

Compensation Recovery Unit

**Z2 - Mandatory reconsideration and appeal guide for
recovery of benefits and/or lump sum payments**

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DWP Department for
Work and Pensions

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Compensation recovery scheme

Social security benefits, lump sum payments and compensation payments may be paid because of the same accident, injury or disease. If this happens, the person or organisation that pays the compensation (the compensator) has to pay back the benefits and/or lump sum payment to the Department for Work and Pensions (DWP), via the Compensation Recovery Unit (CRU) under the provisions of the Social Security (Recovery of Benefits) Act 1997 and the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008.

The CRU will issue a Certificate that shows the compensator how much they have to pay to the DWP. The CRU will also send a copy of the Certificate to the injured person or their representative.

The amount on the Certificate can be increased after the compensation claim is settled if the compensator gave the CRU incorrect or insufficient information.

If the CRU becomes aware before the compensation claim is settled that a recoverable lump sum payment was paid after a Certificate was issued, a revised Certificate to include the lump sum payment amount will be issued. The revised Certificate will supersede all previous Certificates.

The compensator may, in certain circumstances, reduce the compensation award to take account of the amount of benefits and/or lump sum payments they have to pay to DWP.

If you want the Compensation Recovery Unit to look at the Certificate again

This guidance tells you what to do if you think the Certificate is wrong **after the compensation claim is settled and you have paid CRU all of the monies due.**

The Welfare Reform Act 2012 introduced changes from 28 October 2013 to the appeals process so that more disputes against DWP decisions can be resolved without the need for referral to His Majesty's Courts and Tribunals Service (HMCTS).

Mandatory Reconsideration

If you think that the Certificate is wrong, you should contact the CRU and ask for a **Mandatory Reconsideration.**

The time limit for asking for a Mandatory Reconsideration

You must ask for a Mandatory Reconsideration within one month of paying the CRU the money due as listed on the Certificate. You may be asked by the CRU to provide an explanation if your request for a Mandatory Reconsideration was late.

What else should be included with your request for a Mandatory Reconsideration

You should also provide the following:

- All medical reports and any surveillance evidence obtained by both parties during the compensation claim process.
- Copies of any statements and/or other material served on behalf of the claimant.
- Copies of the Particulars of Claim.
- Copies of the documents from both parties which confirm the details of the settlement.

The CRU will look at all of the evidence and decide if the Certificate should be:

- changed and a partial refund issued
- revoked and a full refund issued
- confirmed as correct

The CRU will provide a written explanation of its decision. This is known as a Mandatory Reconsideration Notice.

What you can do if you do not agree with the Mandatory Reconsideration Notice

If you still think the Certificate is wrong after you have received your Mandatory Reconsideration Notice, you can make an appeal.

Who can appeal

An appeal may be made by:

- a compensator and/or
- an injured person whose compensation payment was reduced by the compensator to take account of benefit/lump sum payment recovery

How to appeal

Your appeal **must** be made in writing and **sent directly to HMCTS**

You will be sent 2 copies of the Mandatory Reconsideration Notice, one to be sent with your appeal and one for you to keep. Your appeal will not go ahead unless you include a copy of this notification with your appeal.

You can use the Tribunal's [Notice of Appeal form](#) (on the Justice website) to make your appeal. Using this form will help you to make sure that all the information the tribunal needs is included.

The appeal pack is also available from local advisory services such as the Citizens Advice Bureau.

You can also appeal by letter giving all the reasons for your appeal and why you think the certificate is wrong. But if any information is missing it may take longer to register your appeal and the Tribunal may have to contact you for further information.

Where to send your appeal

If you live in **England or Wales**, send your appeal to HMCTS, SSCS Appeals Centre, PO Box 1203, Bradford BD1 9WP.

If you live in **Scotland** send your appeal to HMCTS SSCS Appeals Centre, PO Box 27080, Glasgow G2 9HQ

If you are currently living overseas, you should send your appeal to the HMCTS office which would normally handle your appeal based on:

- your point of entry into Great Britain if you have opted for an oral hearing
- the place where you were previously resident in Great Britain if you do not intend to attend a hearing

Where to get more information

You can get more information and advice on how to appeal from the [HMCTS website](#).

You could also ask a local advisory service for independent support.

Please note that the CRU will not be able to give you an appeal form.

You should also provide any further evidence you have in support of your appeal that you have not already sent to the CRU.

If you are the injured person, you **must** provide any documents you have from the compensator telling you that your compensation payment had been reduced in accordance with either section 8 of the Social Security (Recovery of Benefits) Act 1997 and/or regulation 12 of the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008.

An appeal against a Certificate **must** be made on one or more of the following grounds:

- Any amount, rate or period specified in the Certificate is wrong.
- The Certificate shows benefits and/or lump sum payments which were not paid as a result of the accident, injury or disease.
- Benefits and/or lump sum payments listed which have not and are not likely to be paid to the injured person have been brought into account.
- The compensation payment made was not as a consequence of the accident, injury or disease.

After HMCTS has received your appeal and Mandatory Reconsideration Notice, they will ask the CRU to prepare a written Response to the appeal.

Note: The CRU will treat a request for an appeal that does not comply with the above grounds as being invalid and refer it back to HMCTS with a request for it to be struck out. A tribunal judge will then decide if the appeal can be accepted as being valid.

When to appeal and time limits

An appeal cannot be treated as valid and sent to HMCTS until after:

- final settlement of the compensation claim
- payment of recoverable benefits and/or lump sum payments has/have been paid in full to the CRU
- a Mandatory Reconsideration Notice explaining the decision has been sent by the CRU to the appellant

An appeal must be sent to HMCTS **within one month** from the date when the Mandatory Reconsideration Notice was sent to you by the CRU.

Late appeals

If you do not make your appeal in time, HMCTS will ask you to explain why it was late.

A tribunal judge may be asked to look at the reasons you have given for not appealing in time and decide if your appeal can be accepted. They will look at:

- whether there were special circumstances for the delay
- the length of time since the compensator paid the money to the CRU
- whether it is in the interests of natural justice that your appeal is accepted
- whether your appeal is reasonably likely to succeed

Appeal tribunals

Appeals are heard by an independent tribunal and are administered by HMCTS. Tribunals are made up of qualified members who are not from DWP. The tribunal can only look at the:

- evidence
- law
- circumstances at the time the CRU made the decision you are appealing against

The appeal decision will be heard by a tribunal judge and a medically qualified panel member.

Note: For appeals only, a claim is treated as finalised if provisional damages were paid.

Oral hearings

This is an appeal hearing which you can go to.

The tribunal may ask you questions.

You can ask questions.

If you are the injured person you can take someone with you to represent you.

You can call a witness to give evidence to the tribunal.

A Presenting Officer from the CRU may be at the hearing. They may ask you questions and call witnesses.

Oral hearings are usually open to the public but you could ask to have your appeal heard in private, should you prefer.

You will normally be given a copy of the tribunal's decision shortly after the hearing has finished. The CRU will also be given a copy of the decision.

Paper hearing

This is an appeal hearing which you or no one else attends. HMCTS will send you the decision in the post.

Note: If you choose a paper hearing but change your mind, you can ask to have an oral hearing instead. You must write to HMCTS straight away if you change your mind.

The decision

If your appeal is successful, the CRU will revise its decision and issue a fresh Certificate.

If your appeal is unsuccessful, you can ask HMCTS for a Statement of Reasons. This gives a full explanation of the tribunal's decision including the:

- facts
- relevant law used to make the decision

You must ask for this within one month from the date the decision notice was issued.

You should read the Statement of Reasons carefully. If you still do not agree with the reasons for the tribunal's decision, you can apply for leave to appeal to the Upper Tribunal.

Appeals to the Upper Tribunal

Before you can appeal to the Upper Tribunal, you must have:

- received a full Statement of Reasons of the initial tribunal's decision
- applied to the tribunal judge for permission to appeal

The [form needed to appeal to the Upper Tribunal](#) is available on the Justice website.

Members of the Upper Tribunal are lawyers who are not from DWP, Jobcentre Plus or HMCTS.

You can only appeal to the Upper Tribunal on a point of law. You cannot appeal to the Upper Tribunal about:

- questions of fact
- a tribunal's medical findings or conclusions

How to appeal to the Upper Tribunal

Your decision notice from HMCTS will tell you what to do if you disagree with the tribunal's decision. Read this carefully. It tells you important time limits for your appeal.

Late Applications

Late applications for a Statement of Reasons, or for leave to appeal to the Upper Tribunal, can only be accepted if there were special reasons for the late application. You will need to show why you were not able to make your request on time.