

A survival guide to

Dealing with tax credit overpayments

advicenow

Making sense of the law and your rights



Introduction

If you've received a letter saying you've been overpaid tax credits and demanding repayment you are probably feeling confused, worried, and stressed. You may be angry about the system, or at least the failures of it.

This guide will help you find out more about your overpayment and explain what you can do about it. We will guide you through step by step and help you deal with your overpayment with as little hassle as possible.

Who is this guide for?

This guide is for you if you have been told that you have a tax credit overpayment that you have to pay back.

You may not be sure if you even have an overpayment. You may just have noticed a worrying drop in the amount of money you are getting from tax credits. We will show you how to find out if the reduction is because you have an overpayment.

Contents

What is a tax credit overpayment?	5
How do I know if I have been overpaid?	6
Why have I been overpaid?	7
I have been told that I have been overpaid. What can I do?	13
Appeal or dispute?	19
How to appeal the overpayment	24
How to dispute the overpayment	27
Repaying the overpayment	35
I can't afford it	38
How to complain	40
How to find an adviser	41
What does it mean?	42
Useful contacts	44

Who is your letter from?

Tax Credits are dealt with by Her Majesty's Revenue and Customs (HMRC).

Most of your letters will probably come from the Tax Credit Office (TCO). They are the part of HMRC that decides if you get tax credits. They also pay your tax credits. If you have any problems, the Tax Credit Office will be the people you write to and who make decisions about overpayments.

If you phone the tax credit helpline, you will speak to the HMRC 'contact centre'. They answer queries about tax credits.

Sometimes you might get letters from other parts of HMRC about your tax credits. If the Tax Credit Office think you have to pay back some of your tax credits directly, they will usually ask the 'Debt Management' part of HMRC to do this. Their job is to collect money that is owed to HMRC.

HMRC often use private companies, including debt collection companies, to do work for them. They do this to recover debts and sometimes to investigate claims further. You may get a letter from one of these companies. If you have any doubt, you should contact HMRC to confirm the letter is genuine. You can find a list of debt collection companies that HMRC use on the GOV.UK website: **www.gov.uk/if-you-dont-pay-your-tax-bill/debt-collection-agencies**.

What is a tax credit overpayment?

What is a tax credit overpayment?

There are two tax credits, working tax credit and child tax credit. In this guide we use the term 'tax credit' to refer to either or both of them. A tax credit overpayment happens when you have received more tax credits than you should have in a tax year. (A tax year runs from April 6th in one year to April 5th of the next year.) After the end of every tax year, HMRC check to see if they have paid you the right amount for the year just ended. If they have paid you more than they think you should have had, you will have a tax credit overpayment.



You may feel panicked by the whole situation, but try not to worry. By following the steps in this guide, we can help you through it. If you are unsure, or would like someone to check your overpayment or help you with an appeal or dispute, then get advice. See **How to find an adviser** on **page 41**.

How do I know if I have been overpaid?

How do I know if I have been overpaid?

It sometimes isn't easy to tell whether HMRC think you have been overpaid. You might receive a letter from HMRC telling you that you have been overpaid. It might also tell you how much the overpayment is and that you must pay it back straight away. Or, you might not receive a letter and instead, your tax credit payments may go down. If HMRC think you have been overpaid, they will say so on your tax credit award notice. These notices are the pages that HMRC send you after your first claim and again every time you report a change to them. They are normally 4–8 pages long and on the front have your name, address and the amount of your tax credits. Overpayments are normally shown in Part 3 next to where it says 'amount due from you'.

If you are still not sure if you have been overpaid, don't worry. The notices HMRC send are sometimes very hard to understand. Take your notice along to an adviser (see **How to find an adviser** on **page 41**) or contact HMRC's tax credit helpline on **0345 300 3900** (textphone: **0345 300 3909**).



Why have I been overpaid?

There are many reasons why overpayments occur. It surprises a lot of people to find out that you can have a tax credit overpayment even if you do everything correctly.

Tax credits are designed to pay out first and double check the amount later. This means it is not certain that what you are getting is right. Remember those forms you receive every summer? Once the tax year ends in April, HMRC send you those forms to ask you to give them your actual income and confirm your details. Only then can they tell you how much you were really entitled to for the tax year that has just finished.

Sometimes you may have been overpaid even though your income or circumstances haven't changed. Overpayments like this can occur when you don't return the forms (called 'renewal' papers) to HMRC.

Look at your award notices

Look back at your award notices and check the details on them. If any of them are wrong, this might help explain why you were overpaid. In particular, make sure the following are correct:

- Your National Insurance number(s) – if you are making a joint claim, there will be two numbers
- The number of hours worked
- Your income – this year and last year
- Whether you are part of a couple – if you are, then you should be making a joint claim. This means that both sets of details should be on the award notice.
- The number of children you have and whether they qualify for a disability rate or severe disability rate of child tax credit

- Whether you are claiming income-based jobseeker's allowance, income-related employment and support allowance, income support or pension contribution.
- Whether you are disabled and qualify for the disability element. (Disability for tax credits is different to disability for other things. It is important to check that you meet the tax credit disability conditions.)
- Whether you or a child claim Disability Living Allowance at the higher care rate, the enhanced daily living component of the Personal Independence Payment, or the Armed Forces Independence Payment.
- Whether you claim the highest rate of Attendance Allowance.
- Childcare costs
- The payments listed at the end match what you were actually paid (check against your bank statements)



If you have checked all these details and think HMRC have got them right, look at the 'Common reasons' section on the next page. Does one of them apply to you?

Why have I been overpaid?

Common reasons

Here we explain the most common reasons for overpayments, as well as how to find out if this is the cause of your overpayment.

Why have I been overpaid?

1

Your income has gone up

HMRC may have paid you too much because they thought your income is lower than it actually is. For 2016–17, if your income for this year is no more than £2,500 higher than it was last year, your award will not be affected. But there are still some rises in income that are not covered by that ‘buffer zone’. See point 8 below.

The amount your income can increase from one year to the next before it affects your tax credit award has varied a lot in recent years. In the tax years 2003–2004, 2004–2005 and 2005–2006 you were allowed a rise of only £2,500. For 2006–2007, 2007–2008, 2008–2009, 2009–2010 and 2010–2011 the figure was £25,000. For 2011–2012 and 2012–2013 you were allowed a rise of £10,000 before it affected your award. For 2013–14, 2014–15, 2015–16 the figure was £5,000 before it reduced back to £2,500 for 2016–17.

To check for this you should look back at your award notices. Look at the income used and see whether you told HMRC your income was higher. It is always best to let HMRC know if your income is going up, even if it is by less than £2,500. That is because HMRC need to know what your income really is in order to pay you the right amount next year.

2

HMRC did not act on what you told them

You might have told HMRC about a change in your circumstances. (For example, that your son has left school, or that you are no longer working.)

If HMRC didn’t change your award straight away, you may have carried on receiving too much money. This will become an overpayment once the change is actually made.

When you report changes, it is a good idea to write down who you spoke to and when. If you haven’t done this don’t worry. Have a look on your award notices to see if the changes were made at the right time.

HMRC have 30 days to make a change once you tell them about something.

If they take longer than this, they should not ask you to repay any overpayment which builds up after the 30 days (unless they sent you a new award notice and you didn’t tell them of their mistake within 1 month). See **page 28** for information about HMRC’s responsibilities.

3

HMRC made an official error

If you miss the appeal time limit but think HMRC are wrong about the amount of tax credits they have given you because they have made a mistake you can ask them to look at it again. This kind of mistake is called 'official error'. The time limit for asking that the error is investigated is longer than the one for appeals. See 'Official error' on **page 26**. You can send a dispute and official error request at the same time.

These overpayments are hard to find on your award notices. If you think that HMRC may have made a mistake on your award, you should try and get some advice. See **How to find an adviser on page 41**.

Why have I been overpaid?

4

Disability error

This mistake often happens when people are confused about what rate of Disability Living Allowance or Personal Independence Payment they receive.

There are questions on the claim form that ask if you or a child receive Disability Living Allowance at the higher care rate, enhanced daily living component of the Personal Independence Payment or Armed Forces Independence Payment. If you tick these boxes, HMRC award you extra tax credits because of your severe disability. If it later turns out that you were receiving a lower level of Disability Living Allowance or Personal Independence Payment, HMRC will take back this extra amount.

Check your award letter from the Department of Work and Pensions. This will tell you what level of Disability Living Allowance, Personal Independence Payment or Armed Forces Independence Payment you receive.

Or you could phone the DWP and ask.

Then check your tax credit award notice to see if it says you are in receipt of Disability Living Allowance or Personal Independence Payment and at what rate. It should match the rate on your Disability Living Allowance or Personal Independence Payment award letter. Similar rules apply if you are receiving Attendance Allowance.



Why have I been overpaid?

5

HMRC say you didn't send back forms

After April each year, HMRC send out renewal forms. These forms ask you what your income was in the year that has just finished. They also ask you to check that your details are correct. The form is also your claim for the new tax year. If the form is not sent back to HMRC by the correct date, it can mean that your current payments will stop. This is because the payments are just provisional until you have filled in your forms. All of the payments you have received since April will be treated as overpayments even if you would have been entitled to them if the forms had been sent back.

If you separated from your partner in the last tax year or early in the current tax year, you will each have to return a set of forms.

If you have gone on to make a new claim in just your name, you have to return forms for your old joint claim AND forms for your new claim.

Check your letters from HMRC. If your award ended because you did not renew you should have received a letter called a 'statement of account'. This tells you that your tax credits have ended.

If you contact HMRC within 30 days of getting the statement of account letter, they should be able to renew your claim over the phone. This will cancel the overpayment.

After 30 days, you can only get your tax credit payments back into payment if you have a good reason why you did not renew and you tell HMRC about this before 31 January after the end of the tax year. For example, because you were seriously ill, or your partner was seriously ill and you could not get someone to act on your behalf in time. Otherwise, you will be left with an overpayment to deal with even if you would have been entitled to the money if the forms had been sent back.

6

Wrong details on your award notice

If any of the details about you on your award notice were wrong, it might mean that HMRC have paid you too much in tax credits. This is why it is important to check your award notice each time you receive it and tell HMRC if there is a mistake. For example, maybe HMRC paid you for three children when you only have two.

Check all the details on your award notices to see if you can find anything wrong or anything that you told HMRC about but they did not do anything about.

7

Becoming part of a couple or splitting up with an ex

When you become part of a couple you need to tell HMRC straight away. You also need to tell them if you split up permanently and are no longer part of a couple. Your tax credit award normally ends on the date when your personal circumstances change. If you delay telling HMRC, everything you receive after that date will be an overpayment. Deciding whether you are part of a couple for tax credit purposes can sometimes be difficult. You should contact HMRC if you are unsure about this and make sure you keep a record of the phone call including the date, who you spoke to and what they said.

Check your award notice to see if you are claiming as a single person or with a partner. If you are claiming with a partner, their details should show on your notice.

This is a complicated area. If you have an overpayment because of this you should get advice. See **How to find an adviser on page 41**.

If you were late telling HMRC about a partner moving in or leaving and you went on to make a new claim straight away as a newly single person or couple, you might be able to have your overpayment reduced. See **page 21** for more information.

Why have I been overpaid?

8

Income goes down

Tax credits are paid using your previous year's income. If you think your income will be lower this year, you can ring HMRC and ask them to pay your tax credits on your new estimated income for the current year. This often means your tax credits will go up. They will only change the award if the fall in income is more than £2,500. If it is less than this your award will be paid using your previous year's income.

But if later in the year your income goes up again, it can mean you have an overpayment. This is caused by the way tax credits work out income across a full year instead of weekly or monthly.

Have a look at your award notices to see what income was used to calculate your tax credits. If you gave an estimate, you should see the word 'estimate' next to your income.

The later award notices will then show a higher income.





I still don't know why I've been overpaid. What can I do?

In circumstances where you still don't know the cause of your overpayment you can:

- 1** Get advice. See **How to find an adviser on page 41**. This is often the best action to take if you don't know why you have an overpayment so that you do not miss any important time limits.
- 2** Write to HMRC and ask them for an explanation. However, it often takes a long time to get an explanation and when it does arrive, it's often very hard to understand or wrong. You might also miss important appeal and dispute time limits while you are waiting. Asking for an explanation doesn't alter the overpayment and you will need to speak to HMRC about paying it back in the meantime. See **Repaying the overpayment on page 35**. If HMRC are reducing your tax credits to collect the overpayment, they will keep doing this even though you have asked for an explanation.
- 3** Send both an appeal and a dispute to HMRC. This way you don't miss any important time limits. If you do this, HMRC won't ask for the money back until they have answered your appeal. For information about how to appeal see **page 24**. For information about the dispute process see **page 27**.

I have been told that I have been overpaid. What can I do?

Once you know that HMRC think that you have been overpaid you have different options depending on whether they are asking you to pay the money back straight away or taking it from your tax credits.

Have a look at the two boxes below. If HMRC have sent you a letter asking for the money back straight away, look at the first box. If HMRC are taking money back from your tax credits, have a look at the second box.

I have been told that I have been overpaid. What can I do?

“HMRC are asking for the money back straight away”

If HMRC want the money back straight away (they call this ‘direct recovery’), they normally send you a letter. The letter will tell you that you were paid too much. It should also tell you the amount you have to pay back. If you get a letter like this, you have several options.

- 1** If you don’t agree that HMRC should ask you for the money back (perhaps because the overpayment was caused by their mistake or because they didn’t change your award when you told them your situation had changed), you can write to them and ask them to think again. This is called a ‘dispute’. For information about the dispute process see **page 27**. HMRC will not stop asking for the money while they look at your dispute. You will need to talk to Debt Management about repaying the overpayment if you have received a letter asking for it directly. For information about **Repaying the overpayment** see **page 35**. If your dispute is successful you should get any payments you have made refunded to you. There are time limits affecting how long you have to start a dispute. For information about time limits for disputes see **page 22**.

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2

If you think HMRC are wrong about the amount of tax credits they have given you, and that you weren't overpaid or that your overpayment is less than HMRC think, you can appeal the decision. An appeal is when you ask HMRC to look at this kind of decision again. For more information about appeals see **pages 19–26**. If you do this, HMRC will stop asking for the money they say you owe them until they have investigated and replied to you. There are strict time limits for appeals. For more information about time limits for appeals see **page 22**.

3

You can start an appeal and a dispute at the same time if you are not sure which route is the right one to take, or if your overpayment has more than one cause.

4

If you agree that the overpayment should be paid back but cannot afford it, you should still speak to HMRC or the debt collection agency straight away. For more information on what to do if you cannot afford to make any payments see **page 38**.

5

Accept the overpayment and agree to pay it back. You should contact HMRC directly about how to do this. For more information about your repayment options see **page 35**.

6

If you have an overpayment because you were late telling HMRC about a change in your circumstances, for example, your partner moving in or out and you went on to make a new claim then you may be able to get your overpayment reduced. See **page 21** for more information.

7

Get advice to help you decide what to do. See **How to find an adviser** on **page 41**.

I have been told that I have been overpaid. What can I do?

“HMRC are taking back the overpayment from my tax credits”

If your tax credits have gone down or stopped, HMRC might have started taking money back to repay an overpayment. If this has happened, you won't receive a letter telling you that you have an overpayment. Instead your award notices will show the overpayment and how much HMRC are taking back from you.

If you cannot find the information about your overpayment on your award notice, try and get some help from an advice agency or contact the tax credit helpline. Even though HMRC have started collecting the money there are still things you can do.

1

If you don't agree that HMRC should ask you for the money back (perhaps because the overpayment was caused by their mistake or because they didn't change your award when you told them your situation had changed), you can write to them and ask them to think again. This is called a 'dispute'. For information about disputes see **page 27**. HMRC will not stop asking for the money while they look at your dispute. For information about **Repaying the overpayment** see **page 35**. If your dispute is successful you should get any payments you have made refunded to you. There are time limits affecting how long you have to start a dispute. For information about time limits see **page 22**.

2

If you think HMRC are wrong about the amount of tax credits they have given you, and that you weren't overpaid or that your overpayment is less than HMRC think, you can appeal the decision. An appeal is how you ask HMRC to look at this kind of decision again. See **page 24**. If you do this, HMRC will stop asking for the money until they have investigated and replied to you. There are strict time limits for appeals. See **page 22**.

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I have been told that I have been overpaid. What can I do?

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3 You can start an appeal and a dispute at the same time if you are not sure which route is the right one to take or if your overpayment has more than one cause.

4 Ask HMRC to take less money from your tax credits if the reduction is causing you difficulty. For more information on what to do if you cannot manage with lower payments see **page 38**.

5 Do nothing. HMRC will continue reducing your tax credit payments until the overpayment is paid back.

6 Get advice to help you decide what to do. See **How to find an adviser** on **page 41**.

I have been told that I have been overpaid. What can I do?

I was paying money back from my tax credits, but now I've received a letter asking for the money straight away. Why?



This normally happens because your tax credit claim has ended for some reason. This might be because you have become part of a couple or you are no longer working. It can also happen if your income increases so that you no longer receive any payments. HMRC call this a 'Nil award'.

Once a claim ends, HMRC will normally ask you to repay the money straight away. In some cases, if you have made a new claim, they might be able to recover the money from your new claim by reducing your payments.

Your tax credit claim might have ended because:

- Your child has left home
- Your child has left full time education
- Your child has died
- You have stopped being part of a couple
- You have become part of a couple
- You or your partner went abroad for more than 8 weeks, or 12 weeks in some circumstances
- You were no longer working enough hours to qualify
- You no longer have a 'right to reside' in the UK
- You did not send back your renewal forms, or your forms have been lost.

If you have more than one overpayment

You might have more than one overpayment. This could be from an old, different claim or from an earlier year on your current claim. If HMRC are taking money from your latest tax credits claim for one overpayment, they might write to you directly and ask for money for another overpayment from an older claim. HMRC will put the older overpayment recovery on hold until you have repaid the first overpayment from your ongoing payments, but you must ask them to do this. It won't happen automatically. If you think this should apply to you, contact Debt Management using the phone number on the letter asking you to pay the money back. Ask them to stop asking you for the money from your old claim until you have finished paying back the overpayment on your latest claim.

I have been told that I have been overpaid. What can I do?

My tax credits claim has stopped and I have claimed universal credit instead. What happens to my tax credits overpayment?



Universal Credit is gradually replacing some benefits including working tax credit and child tax credit. If your tax credits stop and you claim universal credit, then HMRC will pass your tax credit overpayment over to the Department for Work and Pensions (DWP) who deal with universal credit. They will reduce your universal credit to pay back the tax credit overpayment.

The process of moving from tax credits to Universal Credit may cause an overpayment which you will have to pay back as well as any other tax credit overpayments you may have.

If you have moved to Universal Credit, HMRC should write to you with a letter called 'Your tax credits overpayments' (TC1131). This should tell you your tax credit debt will be moved over to DWP and collected from your Universal Credit award. If you have more than one overpayment, the debts may be moved across at different times and so you may receive more than one letter.

If you are repaying an overpayment to HMRC or one of their private debt collection agencies because you set up a time to pay arrangement, this will automatically be stopped.

Once the overpayment has been passed to the DWP, then you will need to arrange repayment with them even if you stop claiming universal credit at some point in the future.

Taking away your possessions or court action

Sometimes, HMRC will write to you saying that they plan to take away some of your possessions and sell them at auction. This is called 'taking control of goods' or 'distrain'. If this happens, you should contact HMRC straight away. Ask them to stop taking this action if it is not too late and talk to them about setting up a re-payment plan. See **Repaying the overpayment** on **page 35**.



Sometimes, instead of taking your things, HMRC might take you to County Court. If you have received a letter from HMRC which says that they are taking you to court or you have received court papers then you should contact HMRC straight away. Ask them to stop the court action if it is not too late and talk to them about setting up a re-payment plan. See **Repaying the overpayment** on **page 35**.

This will give you time to look at the rest of this guide and decide what to do. If it is too late and the case has already gone to court you should get advice as soon as possible. See **How to find an adviser** on **page 41**.

I have been told that I have been overpaid. What can I do?

Appeal or dispute?

It can be difficult to work out whether to appeal or dispute a decision. Which you should choose depends on whether you think the HMRC's decision is wrong or unfair.

If you think the HMRC are wrong about the amount of tax credits you should have received (not that their decision was unfair), you should appeal the decision. The first step of this is to ask the HMRC to look at the decision again. This is called a 'mandatory reconsideration'. If they do not change the decision, or do but you still don't think it is right, then you can appeal the decision. This is when a panel of three people who are independent and do not work for HMRC look at the decision. For information about how to do this see **page 24**.

If you agree that you have received more tax credits than you should have but you

don't think you should have to pay it back, you should dispute the decision. The dispute process is how you ask HMRC to look at this kind of decision again. Disputes are decided by HMRC; they don't go to an independent tribunal. For information about how to do this see **page 27**.

Doing both

Sometimes you might want to send a letter asking for a mandatory reconsideration and a dispute letter at the same time. You may want to do this if you are not sure why you have been overpaid. If you don't know the cause or aren't sure, then you can't be certain which process is the right one for you to use. So to protect yourself you can do both. It's also possible that the overpayment has two causes.

Appeal or dispute?

Appeal and disputes: the differences

Appeal	Dispute
<p>Daisha was right to appeal</p> <p>Daisha claims tax credits for her 3 children. Her eldest child finished her GCSE's but decided to stay on at school to do her A levels. Daisha told HMRC and continued to receive tax credits for 3 children. When HMRC work out Daisha's final tax credits for the year, they only included 2 children. Because Daisha received money for 3 children, HMRC thought that they had overpaid her. Daisha appealed the decision and asked HMRC to change her award as she should have received tax credits for 3 children. If she is successful, the overpayment will disappear.</p>	<p>Eric was right to dispute</p> <p>Eric and his wife have 2 children but were paid tax credits for 3 children. When Eric received his award notice, he phoned HMRC to tell them they had the number of children wrong. HMRC did not correct the mistake and kept on paying Eric too much tax credit. At the end of the year, Eric had received more tax credit than he should have and so had an overpayment. Eric used the dispute process because he didn't think he should have to pay it back because he told HMRC of the mistake as soon as he saw his award notice. It was their fault they hadn't done anything about it.</p>

What can I do?



I don't think I was paid too much

You should appeal. See **How to appeal the overpayment** on **page 24**. If you have missed the appeal time limits you might be able to make an 'official error request'. For more information see 'Official error' on **page 26**.

Appeal or dispute?

I agree I was paid too much but I don't think I should have to pay it back

You should send a dispute letter. See **page 27**.



I agree I was paid too much, but not as much as HMRC say

You can send an appeal about the amount that HMRC say you owe that you don't agree with. See **How to appeal the overpayment** on **page 24**. If you have overpayments from other years that you are not appealing then you should either start paying them back (see **Repaying the overpayment** on **page 35**) or send a dispute letter if you don't think you should have to pay them back. See **page 27**.



I was overpaid because I was late telling HMRC that I had become part of a couple or stopped being part of a couple

If you are overpaid because you were late telling HMRC you had become part of a couple or stopped being part of a couple or your partner had died, you may be able to have the overpayment reduced. When you tell HMRC about a change like this, your claim ends and you have to make a new claim as a single person or as part of a new couple. If you report the change late, this usually results in an overpayment on your old claim. Many people then get a surprise when they find out that they cannot backdate their new claim for more than 1 month. However, HMRC might be willing to reduce any overpayment on an old claim by the amount you would have received if you had made your new claim on time. This is called 'notional entitlement'. They will do this in most cases, except where they believe someone was deliberately dishonest.

If you think this might apply to you, contact the HMRC tax credit helpline on **0345 300 3900** (Textphone **0345 300 3909**) and ask for your case to be passed to the 'notional entitlement' team (sometimes also called 'notional offsetting team'). They will calculate whether your overpayment should be reduced. If you are not sure whether this applies to you, get help from an adviser. See **How to find an adviser** on **page 41**.



Appeal or dispute?



I don't understand this at all and want HMRC to explain it to me

Follow the steps explained at **How to appeal the overpayment** on **page 24** and **How to dispute the overpayment** on **page 27** and send two letters to HMRC. This way you won't miss any deadlines. You can also get help from an adviser. See **How to find an adviser** on **page 41**.

Time limits for appeals

You must send your mandatory reconsideration request to HMRC within 30 days of the decision you want to appeal against. The decision is normally the award notice that sets out your tax credits award. The 30 days runs from the date on the award notice.

If you miss the 30 day time limit, don't panic. If you can show a good reason why you missed the deadline, you can ask HMRC to accept a late mandatory reconsideration request up to 13 months after the date on the notice or decision letter if there is a good reason why you missed the deadline. HMRC do not have to allow a late request. **See How to find an adviser on page 41** to get help with your late request.

When HMRC receive your mandatory reconsideration request, they will look at your claim again and decide if they were right or not. They will then send you a decision notice. If you still do not agree with the decision, then you must send an appeal form to the Tribunal Service within 1 calendar month from the date on the mandatory reconsideration decision. You must include a copy of the mandatory reconsideration decision notice with your appeal form.

Late appeals can be accepted up to 13 months after the mandatory reconsideration decision if there is a good reason why you missed the deadline.

Award notices can be difficult to understand and the first you may know that you have an overpayment is when you receive a demand letter from HMRC asking for the money back. You may have missed the time limits because they run from the date of the original award notice, not the date HMRC write to you asking for the money back.

If that happens, don't panic. If your award is wrong because HMRC made a mistake and you didn't cause them to make that mistake in any way, you may still be able to have the award changed up to five years from the tax year where the mistake happened. This is called an 'official error request'. For more information see 'Official error' on **page 26**.

Time limits for disputes

You normally have 3 months to dispute an overpayment from the date of your final award notice for the tax year in which the overpayment happened.

You can only dispute against overpayments that happen in the tax year of your final award notice. You cannot dispute overpayments from earlier years unless there are exceptional circumstances.

Lucy receives her final award notice for the tax year 2015/16 on 10th August 2016. The award notice shows that Lucy was overpaid £1,000 in 2015/16 and she also has an overpayment of £2,000 from 2014/15. Lucy has 3 months from the 10th August 2016 (to 10th November 2016) to dispute her 2015/16 overpayment, but she cannot dispute the older overpayment from 2014/15.

If you have any doubt, the best thing to do is to send a dispute anyway. If HMRC refuse to accept the dispute because they say you have missed the time limit, you should seek advice (see **How to find an adviser on page 41**).

Appeal or dispute?



What if I miss the 3 month time limit?

HMRC may still look at your dispute if you have a good reason for missing the time limit. For example, if you received wrong advice from the HMRC's own helpline about the dispute process, or if you have been seriously ill. If you think you have a good reason, you should include it at the start of your dispute letter.



What if HMRC refuse to accept my dispute?

If HMRC say they will not look at your case because you are outside the 3 month time limit and you think that you were within it or you had a good reason for missing it you should follow the guidance about **How to complain** on **page 40**. (You still need to speak to HMRC about repaying the money even if you decide to make a complaint.) In your complaint letter you should make it clear why you think you did not miss the deadline.

Appeal or dispute?

Get advice

Tax credits are very complicated and most claimants find it difficult to understand overpayments. If you are unsure, or would like someone to check your overpayment or help you with an appeal or dispute then try and get advice. See **How to find an adviser** on **page 41**.

Speak to your MP

Your local MP might be able to help you with your overpayment. This can be especially helpful in cases where you are not getting any response from HMRC. See **Useful contacts** on **page 44** for information about how to contact them.

Be aware! HMRC will keep asking for the money

Normally, HMRC will not stop asking you to pay back your overpayment when you dispute a decision or complain. They will only stop when you send in an appeal. You might need to start making payments while you go through the dispute or complaints system. For information on how to do this see **Repaying the overpayment** on **page 35**.

How to appeal the overpayment

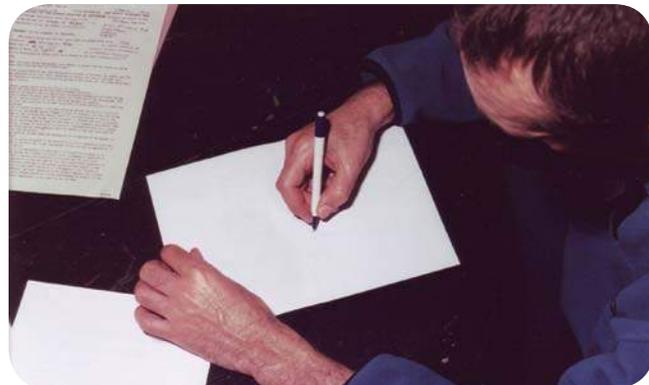
The appeal process has two steps. The first step is to send a mandatory reconsideration request to HMRC, who will then look at their decision again. If you still disagree with the decision, the second step is to send an appeal form to HM Courts & Tribunals Service.

You can ask for a mandatory reconsideration by either writing a letter or using the form on leaflet WTC/AP. You can find this here: www.gov.uk/government/publications/child-tax-credit-and-working-tax-credit-appeal-form

Whichever method you choose, make sure that your request includes:

- Your name (and, if you have a partner, their name)
- Your date of birth (and your partner's)
- Your national insurance number (and your partner's)
- The date of the decision you wish to appeal
- A brief explanation of what you think they have got wrong.

Keep a copy of your letter or the completed form, and make a note of the date you sent it. If you can, you should send all letters to HMRC by recorded delivery and keep hold of the postal receipt. If you have used recorded delivery you can check the Royal Mail website to see if HMRC have signed for the letter and print a copy of the receipt. If it has not been signed for, it is a good idea to send it again.



When should I hear from them?

Don't worry if you don't hear anything for a while. If you have not received anything after 6 weeks, you should complain. See **How to complain on page 40**.

As soon as HMRC receive your appeal form or letter, they must stop asking you for the money back. They should not ask you for the money again until they have made a decision about your mandatory reconsideration request. If you send an appeal to the Tribunals service, they should stop asking you for the money again.

Sometimes you may receive a demand letter asking for the money back from another part of HMRC called Debt Management or from a private debt collection agency working for HMRC. This is normally because the Tax Credit Office hasn't told them about your appeal. If this happens you should write to or phone Debt Management or the private debt collection agency.

Send them a copy of your mandatory reconsideration letter and tell them that they should not try and recover any overpayment that is under mandatory reconsideration or appeal.

What if HMRC ask for more evidence?

Sometimes HMRC may write to you after you have sent your mandatory reconsideration request asking you for more evidence.

HMRC might also telephone you to discuss your appeal and tell you that your appeal does not have much chance of success. Speak to an adviser first before deciding to give up (withdraw) your appeal (see **How to find an adviser on page 41**). If you cannot speak to an adviser, don't withdraw your appeal. You do not have to submit extra evidence, although if you do have any further information it is a good idea to send it to HMRC.

What do I do if HMRC do not change their decision?

You should receive two copies of a mandatory reconsideration decision notice from HMRC. This should tell you if they agree with you and have changed the decision, or if they haven't.

If they haven't changed their decision (or have but you still don't think it is correct), you can appeal. You do this by using form SSCS5 to HM Courts & Tribunals Service. You can download the form from http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=4461

You will need to send a copy of the mandatory reconsideration decision notice with your appeal form.

You need to send this to HM Courts & Tribunals Service (who will organise the appeal) within 1 calendar month of the date on your decision notice from HMRC. If it is late, you need to give reasons why it is late.

Sometimes, HMRC may only partly agree with you. They may agree that you weren't overpaid by as much as they initially said, but still think you've been overpaid by a smaller amount. If you think this decision is wrong, appeal it.

What if I miss the time limits for appealing?

The time limits for appeals are explained on **page 22**. If you miss even the 13 month time limit, you may be able to have your award changed by making an 'official error request'. See 'Official error' on **page 26**. This is helpful if your award is incorrect.

How to appeal the overpayment

Tax Credits, Child Benefit and Guardian's Allowance
Notice of appeal against a decision of
HM Revenue and Customs

You should use this form to appeal against a decision made by HM Revenue and Customs (HMRC) about Tax Credit, Child Benefit and Guardian's Allowance. If you need this form in an alternative format, please see the note on page 6 of this form. Further guidance to help you fill in this form is available in booklet SSCS5A 'How to appeal against a decision made by HM Revenue and Customs'. You can download the booklet or find out where it can be obtained from by visiting the justice website www.justice.gov.uk

Print form **Reset form**
SSCS5

About this form
This form helps you provide all the information the tribunal requires to register your appeal. It will also ensure that your appeal contains all the necessary details which the law requires.

How to fill in this form
Please use black ink to fill in this form and use BLOCK CAPITALS unless the form tells you not to.

You must complete Sections 1, 2, 5, 6 and 8
If you are appealing on behalf of someone who a court or HMRC has appointed you to act for, you must also complete Section 3

What to include with this form
You must include a copy of the mandatory reconsideration notice which shows the decision you are appealing against. You do not need to include evidence/information you have already sent to HMRC as they will send it to us as part of their response.

Section 1 ABOUT THE DECISION YOU ARE APPEALING AGAINST

This section is about your mandatory reconsideration notice. This is the letter sent to you by HMRC explaining that they have looked at your decision again.

Does your mandatory reconsideration notice tell you that you have the right to appeal against the decision?
 Yes No

If No, please ensure you have read the section 'Can I Appeal?' in the booklet SSCS5A 'How to appeal against a decision made by HM Revenue and Customs' before continuing with this form.

Please tick this box to confirm that you have attached a copy of the mandatory reconsideration notice with your appeal form.

Please write here the name of the award or benefit you are appealing about. The name of the benefit will be shown on the letter giving you the decision.

Remember to include a copy of your mandatory reconsideration notice with your appeal form. If you do not do so, we will be unable to register your appeal until this is provided.

SSCS5 - Notice of appeal against a decision of HM Revenue and Customs (07/14)
Now go to Section 2
© Crown copyright 2014
Page 1

Official error

What is an official error?

For a mistake to count as an official error, you need to show three things:

- 1 That HMRC made a mistake which led to the incorrect award
- 2 Changing the award would be in your favour
- 3 The mistake was mostly HMRC's fault.

An official error request is different from an appeal or dispute. If you are within the time limit for an appeal (see **page 22**) then it is best to appeal instead of using the official error route. But if you have missed the time limit (including the one for a late appeal), then you might be able to make a request for them to look at whether an 'official error' has been made.

How do I make an official error request?

You should send a letter explaining why you think the mistake is an 'official error' and asking HMRC to stop recovering your overpayment until they make a decision, to the Dispute team. If you aren't sure of their address, phone the Tax Credit Helpline and ask.

When you send your letter it is best to send it recorded delivery. If HMRC carry on asking for the money back or taking it from your tax credits, have a look at the guidance on **pages 35–38**.

How long have I got?

You have five years from the end of the tax year in which the overpayment occurred to ask HMRC to change your incorrect award.

What if HMRC don't change my award?

If HMRC refuse to change your award after you have sent an official error letter, you should speak to an adviser. The law is not clear about whether you have a right to appeal this decision and it may need a Tribunal to decide. See **How to find an adviser** on **page 41**.

How to dispute the overpayment

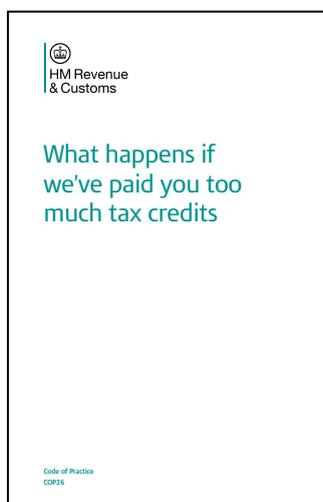
If the overpayment is correct, you can ask HMRC not to take the money back from you if you think it was their mistake that caused the overpayment. The process for doing this is called a 'dispute'. You can do this even if you can't appeal. You can also use the dispute process at the same time as an appeal if you are not sure why you have an overpayment.

You normally need to dispute an overpayment within 3 months. For more information about time limits for disputes see **page 22**.

The dispute process is explained in the HMRC leaflet COP 26 (you can download it at www.gov.uk/government/publications/tax-credits-what-happens-if-youve-been-paid-too-much-cop26 or phone the tax credit helpline on **0345 300 3900** (Textphone **0345 300 3909**) and ask for a copy).

There are two ways to lodge a dispute. You can use a form (a TC846 which you can find here: www.gov.uk/government/publications/tax-credits-overpayment-tc846) or you can write a letter. See 'How to write a dispute letter' on **page 30**.

HMRC will keep asking you for the money or taking it from your tax credits even if you dispute their decision. If this causes you hardship, see **I can't afford it on page 38**.



How do HMRC decide if I have to pay the money back?

When your dispute form or letter is received, HMRC will decide if you have to pay the money back. They can make one of three different decisions:

- 1 They can decide you have to pay all of the money back
- 2 They can decide you have to pay some of the money back
- 3 They can decide that you do not have to pay any of the money back

HMRC make their decision by checking if you have done certain things. They call these your 'responsibilities'. They also check to see if they have done what they were supposed to do. Have a look at the box on the next page to see a full list of the things you and HMRC have to do.

- If you have done everything you were supposed to and HMRC have not, you will not have to pay back the money.
- If you have not done everything you were supposed to, but HMRC have, then you will have to pay back the money. If there was a good reason why you could not meet your responsibilities, HMRC might not ask for the money back. You would have to argue that there are 'exceptional circumstances'. You should write a letter to HMRC telling them the reasons why you could not meet your responsibilities.

If you have not done everything you were supposed to, but neither did HMRC, then you may only have to pay some of the money back.

How to dispute the overpayment



HMRC's responsibilities	Your responsibilities
They have to give you the right advice based on the information you give them.	You must give them correct and up-to-date information.
They shouldn't make any mistakes in working out how much you should get and paying it to you (unless you give them wrong information).	You should tell them about any change to your circumstances. You must report certain changes within one month.
If you tell them about a mistake on your award notice, they should correct it and send you a new award notice.	Every time you get an award notice, you should check everything is correct. Use the checklist that comes with the notice to do this. If there is a mistake, you must tell them within one month. (It is helpful to keep a note of when you tell HMRC about a mistake).
If you tell them about a change (like a different job, or someone moving in or out) they should change the amount you get within 30 days (provided you have given them all the information they need).	You should check that the payments you get are for the same amount as it says on your award notice.

How to dispute the overpayment



Martha's story

Martha claimed tax credits for her two children. She told HMRC on 1st October that her oldest son had left home that day. HMRC did not do anything when she told them. Instead they kept on paying her the money for her son for 4 months and didn't send Martha any new award notices. When they did make the change, they decided Martha had been overpaid because she had received more money than she should have. Martha sent a dispute letter to HMRC. HMRC decided that they had not met their responsibilities, and that Martha had met hers because she told them straight away about her son leaving home. As a result Martha didn't have to pay back the money, except for the first 30 days. This is because HMRC have 30 days to make a change after you have reported it.

How to
dispute the
overpayment

Evidence

Very often, HMRC say that you have to pay money back because they cannot find any proof that you met your responsibilities. For example, they may say that they cannot find any evidence that you told them about changes to your situation. When you write your dispute letter you should try to remember when it was that you contacted HMRC. If you cannot remember, you can ask HMRC for a copy of your telephone calls and their notes about you. You can do this online at https://online.hmrc.gov.uk/shortforms/form/DPU_SAR or by writing to:

TCO SAR Team
Group 7
Area F
Floor 1 St Marks House
St Marys Street
Preston
Lancashire
PR1 4AT

They do not always have copies of everything, but it may help your case if you can find some proof that you did what you were required to do.

Do not wait to get copies of their notes about you before you send a dispute. This is because HMRC will not stop asking you for the money and you may miss the 3 month dispute time limit.

How to write a dispute letter

- 1 Make sure you send it to the right address. → Make sure you send it to the Dispute team. If you aren't sure of their address, phone the Tax credit helpline and ask.
- 2 Tell them who the letter is about. Include your name, your partner's name, your address and both national insurance numbers. → I am writing to you on behalf of myself (Mrs Helen Smith) and my husband (Mr Dale Smith). Our address is 10 The Street, The Town, N1 7ET. Our National Insurance numbers are AB 12 34 45 D (Mrs Smith) and EF 12 34 45 G (Mr Smith).
- 3 Next you need to tell them what overpayment you are asking them to look at and which year it is from. You should be able to find this information on the letter that HMRC sent you about the overpayment (or if you did not receive one, from your last award notice). If you cannot find it, don't worry. You can ring the tax credit helpline and ask them which year the overpayment is from. There is normally a 3 month time limit for disputes. For more information about the time limit for disputes see **page 22**. If you have missed the time limit you should explain here why you missed it. → We would like to dispute our tax credit overpayment for 2015/16.

Our dispute is late because <insert reason>
- 4 You now need to tell HMRC why you think you should not pay back the overpayment. Have a look at the responsibilities on **page 28**. You should look at each one and see if it applies to you. Tell HMRC why you think you met your responsibilities. → I think that we should not have to pay back our overpayment because we met all of our responsibilities.

I rang the helpline straight away when our son left home. This was around October 2015. The lady at the helpline told us she would make this change on our claim.

I rang the helpline in January 2016 when my husband got a pay rise. I told them that his new income was £13,000. We then got lots of papers through the post and I noticed that they had put his income as £1,300 which was wrong. I phoned the helpline straightaway to correct this.

How to dispute the overpayment

5 Then tell HMRC why you think they did not do the right thing. Have a look at HMRC's responsibilities on **page 28**. You should look at each of these and see if it applies to you. Tell HMRC why you think they did not meet their responsibilities.

I think that HMRC have not met their responsibilities. When I phoned you and told you my son had left home, the lady did not change my award even though I phoned you straight away.

When I told you about the change in my husband's income, you made a mistake and put the wrong income on the form.

6 Tell HMRC about any evidence you think they should look at. This is very important if you think there might be a phone call where you gave them information or asked them a question.

I would like you to listen to the phone calls that I made telling you that my son had left home and that my husband had received a pay rise.

If you can, tell them when you think the calls were made, but don't worry if you cannot remember. If you wrote a letter with information, tell them when you think you sent it.

I think that the first phone call was made around January 2016 and the second call to tell you about the error on my award notice was in February 2016.

Remember to send copies of any evidence that you have like letters you sent, letters you received, or notes of any phone calls.

7 Tell HMRC about any evidence you are sending.

I am enclosing a copy of the award notice that shows my husband's income incorrectly and a copy of his payslip.

How to
dispute the
overpayment

If you don't know what caused your overpayment

If you don't know the reason for your overpayment, you will find it hard to write a detailed letter. Don't worry, follow steps 1, 2, 3 and 7 and send your dispute anyway. Normally, the decision you get back will give you some reasons for your overpayment. You can then send a second dispute. For information about how to do this see 'Second disputes' on **page 33**.

I have sent a letter asking HMRC not to take the money back, but they say I still have to pay it back. What can I do?



How to dispute the overpayment

It can be so frustrating and upsetting to be told you still have to pay the money back, especially if you have waited a long time for a reply. But try not to worry, all is not lost yet.

The first thing to do is read the letter you've had from HMRC. The letter should contain some important information:

- A phone number for the person who made the decision
- The name of the person who made the decision
- A reason why HMRC think you should still pay the money back.

Sometimes, letters are missing some of this information. If yours is, you can complain (see **page 40**) and follow the steps below.

The reasons that HMRC give for why you should repay the money are often confusing and hard to understand. Sometimes they even turn out to be wrong. Once you have read the reason, these are your options:

- 1** If you agree with the reason they give, and think that the decision is correct, HMRC will want the money to be paid back. If you are still getting tax credits they may automatically reduce your payments. If HMRC have asked you for the money directly in the past, you should contact HMRC to arrange how to repay the money (see **Repaying the overpayment on page 35**). You should not ignore the overpayment as it could end up going to court or HMRC may try and take your goods (called distraint).
- 2** If you do not agree with the reason they give, then have a look at the section on 'Second disputes' on **page 33**. This is very important if you did not know the reason for your overpayment when you sent your first dispute. You can now write a longer second dispute and explain why you think their decision is wrong. They will continue to ask you for the money or take it from your current tax credits claim while you do this. You will need to send this second dispute within 30 days of the decision about the first dispute.
- 3** If you are unhappy with how HMRC have responded to you, then you can make a complaint (see **How to complain on page 40**). You can send a complaint as well as a second dispute if you want to.



HMRC phoned me to talk about my dispute

Sometimes HMRC will ring you to talk about your dispute. They may tell you what caused the overpayment and why they think you have to pay the money back. They may do this instead of writing to you. If this happens, you should ask them to send you the decision in writing as well. This will make it easier if you want to make a complaint.

Second disputes

HMRC say that they will only look at another dispute about the same overpayment if there is new evidence. You must ask them to look at the decision again within 30 days of the date on the decision about the first dispute.

The reason for sending another dispute is to tell HMRC why you do not agree with their reasons. For example, if HMRC write to you and say that you didn't tell them about a change in your circumstances, your second dispute should tell HMRC when you think you told them about the change and ask them to listen to the phone call/find a copy of the letter.

Follow the guidance 'How to write a dispute letter' on **page 30** showing you how to write a dispute letter. Between step 3 and 4 you should tell HMRC why you do not agree with their decision. If you have any new evidence, tell HMRC about it.

If you have no new evidence, but believe that HMRC have ignored evidence that you have already sent them, you should send a second dispute as well as a complaint. You should tell them what evidence they have ignored and why you think it is important. Explain that they should treat it as new evidence because it has not been looked at before.

There is no limit on the number of times you can send a dispute but HMRC will not stop asking for the money while they make their decision. However, normally HMRC will not change the decision unless you provide new evidence or you can show that they did not consider some evidence that they already had.

How to dispute the overpayment



My dispute was turned down and I have no new evidence. What can I do now?

If you still do not think you should have to pay back the money, you can complain to HMRC. For information about how to do this see **How to complain** on **page 40**.

You might also want to take your reply letter to an adviser to ask them to check that HMRC's explanation is correct and that there are no mistakes. See **How to find an adviser** on **page 41**.

After you have used the complaints system at HMRC, you can ask for your case to be looked at by the Adjudicator and later the Parliamentary Ombudsman. However, both of these independent people will only check if HMRC have carried out their responsibilities and not acted unreasonably. See **Useful contacts** on **page 44** for details about how to contact the Adjudicator and Parliamentary Ombudsman.

How to dispute the overpayment

Repaying the overpayment

Do I have to pay the overpayment all at once?



No. The first letter that you receive might ask for all the money back at once. But you do not have to do this. Have a look at the box below to find out the different ways you can pay the money back.

Remember, if you have sent in a mandatory reconsideration request or appeal HMRC should not ask you for the money back until they have replied. If you are only disputing (and not appealing) the overpayment, they will keep asking you to repay the money.

If HMRC are asking you to pay it back straight away

The first letter you normally receive from HMRC is called a 'Notice to pay' (TC610). It normally gives you 42 days to pay but will tell you to contact HMRC if you need to pay over a longer period. These letters are often difficult to understand at the best of times, let alone when you're worried and upset.

It is important that you take some action when you receive this letter.

The options you have to repay are:

- The full amount in 42 days – but most people can't afford this.
- Over a longer period which you can afford.

If you want to pay over a longer period, you need to work out what you can afford each month and ask HMRC if they will accept it. Phone the number on your overpayment letter. HMRC might ask for details of all of your income and

what you need to spend it on. They will then work out how much they will accept. Most people underestimate the amounts they spend on things – try not to underestimate what you spend on vital things like food, rent, heating, clothes and shoes for the children, travel to work, medicines and dentistry, TV license.

If you are already paying back an overpayment from your tax credits, contact HMRC using the number on the letter and ask them to stop asking you to pay the overpayment directly until you have finished paying back the one from your current award.

If you are on long term benefits and you have no spare money and your situation is unlikely to change, then you can ask HMRC to suspend recovery of the overpayment or remit the overpayment. This means that HMRC will decide that they will not ask you to pay any money back at the moment. They will only do this if they don't think your income is likely to increase in the future. This does

Repaying the overpayment

not happen in many cases and HMRC reserve the right to ask you for the money in the future if your circumstances change so that you can make some repayment. You will need to show them that you have no money left after paying for the things that you really need.

Remember, you should not feel like you have to pay back more than you can afford. For more information see **I can't afford it** on **page 38**. You may be able to get help from an adviser – see **How to find an adviser** on **page 41**. They could speak to HMRC for you and explain how much you can afford to repay each month.

If you do not contact HMRC and offer to repay the overpayment each month, HMRC can take action to recover the money. Remember, they should only ask you to repay what is affordable based on your income and what you *have* to spend your money on. If you cannot afford to make the payments they ask see **I can't afford it** on **page 38**.

If you continue to ignore letters, they may take more serious action such as taking you to court or coming to your home and taking your belongings. If you receive a letter that says HMRC are thinking about doing this, you should get advice as soon as possible. See **How to find an adviser** on **page 41**.

I received a 'notice to pay' letter from HMRC but ignored it. What will happen next?



If you do not contact HMRC after receiving the first notice to pay letter, your debt will be passed to a private debt collection agency.

You can still arrange to repay the debt with them, but you will need to speak to them directly rather than calling HMRC. Their phone number should be on any letter you receive. If you need to repay over a longer period, they may ask you about your income and any amounts you spend each month.

If you are unable to pay important bills like gas or electric or your rent or mortgage, you should phone the debt collection agency and tell them. They should transfer the case back to HMRC to consider whether they can accept a lower monthly payment, take the money back, or remit the debt.

If you do not contact the debt collection agency, the debt will eventually be passed back to HMRC, and they may take further action such as taking your things away to auction or taking you to court.

Repaying the overpayment

HMRC are taking the money back from my tax credits: how much can they take?



If HMRC are taking money from your tax credits to pay back an overpayment, then the law says that they can only take certain amounts depending on your situation.

If you receive maximum tax credits (for example because you receive Income Support or Income Based Jobseeker's Allowance) they can only reduce your payments by up to 10%.

If you receive less than the maximum tax credits, but more than the basic amount (which is £545) then the most they can reduce your payments by is 25%. If your household income is over £20,000, HMRC can take 50%. When deciding if your income is over £20,000, HMRC will use the latest income figure you have given them.

If you are receiving just the basic amount, they can stop your tax credits altogether until the overpayment is paid back.

If you report a change of circumstance, HMRC will look at your award again. If the change means you are entitled to less tax credits for the year and if you have already received that amount, HMRC will stop your payments. This is so you do not make your overpayment bigger.

If you are paying back an overpayment and get housing benefit or council tax reduction you should tell your council that your income has gone down. You may be entitled to more help with your rent or council tax.

Repaying the overpayment

I can't afford it

If you have been asked to pay the money back straight away

If you have been asked to pay the money back straight away or have made a repayment plan that you can no longer afford, contact HMRC or the debt collection agency dealing with your debt immediately if you cannot meet your essential living expenses like food, gas, electricity, water, and rent. You should also contact HMRC if you are a pensioner, are claiming sickness benefits, or are unemployed, and unlikely to be able to increase your income in the future.

If your debt is being dealt with by a private debt collection company they will pass the case back to HMRC to consider if they understand that you cannot meet your essential living expenses.

You can ask HMRC to:

- Stop taking the money from you for the moment (if they do this they will reconsider this every few months). They are more likely to do this if they think your circumstances may improve.
- Accept smaller payments over a longer period of time. HMRC may ask you some details about your income and what you need to spend it on. If you think they are asking you to pay too much, get help from an adviser (see **How to find an adviser** on **page 41**). They may be able to speak to HMRC for you.

- Remit the overpayment. This means that HMRC will decide that they will not ask you to pay any money back at the moment. They will only do this if they don't think your income is likely to increase in the future. This does not happen in many cases and HMRC reserve the right to ask you for the money in the future if your circumstances change so that you can make some repayment. You may want to get help from an adviser (see **page 41**).



If HMRC are taking money back from your tax credits

If the amount that HMRC are taking from your tax credits means you do not have enough money to live on and pay your bills then you will need to ask HMRC to reduce the amount they are taking from your tax credits. This is called 'hardship'.

You can apply for a reduction to the amount they are taking from your tax credits by contacting the tax credit helpline on **0345 300 3900** and telling them you cannot meet your living expenses. They will send you a form to fill in about your income and what you spend it on. You can also find the form, fill it in online and send it to HMRC through your Personal Tax Account (**www.gov.uk/personal-tax-account**).

I can't afford it

If the amount you have left each month is less than £20 (called disposable income), HMRC will reduce the amount they are taking from your tax credits so that it leaves you with at least £20 a month of disposable income. This reduction will only last until the end of the tax year, if you are still struggling to pay your bills then you will need to reapply again in the next tax year.

If you share responsibility for an overpayment with an ex-partner

When you claim tax credits with a partner (called a joint claim), you agree that you will both be responsible for any overpayment. This means that if there is an overpayment from a joint claim, HMRC can ask either one of you or both of you to pay it back.

If you have separated from a partner, it is worrying to receive a letter asking for all of the overpayment and you might feel it is unfair that HMRC are asking you for the full amount.

You can still dispute or appeal the overpayment.

If you agree to pay the money back, you should contact HMRC to talk about how much you will pay. They should only ask you for 50% of the overpayment and should ask your ex-partner for the other 50%.



If you and your ex have agreed to pay a different amount each, you should tell HMRC.

Even though the law still allows HMRC to take back the whole overpayment from just one of you, they say that as long as you pay your share of the overpayment (normally 50%), they won't ask you for any more even if your ex partner can't be found or is unable to pay.

I can't afford it

How to complain

You may want to complain if:

- HMRC have not dealt with your tax credit claim properly.
- You have not been treated properly by HMRC staff.
- You have been given wrong advice by HMRC.
- You are not happy with a dispute decision, but have no new evidence.
- You have sent a dispute or appeal but have not received a reply for over 3 months.
- HMRC haven't explained the reasons for your overpayment properly.



HMRC can accept complaints over the telephone if you ring the tax credit helpline. This might be useful if your complaint is about the helpline. Normally it is best to write a letter. You should set out your reasons for complaining and what it is you would like HMRC to do.

I have received a response to my complaint letter but I am still not happy



You can take your complaint to a higher level. This is called a 'Tier 2 Complaint'. To do this you should write a new complaint letter telling HMRC why you are not happy with their first response. Send this second complaint letter to the same address.

If you are unhappy with the response you receive to your second complaint letter then you can ask the Adjudicator to look at your case. See **Useful contacts** on **page 44** for information about how to contact the Adjudicator.

If you are not happy with the Adjudicator's response, you will need to ask your MP to ask the Parliamentary and Health Service Ombudsman to look at your complaint.

It is important to remember that if your complaint is about an overpayment, HMRC will still keep asking you to repay the money while you are going through the complaints process. You should make sure you speak to the Debt Management part of HMRC or to the debt collection company dealing with your overpayment as soon as possible. If you cannot afford to pay anything, you should still speak to them and explain your situation. For more information see **Repaying the overpayment** on **page 35**.

How to find an adviser

The **Money Advice Service** runs a Money Advice Line on **0300 500 5000** (English) or **0300 500 5555** (Welsh). The advice line is open Monday to Friday 8am to 8pm, and 9am to 1pm on Saturday. This is a freephone service including for all mobiles.

You can also email them on **enquiries@moneyadviceservice.org.uk**

For information about how to book a meeting with an adviser see: **www.moneyadviceservice.org.uk/en/static/contact-us**

They also have information about other organisations you can go to for free debt advice – including face to face services. **www.moneyadviceservice.org.uk/en/tools/debt-advice-locator**

StepChange also offers free debt advice over the phone including advice on tax credit overpayments on **0800 138 1111**. The helpline is open 8am to 8pm Monday to Friday, and 8am to 4pm Saturday. This is a freephone service including for all mobiles. **www.stepchange.org**

Alternatively, you could look to see if there is a **Citizen's Advice Bureau** that helps with benefits problems near you. Many now offer advice over the telephone. **www.citizensadvice.org.uk/about-us/how-we-provide-advice/advice**

You can see if there is an independent advice agency in your area on **Advice UK's** site. **www.adviceuk.org.uk/looking-for-advice-2**

Check if there is a **Law Centre** that deals with tax credits near you. **www.lawcentres.org.uk**

Shelter also has a search facility on their website of local advice services. Use the tabs along the top of the results to see the different kinds of advice services. Only some agencies will provide advice on benefits so check the areas of law covered by each agency. **http://england.shelter.org.uk/get_advice/advice_services_directory**

It is also worth checking if your local council has a welfare rights service. If you didn't find their details in Shelter's search, phone the council and ask for 'welfare rights', check their website, or ask in your local library.

There are sometimes services that you can access through your GP, social worker, or community centre. There's no harm in asking – so call your GP, and your social worker or community centre if you have one, and ask if there is a service for you.

Top tips for managing your tax credits

- It's a really good idea to keep all your tax credit stuff in a file.
- Keep copies of your award notices and any other letters you receive about your tax credits.
- Keep copies of any letters and forms you send to HMRC.
- Keep a record of any phone calls you make to HMRC. Include the date, time and the name of the person you spoke to.
- If you are sending important letters to HMRC, use registered post so that someone signs for it. Keep the proof of delivery in your file.

How to find an adviser

What does it mean?

Adviser – This is a benefit or tax expert who can give you help and advice about your overpayment.

Appeal – This is when you ask HMRC to look at the decision about the amount of your tax credits again. If they don't change the decision, a tribunal can change the decision if they agree it is wrong. The appeals process has two steps – the first step is dealt with by HMRC and is called mandatory reconsideration and the second step is an appeal which is dealt with by HM Courts & Tribunals Service.

Award notices – These notices are sent to you after you first claim tax credits, and again every time you report a change to HMRC. They are normally 4–8 pages long and on the front have your name, address and the amount of your tax credits.

Complaint – This is what you can do if you are not happy with any part of HMRC's service. For example, if they have not replied to a letter you have sent.

COP 26 – This is a leaflet from HMRC that tells you about overpayments. You can find it at: www.gov.uk/government/publications/tax-credits-what-happens-if-youve-been-paid-too-much-cop26

Debt Collection Agency – HMRC use private debt collection companies to help them collect tax credit overpayments directly. You can find the list of official companies used by HMRC on the GOV.UK website www.gov.uk/if-you-dont-pay-your-tax-bill/debt-collection-agencies

Debt Management – This is a part of HMRC. Their job is to collect the money that is owed to HMRC.

Direct Recovery – This is when HMRC ask you to pay back an overpayment straight away.

Dispute – This is the name of the process you use when you agree that you were paid more tax credits than you were entitled to, but don't agree that you should have to pay it back.

Dispute decision – This is the letter that HMRC send you telling you whether you have to pay back the money. If you do have to pay it back, it should explain the reason why.

Disposable income – This is the amount of money you have left after you have paid for your essential living expenses. HMRC recognise that you should have at least £20 a month disposable income.

(continued)

What does it mean?

Distraint – This is also called ‘taking control of goods’. This is one way for HMRC to collect tax credits overpayment debts. It means HMRC can come to your house and take your personal items to sell at auction. They use the money raised to repay the debt.

Hardship – This means that you cannot meet your basic living costs such as food, gas, electricity, water, council tax, and rent.

Official error – This is a mistake in a tax credit award caused mainly by HMRC that means the amount awarded is incorrect.

Ongoing Recovery – This is when HMRC make you pay back your overpayment by taking an amount off your current tax credits.

Overpayment – This means that you have received more money from tax credits than you should have.

Recovery – This is when HMRC take money back from you because they say they paid you too much.

Responsibilities – Each time you get an award notice from HMRC you should also get a list of things you should do. HMRC call this list your ‘responsibilities’. HMRC also have a list of things that they should do for you.

Second dispute – If HMRC have replied to your dispute and you still don’t agree that you should have to pay the money back, you can write again explaining why you object to doing this. This is a ‘second dispute’.

Tax Credit Helpline – The helpline is part of HMRC. You ring it to report changes in your circumstances. You can also ask questions about your tax credits and get forms from HMRC. The number is **0345 300 3900** (textphone **0345 300 3909**)

Tax Credit Office – They are the part of HMRC that decide if you will get any tax credits. They also pay your tax credits. If you have any problems, the Tax Credit Office will be the people who you speak to. They will also be the first people to answer your letters.

Tax Year – A tax year runs from 6th April to 5th April of the next year.

TC846 – This is the form you use to send a dispute to HMRC.

Tribunal – If you have asked HMRC for a mandatory reconsideration (step 1 of the appeals process) and are still not happy with the response from HMRC, you can appeal to the tribunal and ask them to look at it again. This is a panel of experts who don’t work for HMRC. They can change HMRC’s decision if they think it is wrong.

Universal Credit – Universal credit is a new benefit that is gradually replacing tax credits. If you are already getting tax credits, you will not be affected by universal credit unless you claim it. You should get some advice before claiming universal credit as your tax credits will stop. Tax credit overpayments can be taken back from payments of universal credit.

What does
it mean?

Useful contacts

For general information about tax credits

www.gov.uk/topic/benefits-credits/tax-credits

www.litr.org.uk/tax-guides/tax-credits-and-benefits

Contacting HMRC about your tax credits

Phone the Tax Credit Helpline on **0345 300 3900**.

The helpline is open Monday to Friday from 8am to 8pm and Saturday from 8am to 4pm. It is closed Sundays, Christmas Day, Boxing Day and New Years Day.

If you are deaf or have a hearing or speech impairment, the textphone number is **0345 300 3909**.

If English is not your first language, ask for a translator straight away when you ring them.

Find the mandatory reconsideration form (step 1 of the appeals process)

www.gov.uk/government/publications/child-tax-credit-and-working-tax-credit-appeal-form

Or you can phone the Tax Credit Helpline.

Find the appeals form (you cannot appeal without first having asked for a mandatory reconsideration)

http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=4461

Find the dispute form

www.gov.uk/government/publications/tax-credits-overpayment-tc846

Or you can phone the Tax Credit Helpline.



Find the HMRC guidance Tax credits: what happens if you've been paid too much (COP 26)

What happens if we've paid you too much tax credits?

www.gov.uk/government/publications/tax-credits-what-happens-if-youve-been-paid-too-much-cop26

Writing to HMRC about your tax credits

The offices that deal with difficulties with your tax credits were scheduled to move at the time of writing this guide. Make sure you have the correct address by looking on the internet or phoning the tax credit hotline.

For further information about your appeal

Tribunals

Her Majesty's Courts and Tribunal Service (HMCTS) is responsible for the administration of appeals. You can find useful information about the appeal process at: www.gov.uk/social-security-child-support-tribunal

For Complaints

The Adjudicator
The Adjudicator's Office
PO Box 10280
Nottingham
NG2 9PF

Tel: **0300 057 1111**

www.adjudicatorsoffice.gov.uk



Parliamentary
and Health Service
Ombudsman

The Ombudsman

The Parliamentary and Health Service Ombudsman
Millbank Tower
Millbank
London
SW1P 4QP

Tel: **0345 015 4033**

Email: phso.enquiries@ombudsman.org.uk

www.ombudsman.org.uk

Contact your MP

Find details of your MP and write to them using

www.writetothem.com

Useful
contacts

The information in this guide applies to England and Wales only. The law may be different if you live in Scotland or Northern Ireland. The law is complicated. We have simplified things in this guide. Please don't rely on this guide as a complete statement of the law. We recommend you try and get advice from the sources we have suggested.

advicenow.org.uk

If you would like this guide in another format please email guides@lawforlife.org.uk

This guide was written by Victoria Todd of the Low Incomes Tax Reform Group (www.litr.org.uk). The Low Incomes Tax Reform Group is an initiative of the Chartered Institute of Taxation to give a voice to the unrepresented in the tax and benefits systems. Advicenow would like to thank all those who provided feedback on this guide and took part in the pilot.



Low Incomes
Tax Reform
Group
A voice for the unrepresented

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