

About these notes

These notes tell you what happens when you make an appeal, what happens when the tribunal hears your case and what steps you can take if you have any problems about your appeal.

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These notes have been published by the presidents of the tribunals of England and Wales, Scotland and Northern Ireland. They are only a guide and are not a full statement of the law. They do not take the place of the law, which is set out in the Pensions Appeal Tribunals Acts, the War Pension Schemes, the Service Pensions Orders, the Pensions Appeal Tribunals Rules and other legislation.

Pensions appeal tribunals

Pensions appeal tribunals are completely independent from the Veterans Agency. They can deal with appeals against initial decisions and decisions on reviews. The letter that the Veterans Agency sent to you with their decision sets out your rights of appeal. Generally, you may appeal against decisions relating to War Disablement Pension, War Widows/Widowers Pension, Supplementary Allowances and Treatment Allowances where:

- entitlement is refused;
- an award is refused or stopped;
- the amount of the award is set or changed; or
- the date from which an award runs is set or changed.

Examples of appeals

Entitlement

In an entitlement appeal, the main question is whether the disablement or death is a result of service in the armed forces. (War pensions also apply to the Mercantile Marine and civilians in some circumstances.)

Example - Mr X claims that he is disabled as a result of an injury to his left leg during army service in 1962. However, the Veterans Agency has rejected his claim because it has not been shown that Mr X's left leg was injured during service. The main question for the tribunal would then be: Was Mr X's left leg injured during service?

Assessment

In an assessment appeal, the question for the tribunal is the percentage at which the Veterans Agency has assessed a disablement - please see WPA-Leaflet-1 Notes about the War Disablement and War Widows/Widowers Pension.

Supplementary Allowance

In a supplementary allowance appeal, the main question is whether the conditions needed for a supplementary allowance have been met - please see WPA-Leaflet-2 for more details.

All about appeals

To make an appeal, you need to fill in the **appeal form** sent by the Veterans Agency. You must use this form because it explains the information you need to provide to make an appeal. Return the form to the Veterans Agency, who will tell the Pensions Appeal Office that you have made an appeal.

Remember, there are time limits for appealing (see WPA-Leaflet-2 for more information).

Presenting written evidence for your appeal

If you have written evidence to support your appeal, you should present it as soon as possible. It is best if you send it to the Veterans Agency as soon as you can. This gives the Veterans Agency the opportunity to look at their decision again. As a result, they may change the decision and so avoid the need for an appeal hearing.

If you delay presenting your evidence, this may mean that the hearing has to be delayed.

What happens next

After you have made your appeal, the Veterans Agency will prepare a collection of papers known as the 'statement of case'.

The papers may include:

- your claim form;

All about appeals

- your appeal form;
- a record of the reasons for the decision on your claim;
- copies of relevant medical records from your service;
- copies of relevant medical records after your service;
- copies of any relevant documents which you sent to the Veterans Agency to support your claim or your appeal; and
- a medical opinion about the disablement which you have claimed for, written by the Veterans Agency Medical Adviser, with supporting medical details.

The Agency will send a copy of these papers to you and to your representative if you have named one. They also send copies to the Pensions Appeal Office.

Replying to the 'statement of case'

You can reply to the statement of case by sending a written 'answer'. In the 'answer', you can explain why you disagree with the facts used to refuse your claim. You will receive details about how to send an 'answer' with the statement of case.

You may cause difficulties if you wait to present new evidence **at the tribunal hearing**, particularly if the evidence is complicated or long. If you do this, the hearing may be adjourned because:

- there will not be enough time for the tribunal to study the documents; and
- the Veterans Agency may need to give an opinion on the documents.

The tribunal can only look at the circumstances at the time of the decision. They cannot look at changes of circumstances that happened after the decision was made (see WPA-Leaflet-2 for more information).

Arranging for a tribunal to hear your appeal

The main aim of the Pensions Appeal Office will always be to get a tribunal to hear your appeal as soon as possible.

Once it has received the statement of case, the Pensions Appeal Office can begin to arrange a hearing.

The tribunal that will hear your appeal will have a legally-qualified chairman. Other members may be chosen according to the type of appeal.

If you have any problems with the way your appeal is being handled, you can write to the Pensions Appeal Office. You should explain your difficulty and ask for advice. Please remember that they cannot give advice on any legal or medical question that the tribunal itself has to decide.

Bringing someone to help you at the tribunal

You can come to your appeal by yourself. Or you may prefer to ask someone to help you or to represent you. If you appoint someone as your representative, they will have all the rights and powers which you are entitled to. For example, they can call witnesses or question witnesses.

The Royal British Legion and The Royal British Legion Scotland will act for officers, other ranks and their widows/widowers for all branches of the armed forces **free of charge**. You do not need to be a member.

And the Royal Air Force's Association will act for officers and other ranks of the RAF and their widows/widowers **free of charge**. Again, you do not need to be a member.

If you need someone to represent you, get in touch as soon as possible with the organisation or person you want to help you. They can then prepare your case in good time for the hearing. You should also tell the Veterans Agency that you have a representative. The Agency will send a copy of the statement of case to your representative.

Please remember that you will have to pay any fees or expenses for your representative yourself.

Witnesses

You can call a witness to support your case at the tribunal. If you want to do this, please read the following notes.

- **Medical witnesses** - You should give the Pensions Appeal Office notice, at least seven days before the hearing, that a witness will be coming. (See pages 18 to 20 for more details about expenses.) If the President or the tribunal chairman decides that a witness is needed, they may agree to pay their expenses.
- **Other witnesses** - If the President or the tribunal chairman decides that a witness is needed, they may agree to pay their expenses. (See page 21.)

If you need a travelling companion to get to the hearing

If you are not well enough to travel alone, contact the Pensions Appeal Office as soon as you receive notice of the hearing. You will need to send a note from your doctor which supports what you say.

The Pensions Appeal Office will then send a railway warrant for you and your travelling companion. (In Northern Ireland you will need to claim a refund of your expenses.)

Where appeals are heard

The tribunals for **England and Wales** hear appeals for:

- people living in England or Wales at the time the appeal was made; and
- people living outside the United Kingdom.

These tribunals are in London, Cardiff and other big cities.

The tribunals for **Scotland** hear appeals for people living in Scotland at the time the appeal was made. These tribunals are in Edinburgh.

The tribunals for **Northern Ireland** hear appeals for people living in Northern Ireland at the time the appeal was made. These tribunals are in Belfast, Londonderry and Magherafelt.

Coming to the hearing

You will receive a **notice of hearing** from the Pensions Appeal Office at least 10 days before the date fixed for your hearing.

The tribunal is informal and will give you an opportunity to present your case. The tribunal is there for your benefit. You should do your best to come.

You may find it helpful to make notes about the main points you want to tell the tribunal. These notes will also help your representative, if you have one.

If you know that you will not be at the tribunal, you should tell the Pensions Appeal Office as soon as possible.

If you live abroad, the tribunal will normally take place without you. If you want to be there, write to the Pensions Appeal Office in London (see page 22 for the address). In some circumstances, they may postpone the hearing until you visit the United Kingdom. You are not entitled to travelling expenses for travel outside the United Kingdom.

Arriving at the tribunal

When you arrive at the tribunal, the clerk to the tribunal will meet you. The clerk is there to help the tribunal run smoothly and answer any questions you may have.

The clerk will deal with your claim for expenses. They will also explain how the tribunal hearing room is set out and what happens when your hearing begins and ends.

If you have a representative, there will be a separate room where you can speak to them privately.

You will be asked to go into the room where the tribunal is meeting. Your representative will go with you. The clerk will probably also be in the room but will not take part in your appeal. Someone representing the Veterans Agency will also be there.

The tribunal tries to be informal. You will be sitting next to your representative at an ordinary table.

If you cannot come to the hearing

If you find out that you will not be able to come to the hearing, write to the Pensions Appeal Office immediately. You will need to return any railway warrants which have been sent to you.

If you do not go to the hearing, the tribunal may decide the appeal without you. That is why it is important to tell the Pensions Appeal Office if you cannot go and to explain why.

If you give a good reason for not going, the tribunal may decide to put off the hearing until you can go.

If you move house

If you move house after you have made your appeal, send your new address to the Pensions Appeal Office as soon as possible.

The hearing

The hearing is your opportunity to explain your case to the tribunal. The tribunal chairman will introduce the members of the tribunal and the person representing the Veterans Agency. They will then explain that:

- the tribunal is an independent judicial organisation that is separate to the Veterans Agency;
- the members of the tribunal have copies of the same papers that the Veterans Agency sent to you; and
- that is all the tribunal knows about your appeal until you tell them your case.

The tribunal has a duty to make sure the hearing is fair. This means you will have a proper opportunity to explain your case. It is important that you feel that the atmosphere at the hearing allows you to relax and do justice to your case.

The tribunal's job is to discover the true facts. This means that the tribunal members will help and encourage you if you do not have a representative. It also means that the members of the tribunal may ask questions about any parts of your appeal. The tribunal may also want to discuss facts or points of law that affect the appeal, even if those points have not been raised during the hearing.

The chairman will usually ask the representative of the Veterans Agency to confirm that originals of copied documents are available for inspection. You or your representative will be asked to present your case.

After that, the members of the tribunal and the representative of the Veterans Agency may want to ask you some questions about your appeal. The tribunal may want to medically examine you. There are facilities available for them to do this in private.

The Veterans Agency's representative and you or your representative will then be asked if they or you have any closing comments to make. When everything has been said, the tribunal will want to discuss the case in private.

Once it has discussed the evidence, the tribunal will come to a decision. This will normally happen on the same day, but it may take longer if, for example, there is not enough time or your case is complicated. You will receive the tribunal's decision in writing.

Withdrawing your appeal

If you decide that you do not want to go on with your appeal, write to the Pensions Appeal Office. Tell them that you want to **withdraw** your appeal.

Appeals left inactive

If you do not take any steps about your appeal (for example, by not answering letters sent to you), and there is no good reason for this, your appeal may go on the 'deferred list'. This means that after 12 months, the tribunal may end the appeal (strike it out).

Help with your appeal

Many ex-service personnel find the process of an appeal quite frightening. While this leaflet gives you a general explanation, you should understand the legal and medical issues that will be considered at your appeal so that your case can be dealt with properly.

You can get help with your appeal, free of charge, from a number of ex-service organisations but particularly The Royal British Legion (TRBL), The Royal British Legion Scotland (TRBLS) and The Royal Air Forces Association (RAFA). TRBL and TRBLS offer help to any member of the Armed Forces. You would need to have served in the Royal Airforce or Royal Air Forces Volunteer Reserve to get help from RAFA. **You do not have to be a member of either organisation to get their support.**

If you feel that you need help with your appeal, fill in the "Nomination of a Representative" section on the appeal form. The Veterans Agency will tell either TRBL, TRBLS or RAFA that you have nominated them as your representative. However, if you would like to discuss any part of your appeal, you can contact them at the addresses on the next page.

Addresses

The Royal British Legion
48 Pall Mall
London
SW1Y 5JY
Tel: 0845 772 5725

The Royal British Legion Scotland
The Earl Haig Fund Scotland and
The Officer's Association Scotland
New Haig House
Logie Green Road
Edinburgh
EH7 4HR
Tel: 0131 557 2782

The Royal Air Forces Association
43 Grove Park Road
London
W4 3RX
Tel: 0208 994 8504

If you disagree with the tribunal's decision

If you think that the tribunal's decision is wrong in law, you can ask for permission to appeal to the High Court in England and Wales, the Court of Session in Scotland or the Court of Appeal in Northern Ireland.

You can ask for permission either at the hearing, or by writing to the Pensions Appeal Office within six weeks of the decision. When you ask for permission, you must explain the point of law on which you are appealing. (The tribunal or President of the Pensions Appeal Office may agree to extend the deadline for an appeal.)

If the tribunal refuses you permission to appeal, you can apply direct to the court.

If your application to appeal is successful, you will be able to claim back the costs of making the application as well as the costs of the appeal in the court.

If new evidence becomes available or the tribunal decision was wrong in law, you and the Veterans Agency can make a joint application to the President of the Pensions Appeal Office for the decision to be set aside and the appeal heard again.

Expenses

The Pensions Appeal Office considers claims for expenses in connection with the tribunal hearing. If you want to claim expenses, you will need to provide receipts with your claim. When you go to the hearing, speak to the clerk about your travelling expenses. The clerk should be able to give you up to £10 on the day of the hearing (not in Northern Ireland). If you have paid more than that, or if you go to a hearing in Northern Ireland, the clerk will send you the money.

Travelling to the hearing

The Pensions Appeal Office will send you a railway warrant if you need one. You are also entitled to any other travelling expenses which you reasonably need to pay to get to the hearing.

However, if you need to use a taxi or hire car, the Pensions Appeal Office must agree to this in advance. You may need a certificate from your doctor to say that you could not use public transport. And, you will need to provide at least two quotes of how much it will cost. If you do not do this, you may not get these costs back.

Living expenses

You will be entitled to an allowance for living expenses based on the time you spend away from home.

The Pensions Appeal Office will not agree to pay for an overnight stay unless it is absolutely necessary. If you need an overnight stay, you should apply to the Pensions Appeal Office for approval, otherwise you may have to pay the cost yourself.

Loss of earnings

If your appeal is successful (and in some other cases), you may be entitled to compensation for loss of your earnings while you were at the hearing. To apply for loss of earnings, you should contact the clerk to the Pensions Appeal Office. You must provide details of your employment with your application.

Travelling companion

If you need someone with you on your journey because you are ill, that person may be entitled to expenses in the same way as you. You will need a medical certificate from your doctor showing that you need a travelling companion because of your state of health.

Travelling from outside the United Kingdom

If you are travelling to a hearing from outside the United Kingdom, you are only entitled to travelling expenses within the United Kingdom. You will need to provide receipts with your claim. Please remember that the United Kingdom does not include the Isle of Man or the Channel Islands.

Medical witnesses

If you want to call a medical witness to give evidence at the hearing, the following rules apply to their expenses.

- You must make the claim for their expenses.
- The tribunal must have provided a certificate to say that a witness was needed at your appeal. Without this, the tribunal will not pay the expenses. You will not always get a certificate just because a medical witness attends. You should apply for a certificate before the hearing.
- The expenses must only relate to your case. This means that the witness will need to provide a detailed statement showing their fees and other expenses for acting as your witness.
- There is a limit to the amount a medical witness can claim for expenses. You can get more information from the Pensions Appeal Office.

Other witnesses

You may decide to call other witnesses to give evidence at your hearing. If so, those witnesses will be entitled to claim travelling expenses, a living allowance and loss of earnings in the same way as you.

However, they can only claim expenses if the tribunal provides a certificate to show that they need to be at the hearing. You should apply for this certificate as soon as you have a date for the hearing. You will need to explain why you want each witness to give evidence.

Useful addresses

You can contact the Pensions Appeal Offices at the following addresses.

- **England and Wales** Pensions Appeal Office
48/49 Chancery Lane
London
WC2A 1JF
Phone: 020 7947 7032
or 020 7947 7033
or 020 7947 7034
- **Scotland** The Secretary
Pensions Appeal Office
20 Walker Street
Edinburgh
EH3 7HS
Phone: 0131 220 1404
- **Northern Ireland** The Secretary
Pensions Appeal Office
Headline Building
10/14 Victoria Street
Belfast
BT1 3GG.
Phone: (028) 9033 2344

You can contact the Veterans Agency at:

Veterans Agency

Norcross
Blackpool
FY5 3WP

Phone: Freephone (UK only) 0800 169 22 77
or Overseas + 44 1 253 866043