

# Dealing with tax credit

## overpayments



If you've received a letter saying you've been overpaid tax credits and demanding repayment you are likely to be confused, worried, and stressed. You may also 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 step by step through the system to 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 payments you are getting. We will show you how to find out if the reduction is because you have an overpayment.

### What is a tax credit overpayment?

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 very panicked by the whole situation, but try not to worry. By following the steps in this guide, we can help you through it. Don't forget that you can get help from an expert. Have a look at 'How to find an adviser' on p.18.

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# How do I know if I have an overpayment?

**It sometimes isn't easy to tell whether HMRC think you have been overpaid. You might receive a letter from HMRC which tells 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 any letters telling you about it. Instead, your tax credit payments may go down. If they think you have been overpaid it will say so on your tax credit award notice. These notices are the pages that 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. Overpayments are normally shown in Part 3 next to 'amount due from you'.

If you are still not sure if you have been overpaid, don't worry. The notices they send are sometimes very hard to understand. Take your notice along to an adviser (see 'How to find an adviser' on p.18) or contact the tax credit helpline on **0845 300 3900** (textphone: **0845 300 3909**).



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

**Once you know that HMRC think that you have been paid too much tax credits there are a few things you can do.**

What to do next depends on whether you are being asked for the money back straight away or if they are taking money back from your tax credits.

Have a look at the two boxes on p.3. If HMRC have sent you a letter asking for the money back straight away, look at the **BLUE** box. If HMRC are taking money back from your tax credits, have a look at the **GREEN** box.

### Who is your letter from?

Tax credits are dealt with by HM Revenue and Customs (HMRC).

Most of your letters will probably come from the Tax Credit Office (sometimes called TCO). 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 you write to and who make decisions about overpayments.

If you phone the tax credit helpline, you will be speaking to a part of HMRC called the 'contact centre' who answer calls 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, they might ask another part of HMRC to write to you. This is usually the 'Debt Management and Banking' part of HMRC. Their job is to collect money that is owed to HMRC.

## “HMRC are asking for the money back straight away!”



If HMRC want the money back straight away, they normally send you a letter. HMRC call this ‘direct recovery’. Your letter will tell you that you were paid too much. It should also tell you the amount you have to pay back. If you have 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’. See p.11 for details of how to do this. If you do this, HMRC will stop asking for the money until they have investigated and replied to you. There are no time limits for disputes.
- 2** If you think HMRC are wrong about the amount of tax credits they have given you, you can appeal the decision. An appeal is when you ask HMRC to look again because you think they are wrong about the amount of your tax credits, and that you weren’t overpaid or that your overpayment is smaller. See p.10. 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 p.9. You can send an appeal and a dispute at the same time.
- 3** If you agree that the overpayment should be paid back but cannot afford it, you should still speak to HMRC straight away. See p.17 for more information on what to do if you cannot afford to make any payments.
- 4** Accept the overpayment and agree to pay it back. You should contact HMRC directly about how to do this. See p.16 for more information about your options to pay back the money
- 5** If you have an overpayment because you were late telling HMRC about a change like 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 p.9 for more information.
- 6** Seek advice to help you decide what to do. See p.18.

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

If your payments have gone down, HMRC might have already started to take money from your current tax credits to pay back 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. See p.2 to find out where to look for this information.

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’. See p.11 for details of how to do this. If you do this, HMRC will stop asking for the money until they have investigated and replied to you. There are no time limits for disputes.
- 2** If you think HMRC are wrong about the amount of tax credits they have given you, you can appeal the decision. An appeal is when you ask HMRC to look again because you think they are wrong about the amount of your tax credits, and that you weren’t overpaid or that your overpayment is smaller. See p.10. 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 p.9. You can send an appeal and a dispute at the same time.
- 3** Ask HMRC to take less money from your tax credits if the lower payments are causing you difficulty. See pp.16–17 for more information on what to do if you cannot manage with lower payments.
- 4** Do nothing. HMRC will continue reducing your tax credit payments until it is all paid back.
- 5** Seek advice to help you decide what to do. See p.18.

## “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 moved in with a new partner or you are no longer working. HMRC can only take money from your tax credits to pay back an overpayment that happened on the same claim. Once the claim ends, they have to ask for the money from you directly. Even if you have made a new claim, HMRC will still write to you asking for the money from the old claim.

## If you have more than one overpayment

From August 2009, if HMRC are taking money from your tax credits for one overpayment, they should not write to you and ask for money for another overpayment from a different claim. They should wait until you have paid the first one back before asking you for money from the next overpayment. Remember though this only happens if the overpayments are from different claims. If you think this should apply to you, contact Debt Management and Banking using the phone number on the letter that asked 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 new claim.

## Why claims end

Your tax credit claim might have ended because:

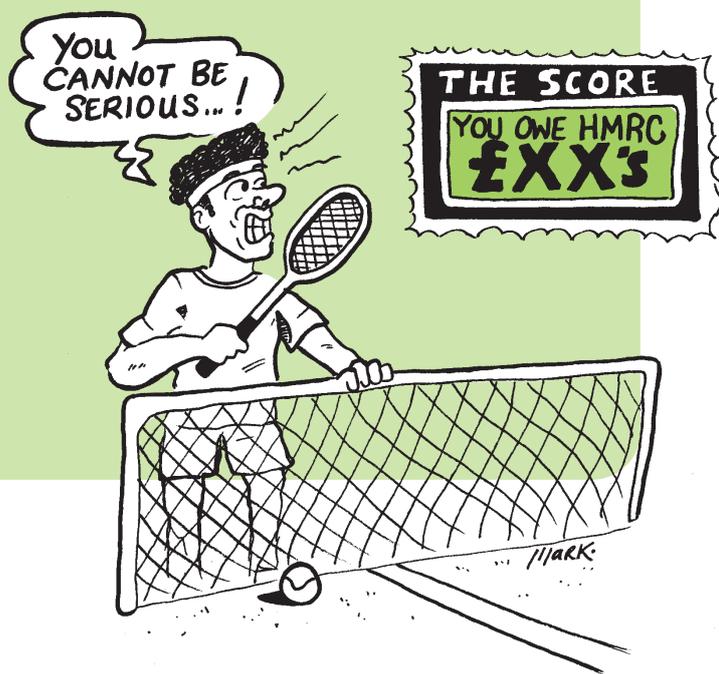
- Your child has left home
- Your child has left full time education
- Your child has died
- Your partner has moved out
- You have moved in with a new partner
- You or your partner went abroad for more than 8 weeks, or 12 weeks in some circumstances
- Your claim ended because you were no longer working enough hours
- 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
- You have stopped working enough hours to get working tax credit and you do not qualify for any Child Tax Credit.

## Court action

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 must contact HMRC straight away. You should 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 p.16 for your payment options.

This will give you time to look at the rest of this guide and decide if you are going to ask HMRC not to take back the money. You might also want to appeal if you think they have awarded you the wrong amount of tax credits.

If it is too late, and the case has already gone to court, you should seek advice as soon as possible. See ‘How to find an adviser’ on p.18.



## “I don't know why I have an overpayment. What can I do?”

- 1** You can write to HMRC and ask them not to take the money back. This is called ‘disputing’ your overpayment. The advantage of this is that HMRC must stop asking you for the money back or stop reducing your tax credits until they have answered your dispute. When they answer your dispute they should explain the reason for the overpayment, and you will have another chance to ask them not to take it back. For most people, this is the best thing to do. Follow the advice on pp.13–14.
- 2** Write to HMRC and ask them for an explanation (see ‘Further help’ on p.20 for the address). However, it often takes a long time to get an explanation and when they do arrive, they are often very hard to understand or wrong. If you choose to ask for an explanation anyway, you will need to speak to HMRC regarding paying back the overpayment in the meantime. See p.16 for information about how you can choose repayments you can afford. 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** You can get advice. See ‘How to find an adviser’ on p.18.



## 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, because that is how the system was designed.**

Tax credits are designed to pay out first, and double check the amounts 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 actually entitled to for the year that has just finished.

### Look at your award notices

The first place to start is to look back at your award notices. Check the details on them. In particular, you should make sure the following are correct:

- Your National Insurance numbers
- The number of hours worked
- Your income (this year and last year)
- Whether you live with your partner (if you do you should be claiming as a couple. This means that both sets of details should be on the award notice).
- The number of children

- 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
- Childcare costs
- The payments listed at the end match what you were actually paid (check against your bank statements)

If you have checked all of the above details and think the HMRC have them correctly, look at the common reasons for an overpayment below to see if one of them might be the cause of your overpayment.

## Common reasons

The most common reasons for overpayments are explained below, along with how to find out if this is what happened to you.

### 1 Your income has gone up

HMRC may have paid you too much because they thought your income is lower than it actually is. Normally, if your income for this year is no more than £25,000 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.

If you had a claim in tax years 2003–2004, 2004–2005 and 2005–2006, you were only allowed a rise of £2500. Anything more than this did change your award.

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 £25,000. 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 p.11 for information about HMRC's responsibilities.

### 3 Disability error

This mistake often happens when people are confused about what rate of Disability Living Allowance 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. 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, 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 you receive.

Or you could phone the DWP Disability Benefits Helpline on **08457 123 456**.

Then check your tax credit award notice to see if it says you are in receipt of Disability Living Allowance and at what rate. It should match the rate on your Disability Living Allowance award letter.

### 4 HMRC made a mistake

Sometimes overpayments happen because HMRC have made a mistake. This may happen when there is a computer error.

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 p.18.

## 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 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 tax credit award ends. All of the payments you have received since April will be overpayments.

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' which tells you that your tax credits are ended.

If you contacted 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. 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.

## 6 Wrong details on your award notice

If any of the details about you were wrong on your award notice, 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. An example of this might be that HMRC paid you for 3 children when you only had two.

Check all of 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 Moving in with a partner or leaving a partner

When you move in with a new partner or you split up with a partner, you must tell HMRC straight away. Your tax credit award normally ends from the date the change happened. So if you delay in telling HMRC, everything you have received after that date will be an overpayment.

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 p.18.

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 p.9 for more information.

## 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.

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 incomes were 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.

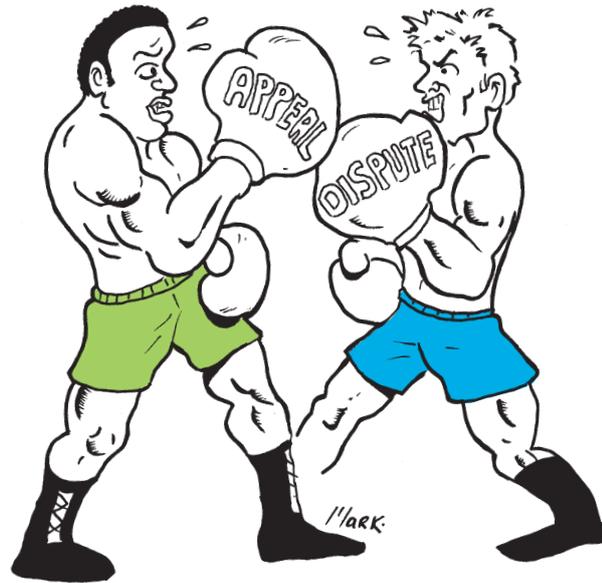
# I have an overpayment. What can I do about it?

One of the most misunderstood parts of the tax credit system is knowing whether or not you can appeal. Not every decision by HMRC can be appealed.

An appeal is when you ask HMRC to look at their decision again because you think it is technically wrong (not just unfair). You might ask for an appeal if you think HMRC is wrong about the amount of tax credits they say they should have given you. You will need to tell HMRC why you think it is wrong. If you do not accept their decision, you can present your case to a panel of three people (a tribunal) who do not work for HMRC. They will then make a decision on it.

You may have just received more tax credits than you should have. If you agree that you received more than you should have, and that the information they have about you now is correct (for example how many children you have, your disabilities, and whether you are a couple), you have been overpaid. You can't appeal when they ask you to pay this money back, but you can ask them not to make you pay it back by using the dispute process. See pp.11–13 for details of how to do this. Disputes are decided by HMRC they don't go to a tribunal.

Sometimes you might want to do both. You can send an appeal letter and a dispute letter at the same time.



## APPEAL vs DISPUTE

### APPEAL

You should appeal if HMRC have worked out your tax credit award incorrectly, or decided that you are not entitled to tax credits or some part of tax credits, and you do not agree with this.

#### Daisha was right to appeal

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 have 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.

### DISPUTE

You should dispute if HMRC have the right information about your income and situation, but for some reason you were paid more than you were entitled to have.

#### Eric was right to dispute

Eric and his wife were paid tax credits for 3 children when they only have two. 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. After the end of the year, Eric had received more tax credit than he should have and so has an overpayment. Eric used the dispute process because he doesn't think he should have to pay it back because he told HMRC of the mistake as soon as he saw his award notice.

## What should I do?

### “I don't think I was paid too much?”

You should appeal. See 'How to appeal' on p.10.



### “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 'I don't think I should pay the money back' on pp.11–13.

### “I agree I was paid too much, but I don't think it was as much as HMRC say”

You should send an appeal about the amount that HMRC say you owe that you don't agree with. See 'How to appeal' on p.10. AND you should either start paying back the amount you agree you owe (see 'Paying the overpayment' on p.16) or send a dispute letter if you don't think that you should have to pay it back. See 'I don't think I should pay the money back' on p.11. You can also get help from an adviser. See p.18.

### “I was overpaid because I was late telling HMRC that my partner had moved in/out, but I would have been entitled to the money if I had made another claim on time.”

See the boxed information on the right of this page.

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

Follow the steps under 'How to Appeal' on p.10 and 'If you don't know what caused your overpayment' on p.14 and send two letters to HMRC. This way you won't miss any deadlines. You can also get help from an adviser. See p.18.

## Were you late telling HMRC about your partner?

**If you have an overpayment because you were late telling HMRC your partner moved in or out (or died),** you may be able to have the overpayment reduced. When you tell HMRC about a change like this, your claim is ended and you have to make a new claim as a single person or as part of a new couple. If you reported the change late, you will usually have 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 3 months. However, on 18th January 2010 the rules were changed and now HMRC will 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 **0845 300 3900** 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 should apply to you, get help from an adviser. See p.18.



## Time limits for appeals

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

If you miss this 30 day time limit, don't panic. If you can show a good reason why you missed the deadline, you can ask for an appeal up to 13 months after the date on the notice or letter. See 'How to find an adviser' on p.18 to get help with your appeal.

There are no time limits for disputes.

# How to appeal

If you have decided to send an appeal to HMRC you can either:

- Write a letter
- Fill in the form on leaflet WTC/AP. See 'Further help' for details of how to find this form.

For both of these, make sure that your appeal 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, 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.

See 'Further help' on p.20 for details of where you should send your appeal to.



## “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 3 months, you should send a complaint. See p.18 for how to do that.

As soon as HMRC receive your form or letter, they should stop asking you for the money back. They should not ask you for the money again until they have written back to you.

## What do I do if HMRC do not agree with my appeal?

You should receive a letter from HMRC. This should tell you if they agree with you.

If they do not agree with you, they should send your appeal to be looked at by three people who do not work for the HMRC. This is a tribunal. It is a good idea to try and find someone to help you as soon as you get a letter back from HMRC. See 'How to get an adviser' on p.18.

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 they do this and you still think they are wrong, you will need to make a new appeal within 30 days. This is because you are appealing the new decision.

# I don't think I should pay the money back. What can I do?

**If you want to ask HMRC not to take the money back from you this is called a 'dispute'. You can do this even if you cannot appeal. You can also do this at the same time as an appeal if you are not sure why you have an overpayment.**

Although there are strict time limits for appeals, there aren't for disputes.

The dispute process is explained in the HMRC leaflet COP 26 (you can download it at [www.hmrc.gov.uk/leaflets/cop26.pdf](http://www.hmrc.gov.uk/leaflets/cop26.pdf) or phone the tax credit helpline on **0845 300 3900** and ask for a copy).

There are two ways to lodge a dispute. You can use a form (called a TC846, see 'Further help' on p.20 for how to get it), or you can write a letter. You can find help on how to write a letter on p.13.

As soon as HMRC receive your form or letter, they should stop asking you to pay the money back until they have made their decision.

If they are taking money from your tax credits, they should stop doing this until they have made their decision.

## 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. HMRC 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 below to see a full list of the things you have to do and the things HMRC has 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. This is called '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.

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 have to tell them within one month. (It is helpful to keep a note of when you tell HMRC of 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.

## 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. 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. The decision was that Martha would not have to pay back any of the money, except for the first 30 days. This is because HMRC have 30 days to make a change that you report.

## 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 telephone calls and their notes about you. You can do this by writing to:

**HM Revenue & Customs**  
**Subject Access Request Team**  
**Floor 1 Area E, St Marks House**  
**Stanley Street**  
**Preston, Lancashire PR1 4AT**

They do not always have copies of everything, but it may help your dispute. For example, HMRC have admitted they did not record all telephone calls from January 2003 to September 2004. If you think you told them about something during this time you should give as much information as you can remember. HMRC should accept what you have said unless they have any proof that you are wrong.

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 if you only ask for your notes.



## Top tip!

### Keep a file

It is 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, send them using registered post so that someone signs for it and put your proof of delivery in the file.

# How to write a dispute letter

**1** Make sure you send it to the right address. →

Dispute Team  
Tax Credit Office  
Preston  
PR1 0SB

**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. →

We would like to dispute our tax credit overpayment for 2008–2009.

If you have an overpayment from more than one year, keep each one separate in your letter and follow the steps for each. →

We would like to dispute our tax credit overpayments for 2006–2007 and 2007–2008.

**2006–2007**  
*Follow steps 4 to 8*

**2007–2008**  
*Follow steps 4 to 8*

**4** You now need to tell HMRC why you think you should not pay back the overpayment. Have a look at the responsibilities on p.11. 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 2007. The lady at the helpline told us she would make this change on our claim.

**5** Then tell HMRC why you think they did not do the right thing. Have a look at their responsibilities on p.11. 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 rang the helpline in January 2008 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.

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

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. →

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

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

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.

I think that the first phone call was made around October 2007 and the second in January 2008.

**7** Tell HMRC about any evidence you are sending. →

I have sent a copy of the award notice that showed my husband's income incorrectly.

**8** Finally, tell HMRC that they should not ask you for any money or reduce your tax credits until they have considered your letter. →

Please stop recovery of my overpayment until you have made a decision.

## If you don't know what caused your overpayment

If you do not 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 8 and send your dispute anyway. Normally, the decision you get back will give you some reasons for your overpayment. You can then send another dispute by following the steps for a second dispute below.

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

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 received 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 have to pay the money back.

Sometimes, letters are missing some of this information. If yours is, you should make a complaint (see p.18) and follow the steps below.

The reasons that HMRC give are often confusing and hard to understand. Sometimes they even turn out to be wrong.

Once you have read the reason:

- 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 on the same claim, they will automatically reduce your payments to pay back the overpayment. If HMRC have asked you for the money directly in the past, you should contact HMRC to arrange how to pay back the money (see p.16). You should not ignore the overpayment as it could end up going to Court.
- 2** If you do not agree with the reason they give, then you should have a look at the information about sending a second dispute. 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.
- 3** If you are unhappy with how HMRC have responded to you, then you can choose to send a complaint (see p.18). You can send a complaint as well as a second dispute if you want to.

## Second disputes

HMRC say that they will only look at second disputes if there is new evidence. If you have no new evidence, you should have a look at the next page to find out what you can do next.

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 still have to pay back your overpayment because you didn't tell them of a change of 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 on p.13 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. 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.

## “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 should write a complaint to HMRC. See ‘How to make a complaint’ on p.18 for how to do this.

You might also want to take your reply letter to an adviser to ask them to check that the explanation is correct and that there are no mistakes. See ‘How to find an adviser’ on p.18.

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 look to see if HMRC have followed their responsibilities and have not acted unreasonably. See ‘Further help’ for contact details of the Adjudicator and Parliamentary Ombudsman.

## Get advice

Tax credits are very complicated, and it is no surprise that most claimants find it difficult to understand overpayments. There are lots of sources of help available. 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 p.18.



## 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 responses from HMRC. See ‘Further help’ on p.20 for how to contact them.



## Be aware! They will keep asking for the money

Normally, HMRC will not stop asking you to pay back your overpayment when you make a complaint. They will only stop when you send in an appeal or dispute. You might need to start making payments while you go through the complaints system. The next page explains how to do this.

# Paying the overpayment

## Do I have to pay the overpayment all at once?

No. The first letter that you receive might ask for all of the money back at once, but you do not have to pay it back at once. Have a look at the blue box to find out the different ways you can pay the money back.

Remember, if you have sent in a dispute or an appeal (or both) they should not ask you for the money back until they have sent you a reply. This is also true if you have sent in a dispute before.

### If HMRC are asking you to pay it back straight away

The letter that told you about the overpayment normally asks for the money to be paid back in 30 days even though it is possible to repay it over a longer time. 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. To repay it over a longer time, you must ring the number on the letter.

The options you have to repay are:

- The full amount in 30 days – most people can't afford this.
- The full amount, spread out in monthly payments over 12 months – depending on your situation, and the amount of the overpayment you might want to do this.
- Over a longer period which you can afford.

If you want to pay over more than 12 months, 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. If it will take you less than ten years to pay it back, and the amount seems reasonable, they will usually just accept it without asking for full details about your income and outgoings.

If you want to make payments that will take longer than ten years, HMRC will ask you for details of all money you have coming in and what you need to spend it on. They will then work out how much they will accept.

If you are already paying back an overpayment from your tax credits, they should not write to you asking you to pay another overpayment back directly until you have finished paying back the first.

Remember, you should not feel like you have to pay back more than you can afford. You can get help from an adviser (See 'Where can I get an adviser' p.18). They could speak to HMRC for you about how much you can afford to repay each month.

### If HMRC are taking the money back from your tax credits

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, or £1090 if you have a baby under one) then the most they can reduce your payments by is 25%.

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

If you also get housing or council tax benefit you should tell your council that your income has gone down. You may be entitled to more help with your rent or council tax.

## “I can’t afford it!”

**If you have been asked to pay the money back straight a way or if you have made a repayment plan that you can no longer afford ...**

Contact HMRC immediately. If you cannot meet your essential living expenses like food, gas, electricity, water, and rent, 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 expenditure. If you think they are asking you to pay too much, get help from an adviser (see p.18). They can speak to HMRC for you.
- Write off the overpayment. This means that HMRC will decide that you never have to pay the money back. They will only consider this if you are getting certain state benefits and there is no chance that your income will improve in the future. In some cases they will stop asking you for the money for 12 months and then look again at your case at the end of 12 months. If your circumstances still haven’t improved they may write it off. This does not happen in many cases. You may want to get help from an adviser (see p.18).



## If you have 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 they 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 now say that as long as you pay your part of the overpayment as agreed (normally 50%), they won’t ask you for any more even if your ex partner cannot be found or is unable to pay.

# How to make a complaint

**Sometimes things go wrong with your tax credits or how they are dealing with your overpayment and you will need to make a complaint. You might want to complain if:**

- HMRC have not dealt with your tax credits properly.
- You have not received good treatment from HMRC staff.
- You have been given wrong advice.
- 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.
- You have not been given a proper explanation of your overpayment.

HMRC can accept complaints over the telephone by ringing 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.

See p.20 for where to send your complaint letter.

## 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 them why you are not happy with the first response.

See p.20 for where to send your second complaint letter.

If you are still not happy with the response you receive to your 2nd

complaint letter then you can ask the Adjudicator to look at your case. See 'Further help' 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, the HMRC will keep asking you for the money during the complaints process.

You should make sure you speak to the Debt Management part of HMRC so that they do not take the debt any further.



## How to find an adviser

Most people will be able to get help from a local independent advice centre or CAB that helps with benefits problems. Look in your Yellow Pages, search for your local CAB at [www.adviceguide.org.uk](http://www.adviceguide.org.uk), or phone Community Legal Advice to ask if there is one near you: **0845 345 4 345** (Minicom: **0845 609 6677**). They are open 9am to 6:30pm Mondays to Fridays, and 9am to 12.30pm on Saturdays. [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk)

Your local council will also be able to tell you about local advice services, and some local authorities run their own welfare rights services who may be able to advise you. To find details of your local council go to: [www.direct.gov.uk/en/DI1/Directories/LocalCouncils](http://www.direct.gov.uk/en/DI1/Directories/LocalCouncils)

Local council offices, community centres, or libraries should also be able to help you to find out about advice services in your area.

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

If you have no luck, you may be able to get help from an adviser over the phone. Community Legal Advice (see details above) can give you free advice over the telephone if you live on a low income or benefits.

TaxAid have a helpline for people that cannot afford to pay for advice: **0845 120 3779**. They are open 10am – 12 midday, Mondays to Thursdays. They can also offer face to face appointments in London, Birmingham and Manchester. [www.taxaid.org.uk](http://www.taxaid.org.uk)

Working families run a helpline for parents who work: **0800 013 0313** You can also e-mail for advice: [advice@workingfamilies.org.uk](mailto:advice@workingfamilies.org.uk) [www.workingfamilies.org.uk](http://www.workingfamilies.org.uk)

Gingerbread has a helpline for single parents: **0800 018 5026** They are open every day 9am–5pm, but for detailed enquiries on money issues like this, phone on Monday 10–12 and 2–4pm, Tuesday 10–12 and 2–4pm, Wednesday 5–8pm, Thursday 2–4pm, Friday 10–1pm [www.gingerbread.org.uk](http://www.gingerbread.org.uk)

# Jargon buster

The jargon	What it means
<b>Adviser</b>	This is a benefit or tax expert who can give you help and advice about your overpayment.
<b>Appeal</b>	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.
<b>Award notices</b>	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.
<b>Complaint</b>	This is when you complain to HMRC if you are not happy with any part of their service. For example, if they have not replied to a letter you have sent.
<b>COP 26</b>	This is a leaflet from HMRC that tells you about overpayments. See 'Further help'.
<b>Debt management and banking</b>	This is a part of HMRC. Their job is to collect money that is owed to HMRC.
<b>Direct recovery</b>	This is when HMRC ask you to pay back an overpayment straight away.
<b>Dispute</b>	This is 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 (perhaps because the overpayment was HMRC's fault). If your first dispute is unsuccessful, you can dispute your overpayment again: see 'Second dispute'. There is no limit to the number of times you can send a dispute, but normally HMRC will not change their decision or stop asking you for money unless there is new evidence or you can show that they have ignored evidence you sent before.
<b>Dispute decision</b>	This is the letter that HMRC send you if you have asked them not to take back an overpayment from you. It will tell you whether you have to pay back the money. If you do have to pay it back, it should tell you the reason why.
<b>Hardship</b>	This means that you cannot meet your basic living costs such as food, gas, electricity, water, council tax, and rent.
<b>Ongoing recovery</b>	This is when HMRC make you pay back your overpayment by taking an amount off your current tax credits.
<b>Overpayment</b>	This means that you have received more money from tax credits than you should have.
<b>Recovery</b>	This is when HMRC take money from you because they say they paid you too much. Sometimes they write to you and ask for the money back, sometimes they take money from your tax credits.
<b>Responsibilities</b>	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.
<b>Second dispute</b>	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 think you should not pay back the money. This is a 'second dispute'.

(continued)

The jargon	What it means
<b>Tax Credit Helpline</b>	The helpline is part of HMRC. You ring them to report changes in your circumstances. You can also ask them questions about your tax credits and get forms from them. The number is <b>0845 300 3900</b>
<b>Tax Credit Office</b>	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.
<b>Tax year</b>	A tax year runs from 6th April to 5th April of the next year.
<b>TC846</b>	This is the form you use to send a dispute to HMRC.
<b>Tribunal</b>	If you have appealed and are not happy with the response you got from HMRC, you can ask a tribunal to look at your claim. This is a panel of experts who don't work for HMRC. They can change HMRC's decision if they think it is wrong.

## Further help

### For general information about tax credits

[www.hmrc.gov.uk/taxcredits/index.htm](http://www.hmrc.gov.uk/taxcredits/index.htm)

[www.litrg.org.uk/help/lowincome/taxcredits.cfm](http://www.litrg.org.uk/help/lowincome/taxcredits.cfm)

### Contacting HMRC about your tax credits

Phone the Tax Credit Helpline on **0845 300 3900**.

The helpline is open every day (except Christmas Day, Boxing Day and New Years Day) from 8am to 8pm.

If you are deaf or have a hearing or speech impairment, the textphone number is **0845 300 3909**.

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

### Find the appeal form

[www.hmrc.gov.uk/leaflets/wtc\\_ap.pdf](http://www.hmrc.gov.uk/leaflets/wtc_ap.pdf)

Or you can phone the Tax Credit Helpline.

### Find the dispute form

[www.hmrc.gov.uk/forms/tc846.pdf](http://www.hmrc.gov.uk/forms/tc846.pdf)

Or you can phone the Tax Credit Helpline.

### Writing to HMRC about your tax credits

**For explanations**  
 Explanations Team  
 Tax Credit Office  
 Preston  
 PR1 0SB

**For disputes**  
 Dispute Team  
 Tax Credit Office  
 Preston  
 PR1 0SB

**For appeals**  
 Appeals Team  
 Tax Credit Office  
 Preston  
 PR1 0SB

**For complaints**  
 Complaints Team  
 Tax Credit Office  
 Preston  
 PR1 0SB

### For further information about your appeal

**The Tribunals Service**  
 The Tribunals Service is the government agency responsible for the administration of appeals. You can find details about venues and how to get to them, as well as useful information about the appeal process.  
[www.appeals-service.gov.uk](http://www.appeals-service.gov.uk)

### For complaints

**The Adjudicator**  
 The Adjudicator's Office  
 8th Floor  
 Euston Tower 286 Euston Road  
 London NW1 3US  
 Tel: **0300 057 1111**  
 E-mail: [adjudicators@gtnet.gov.uk](mailto:adjudicators@gtnet.gov.uk)  
[www.adjudicatorsoffice.gov.uk](http://www.adjudicatorsoffice.gov.uk)

**The Ombudsman**  
 The Parliamentary and Health Service Ombudsman  
 Millbank Tower  
 Millbank  
 London  
 SW1P 4QP  
 Tel: **0345 015 4033**  
 E-Mail:  
[phso.enquiries@ombudsman.org.uk](mailto:phso.enquiries@ombudsman.org.uk)  
[www.ombudsman.org.uk](http://www.ombudsman.org.uk)

**Contact your MP**  
 Find details of your MP and write to them using  
[www.writetothem.com](http://www.writetothem.com)

### For details of how to find an adviser

See p.18.

This information is produced by Advicenow. Other guides include:

- Divorce – a survival toolkit
- Dealing with discrimination at work
- Parents apart
- Seven steps to solving a problem
- LivingTogether
- How to get good asylum advice
- Is that discrimination?
- How to handle an interview under caution
- Expecting your rights: A guide to maternity, paternity and adoption leave and your rights when you go back to work
- Turned down for DLA/AA? Think you're not getting enough?
- Dealing with bailiffs

You can read or download all these guides and more at [www.advicenow.org.uk](http://www.advicenow.org.uk)

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Marcel Berlins, *The Guardian*

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Campaign

Plain English Web Award 2004

**The information in this guide applies to England and Wales only.**

**The law is complicated and every case is different. Get advice.**

This guide was written by Victoria Todd of the Low Incomes Tax Reform Group ([www.litr.org.uk](http://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.

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If you have any comments on this guide, please email us at [feedback@advicenow.org.uk](mailto:feedback@advicenow.org.uk)



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