travel arrangements. If you make any travel arrangements before contacting TAS you may not be reimbursed.

Can I claim expenses for any meals I purchase (this is also known as a subsistence payment)?

To be entitled to this allowance you must be away from home for more than 5 hours while attending the hearing.

Can I claim expenses for any loss of earnings?

If you lose earnings by attending a hearing, you may claim for earnings lost on the day of the hearing.

We cannot pay compensation for a full day if you could reasonably have worked before or after attending the hearing. Therefore, you should make arrangements with your employer so that you lose as little working time as possible.

We cannot pay you any more than the daily maximum amount, nor can we pay for more than 3 consecutive days in any one week.

If you are intending to make a claim for loss of earning you should ask your employer for a letter/certificate, to support your claim. The letter/certificate must:-

- i). Have your employer's stamp on it;*
- ii). Details of how much money your employer expects you will lose; and*
- iii). Detail your hourly rate of pay.*

I am self-employed how can I claim loss of earnings?

If you are self-employed the amount you can claim is limited to what appears to be a reasonable amount and to the daily maximum amount. You do not need a letter/certificate, instead, please write, "self-employed" after your occupation and detail the amount you have lost (if any) by attending the tribunal hearing.

Can I claim childminding or similar expenses?

You can claim an allowance up to a maximum amount to cover the cost of employing a person to look after your children or an elderly or infirm close relative while you attend the tribunal hearing.

If you wish to make a claim you must produce a receipt or a letter from the carer showing the amount you had to pay.

You cannot claim childminding or similar expenses if you are claiming loss of earnings.

Someone has accompanied me to the hearing, can they claim expenses?

Yes. If someone comes with you, for example an escort, a witness, or a representative, that person may also be entitled to expenses.

Further assistance

TAS staff who look after the administrative side of appeals are called “*Clerks to the Tribunal.*” These individuals handle your letters and telephone calls and deal with any enquiries about your appeal.

What TAS staff cannot do is advise you whether you have a good case or not.

If you want advice about your case, or someone to help you present your case to the appeal tribunal, you should contact a Citizens’ Advice Bureau, Advice (NI), Law Centre, a solicitor or your Trade Union.

Please do not delay, and if you feel you need to get advice you should do so at the earliest opportunity.

Privacy Notice

The General Data Protection Regulation, known as GDPR took effect on 25th May 2018. This new law gives you more control over how your data is protected and used.

The Privacy Notice tells you how the Appeals Service collects and uses your information.

The information the Appeals Service collects from and about you is to enable the determination of appeals against decisions made by:-

- Department for Communities (Work & Inclusion Group & Child Maintenance Service);
- HM Revenue & Customs;
- Northern Ireland Housing Executive; and
- Land and Property Services.

The Appeals Service uses information to provide administrative support to independent tribunals to hear, case manage and determine these appeals.

We will obtain information about you as the law allows and the independent tribunals make their decisions on the basis of all information available to it.

You may be invited by the Appeal Tribunal to produce further evidence by way of medical records in accordance with their statutory powers, these should be proportionate and limited, in timespan and content, to the issue to be determined by the tribunal. In all instances you should carefully consider any medical evidence you are providing to the tribunal, and seek legal advice if appropriate.

The Appeals Service also shares information with other organisations as the law allows, for example with the President of the Appeal Tribunals in discharging his functions, with legally qualified members to consider an application or to protect against crime. We will only ask you for information about your health with your explicit consent and your consent can be withdrawn at any time.

We will keep your information secure, and make sure nobody has access to it who shouldn't.

Please look at the Appeals Service Privacy Notice on <https://www.communities-ni.gov.uk/appeals-service-northern-ireland-privacy-notice> to find out more about:-

- Your information rights;
- Who the Appeals Service shares your information with;
- How long the Appeals Service will keep your data for; and
- For more detail about how the Appeals Service uses personal information.

If you need the Notice in an alternative format please contact us.

Complaints procedure

A complaints procedure is in place and available to parties who are dissatisfied with the administrative service provided by The Appeals Service Northern Ireland.

A leaflet entitled “**Making A Complaint - A Guide to our Complaints Procedure**” is available from all of the hearing venues, the Tribunal Clerk, or may be requested by contacting the Belfast or Omagh office by phone or by e-mail using the contact details below.

If your complaint is about the way the Appeal Tribunal Panel has conducted your hearing then you should address your complaint to:-

Office of the President of Appeal Tribunals
4th Floor
Clever House
3 Donegall Square North
Belfast
BT1 5GA

Appeals Service Northern Ireland contact details

The Appeals Service Northern Ireland can be contacted as follows:-

The Appeals Service Northern Ireland

PO Box 2202

Belfast

BT1 9YJ

Phone: 028 9054 4000

Email: Appeals.Service.Belfast@communities-ni.gsi.gov.uk

The Appeals Service (NI)

PO Box 99

Omagh

BT78 1AA

Phone: 028 8224 9595

Email: Appeals.Service.Omagh@communities-ni.gsi.gov.uk

Further information on appeals against benefits decisions can also be found at:-

www.nidirect.gov.uk/articles/appealing-against-a-benefits-decision

Useful contacts

Nidirect – Appeals Against Benefit Decisions

www.nidirect.gov.uk/articles/appealing-against-a-benefits-decision

Department for Communities

www.communities-ni.gov.uk

Northern Ireland Courts and Tribunals Service

www.justice-ni.gov.uk/topics/courts-and-tribunals

Social security legislation

<https://www.communities-ni.gov.uk/topics/dsd-law-and-legislation/social-security-legislation>

Northern Ireland Digest of Case-law

www.communities-ni.gov.uk/services/northern-ireland-digest-case-law

Legal Advice in Northern Ireland

www.lawsoc-ni.org

Citizens Advice Bureau Northern Ireland

www.citizensadvice.co.uk

Law Centre (NI)

www.lawcentreni.org

Advice (NI)

www.adviceni.net

Northern Ireland railway & bus timetables

www.translink.co.uk/Services/NI-Railways

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