

# Benefit self-help rights sheet

*what you can do to defend your entitlements*

Council Tax \* Bedroom tax \* People in private rented accommodation  
Universal Credit -- is it coming in? \* Challenging benefit sanctions  
Sickness and disability benefits \* Debt advice



*The best-known advice agencies mainly tell people how to comply with the new rules. Most don't give us the information we need to fight our cases. The information here comes from sharing our practical experience with other grassroots groups, claimants, anti-poverty, single mums, tenants' rights and disability campaigners, and a few lawyers bringing legal challenges. It was updated in 2014.*

## COUNCIL TAX (CT)

### Can I be excused from paying or pay less?

National exemptions and discounts for CT are set by government and *all Councils must apply them*. Lots of situations are covered.

- **Living alone** – 25% discount.
- **If you or anyone living with you is “severely mentally impaired” (SMI)** – you are exempt. Councils have an SMI form to apply for this.
- **Wheelchair users living in adapted accommodation** – discount of one band lower as your home needs to be larger. You need to show that you use your chair indoors; the hallway or other room is adapted, not just the toilet or bathroom; this adapted room or the wheelchair must be essential or of major importance to your well-being due to the nature and extent of your disability. See disability-related help: [www.disabilityrightsuk.org/help-council-tax](http://www.disabilityrightsuk.org/help-council-tax)

See **full list of exemptions** here:

[www.gov.uk/council-tax/council-tax-exemptions](http://www.gov.uk/council-tax/council-tax-exemptions).

**Councils also set their own local concessions** – these vary. Many councils exempt people on disability and carer benefits, but some don't publicise it. Check with your council's benefits section if you should be **completely exempt**. Pensioners previously on Council Tax Benefit are exempted by the government.

### I'm not exempt from CT, can I get help with paying?

Yes, people on low income can claim Council Tax Support or Reduction which replaced Council Tax Benefit. See:

[www.gov.uk/council-tax-reduction](http://www.gov.uk/council-tax-reduction)

**Council Tax Support (CTS)** does not cover CT totally, like Council Tax Benefit used to. Your CT bill shows how much CTS you get. **You can apply in writing for a 100% reduction** so you don't pay anything. You need to show you are caused hardship. The council's benefits section handles this, not the tax section, but you need to notify both. Copy your letter to your ward councillors and Member of Parliament (MP) – they can support you by writing to the council.

**Staff may be unhelpful** or say they have made the maximum possible discount already, so **be persistent and get back-up**. In Camden, people previously on Council Tax Benefit are charged 8.5% of CT – CTS covers the 91.5%. They call this 'maximum discount', which may be unlawful as councils can always consider a 100% reduction. **They can change earlier decisions and cancel your debt** if they made a mistake or didn't have all your information (were 'ignorant of a material fact'):

[www.legislation.gov.uk/ukxi/2001/1002/regulation/4/made](http://www.legislation.gov.uk/ukxi/2001/1002/regulation/4/made)

Ask the council for a form called **Council Tax Discretionary Reduction Application** (also called **Exceptional Hardship Relief Scheme**), or Google the form with your council's name. If they won't send it or you can't find it online, write saying why you should not have to pay (example letter below). Send a cover letter with the form summarising your case and any issues not covered by the form.

## Example letter to ask for 100% help with Council Tax

To [Your Council, Council Tax Section]

[Your Council Tax Account Number]

Dear Sir/Madam,

I am replying to your letter of ... [put date] that you require me to pay £... in Council Tax. In April 2013, Council Tax Benefit was abolished and replaced by local Council Tax Support Schemes. I was previously getting Council Tax Benefit but under the new scheme I am expected to pay a contribution which I cannot afford.

This letter is a request for the council to exercise its discretion under Section 13A(1)(C) of the Local Government Finance Act 1992 to reduce my Council Tax liability to nil as I currently have no disposable income (as you can see below). [*‘Disposable income’ means the spare money left after you have paid for your living costs and disability expenses. See: [www.legislation.gov.uk/ukpga/2012/17/enacted#p00055](http://www.legislation.gov.uk/ukpga/2012/17/enacted#p00055)*]

[Add your details below...]

- **Income** [include any benefits you receive]
- **Savings** [if any – don’t count money put aside for things you need]
- **Living expenses** [such as food, health costs, carers, heating and electricity, fares, clothes...]
- **Additional expenses or debts** [for example: I am also expected to pay £... bedroom tax from the above benefits.]
- **Hardship / distress** [for example: I can’t afford food/heating; impact on my physical and mental health; impact on welfare of my children, family or household members.]

**I have NO disposable income.**

[Or, if you do have some disposable income, **detail your expenses** and explain you need to put money aside for these.

If you get sickness or disability benefits, your **disability-related expenses** may include: heating, wear and tear on clothing, special diet and vitamins, equipment or non-NHS health treatment, transport costs not covered by mobility benefit, running a car...

If you receive Disability Living Allowance or Personal Independence Payment (PIP), these benefits are not means-tested and should NOT be counted as disposable income. It is important to remind the Council of this.]

I would like you to reconsider my case. I know you have the discretion to waive charges in my case and/or write off debts.

Yours sincerely,

[Your name, address]

**Cc** [put names of your MP and ward councillors, send copy to them]

**Enclosed** [include copies of any relevant evidence that supports your application]

.....  
**Keep a copy** of the letter and enclosures for yourself. Send by signed for delivery OR, if you deliver it by hand, make sure you get a receipt for your letter.

## What if I get a court summons for non-payment of Council Tax?

**To stop the summons and challenge the debt, contact your council immediately.**

And ask your MP, local councillors, local advice centre or local campaigning group to contact the council on your behalf.

MPs and ward councillors have a responsibility to take up problems of people in their constituency. If you do this before the court date, usually court costs won't be added to your bill.

Tell the council in writing about your financial hardship and the worry the summons is causing you (see example letter above).

If the court has already ordered you to pay, refer the council to [Rev Paul Nicolson's Council Tax legal challenge about court costs](#) – as court costs will have been added to your bill. See the [Taxpayers Against Poverty](#) website.

And check you are getting the CT exemptions and discounts you are entitled to (see above).

### Council Tax debt payments

If the court has ordered you to pay, councils usually set up automatic **weekly deductions** from your benefits (taken off by the DWP) or your wages ("attachment of earnings order"). The DWP will deduct CT and other debts all at once, whether this leaves you with enough money to live on or not! Write to the council, not the DWP, as it is the council's demand. Say that you can't afford to pay and describe the hardship and stress you face. Send a copy to your MP and press them to write to the council.

To challenge deductions from your wages, appeal to the court, see [CAB AdviceGuide – Creditor takes money from your wages](#).

Make sure that you (or someone on your behalf) writes to the council as soon as possible explaining why you are vulnerable – mental health or physical disability, sickness, communication or language difficulties, a recent marital or partner break-up, young children, bereavement, unemployment, or similar reason.

If the Council knows you are vulnerable, national guidelines say they should not proceed with trying to recover any debts using either the bailiffs or the court or charge you any extra costs. Get help from a debt advice service (see [Debt](#) section below).

If the Council sends **bailiffs** to seize some of your belongings, **you do not have to let them in, sign anything or answer their letters.**

New regulations on debt recovery give more protection for vulnerable people and to stop bailiffs taking your essential household items, such as cooker or microwave. See [CAB Advice Guide – Vulnerable people – treatment by bailiffs](#).

**Check you are getting all your benefit entitlements and transport concessions:**

[www.gov.uk/benefits-calculators](http://www.gov.uk/benefits-calculators)

[www.turn2us.org.uk/benefits\\_search.aspx](http://www.turn2us.org.uk/benefits_search.aspx)

[www.entitledto.co.uk/benefits-calculator/Transport for All \(London\)](http://www.entitledto.co.uk/benefits-calculator/Transport%20for%20All%20(London))

### BEDROOM TAX (BT)

Since 2013, the government reduced Housing Benefit (HB) to people in social housing who have one or more "spare" rooms. (Social housing is council, housing association or similar. Councils administering HB make the cut.)

The government gives councils extra funds called **Discretionary Housing Payments (DHPs)** to help tenants in

hardship due to the bedroom tax. It's important to claim this money. Many people in need are not getting DHPs. Instead of making these funds available to tenants as they should, councils say they don't have the money, and refuse or ration help to people. They are handing back millions of pounds to central government in unspent DHPs: [www.insidehousing.co.uk/the-dhp-divide/7003758](http://www.insidehousing.co.uk/the-dhp-divide/7003758). Many people are protesting against this.

### **You can challenge bedroom tax.**

**The council will not write to you separately** to tell you that your HB is being reduced because of the bedroom tax – it will only show up on your usual HB statement, so read it carefully. **The deadline to challenge it is one month** after the council write to you about how much HB they are paying you – so write immediately to the benefits section of your council asking them to review their decision. **You can still challenge it late if you have 'good reason'**, e.g. illness, bereavement, family crisis or similar. If you have been paying the difference but want to challenge it, you still can. Explain why you didn't before, for example, **if you have only just received advice.**

Start your letter with: **'I think the decision is wrong because...'** Fill in your reasons after checking the guidance and rules below to see what applies to you. Put your council reference number on any letters, sign and date them, and keep a copy. Always post by 'signed for' delivery, or hand deliver it and get a receipt, and send a copy to your MP and ward councillors.

#### **1. Check if your council has taken account of how many bedrooms you are officially allowed:**

- One bedroom for a couple.

- One bedroom for a person aged 16 or over.
- One bedroom for two children aged under 16 of the same sex.
- One bedroom for two children aged under 10 (boys and girls are expected to share).
- One bedroom for any other child.
- One bedroom for a severely disabled child. Severely disabled children do not have to share a room with anyone else. The council will decide if that applies to your child. They should take into account the severity of a child's disability (including getting DLA and medical evidence); other children's sleep being disturbed if they shared a room with your disabled child, etc.
- One bedroom for a foster child (if you are an approved foster carer or have fostered a child in the last 12 months). *The same should apply to kinship carers (grandmothers, other relatives) if they are known to Social Services.*
- One extra bedroom if you or your partner needs an overnight carer to stay. *This is usually based on the disabled person getting Attendance Allowance or Disability Living Allowance/PIP care component, and the carer staying at least half the week. If the carer stays less, and/or if you don't get AA, DLA or PIP, you can still make a case that you need a room for a carer to stay – back it with medical evidence from your GP, hospital consultant or similar professional.*
- One bedroom for a son, daughter, lodger, etc., serving in the armed forces who are away if they intend to return to your home.
- One bedroom for students away from home if they are only away temporarily

(less than 52 weeks) and intend to return home. *Students who come home for holidays can keep their room.*

- If you share the care of a child, the child is counted as living in the home of the person who gets Child Benefit for them. If that is not you, your child will not be allowed a bedroom in your home. *This is being challenged by grandmothers and separated families with shared care of children.*

**2. Many different situations are not officially recognised, but you can successfully argue for them to be recognised** to be exempted from the BT and get full HB.

Govanhill Law Centre, Scotland has compiled a **list of possible reasons** (below) people can use in different situations. They refer to human rights law, but you can describe your situation in your own way, such as, you are about to take in a grandchild, or moving would be too stressful.

It is always helpful to have support statements from teachers, health visitors, social workers or other professionals. Detailed evidence improves your chances of success.

**List of possible reasons.**

- ***If you have a disabled person living in the household you may be able to say:***

*'A disabled adult lives in my house and requires their own bedroom because of the needs of their disability. To ignore the needs of a disabled member of my household and treating them as not being entitled to their own room to sleep in is discriminatory and unlawful in relation to the Human Rights Act 1998.'* AND

*'The disabled member of my household requires a bedroom for therapeutic/care purposes/to store medical equipment in relation to their disability.'* AND *'My home has been specially adapted to meet the needs of a disabled person.'*

- ***If someone in your household has mental or physical health problems you may be able to say:***

*'A member of my household has mental or physical health problems which would make moving from their home harmful, and requiring such a move is discriminatory and unlawful in relation to the Human Rights Act 1998.'*

- ***If you and your children have previously experienced domestic violence, you may be able to say:***

*'My children need a safe space because they previously lived in a household which experienced domestic violence and requiring such a move is unlawful in relation to the Human Rights Act 1998.'*

- ***If you have a small galley-style kitchen you may be able to say:***

*'I have a small galley-style kitchen and you have wrongly classified my dining-room as a spare bedroom.'*

- ***Bedroom or boxroom? If you have a bedroom which is too small or narrow to be used as a bedroom, you may be able to say:***

*'I have a small box-type room which is not a bedroom, and you have wrongly classified this as a spare bedroom.'*

Tenants have won many such cases at tribunal. It depends how big the room is and how you use it. Go online to find your local Council's Housing Allocation Policy or contact them directly and find out what the minimum bedroom size is in your area. **If any**

**rooms in your property are smaller than this, they should not be called a 'spare bedroom'.** You can also ask your landlord to confirm or re-assess the number of bedrooms at your property. Alternatively, you can argue that you do not/cannot use your spare room as a bedroom and should give your reasons.

- ***If you are separated from a former partner and share childcare on a part-time basis, you may be able to say:***

*'I am separated from my former partner and require the room you have wrongly classified as a spare room to meet my childcare and parental duties. To ignore my duties as a parent, and ignore the needs of my children to stay with me, is discriminatory and unlawful in relation to the Human Rights Act 1998, and contrary to the Children Act 1995.'*

- ***If none of the above apply, then you may wish to argue the following:***

*'You have wrongly classified as a spare bedroom the room I use as a family play room/storage room/games room [which is essential because...]'*

- 3. If your tenancy started before 1 January 1996,** get advice. You may be able to get a refund for payments from April 2013 despite the government "closing the loophole" in March 2014.

[www.insidehousing.co.uk/bedroom-tax-loophole-closes-today/7002391.article](http://www.insidehousing.co.uk/bedroom-tax-loophole-closes-today/7002391.article)

**Apply to the council for a Discretionary Housing Payment (DHP), even if you are disputing that the BT applies to you.**

Check with your council their rules for getting DHP, as they can vary. Councils are not obliged to pay DHPs, they have discretion, but they must act "fairly". See

claim form from Camden:

[www.camden.gov.uk/ccm/content/housing/housing-benefit/what-if-i-still-have-a-shortfall-in-my-rent.en](http://www.camden.gov.uk/ccm/content/housing/housing-benefit/what-if-i-still-have-a-shortfall-in-my-rent.en)

**Councils are discriminating** when they say that because you get disability benefits, you are better off than job seekers, so don't qualify. Get back-up from an organisation or your MP to challenge them to count your disability expenses. Disabled people and families have high extra costs for disability needs.

**Disability Living Allowance or other non-means-tested benefit should not be treated as income to pay rent.** This legal precedent was established by Ian Burnip against Birmingham City Council regarding the Local Housing Allowance limit for private tenants. The principle also applies to BT. See: [dpac.uk.net/tag/ian-burnip](http://dpac.uk.net/tag/ian-burnip)

**If you have rent arrears due to BT and are threatened with eviction,** get a lawyer to take up your case – Legal Aid is available for any homelessness problem.

## Going to tribunal

If you are unhappy with the council's BT decision, you can ask for your case to be heard by an **independent tribunal**. First, the council will look again at its decision. If their decision stays the same and you object, they send your case to the tribunal. Then the tribunal will contact you directly. Contact your local law centre or advice centre, to find free representation at your tribunal. You could also represent yourself if you want to:

[www.barcouncil.org.uk/media/203109/srl\\_guide\\_final\\_for\\_online\\_use.pdf](http://www.barcouncil.org.uk/media/203109/srl_guide_final_for_online_use.pdf)

**People have won their cases at tribunal – many based on disability needs.**

- Disabled women have proved that their partner needs their own room:  
[www.thenorthernecho.co.uk/news/10716753.Disabled\\_woman\\_wins\\_\\_bedroom\\_tax\\_\\_appeal\\_against\\_North\\_East\\_\\_council/?ref=twtrrec](http://www.thenorthernecho.co.uk/news/10716753.Disabled_woman_wins__bedroom_tax__appeal_against_North_East__council/?ref=twtrrec)
- Surinder Lall successfully argued that the room was used for his Braille equipment:  
[www.theguardian.com/society/2013/sep/26/bedroom-tax-westminster-council-defeat](http://www.theguardian.com/society/2013/sep/26/bedroom-tax-westminster-council-defeat)
- Sometimes the DWP will appeal against the tribunal decision even though the council has decided to accept the tenant's rights. Campaigners in Fife, Scotland, expect to win a landmark case on room size which the DWP is appealing:

[www.thecourier.co.uk/news/local/fife/high-hopes-after-bedroom-tax-tribunal-hearing-1.583609](http://www.thecourier.co.uk/news/local/fife/high-hopes-after-bedroom-tax-tribunal-hearing-1.583609)

**Opposition to the Bedroom Tax has had a BIG effect.** The BT was condemned by Raquel Rolnik, the United Nations Special Investigator on Housing. The Scottish government now guarantees DHPs for everyone who applies, in effect abolishing BT. In Scotland, people who have already paid BT for a year are pressing for refunds, or to have their rent arrears cancelled. The Welsh Assembly has called for BT to be scrapped. In a UK-wide court challenge, disabled children won the right to their own room. Many more **legal challenges** are under way, by people in different situations, including:

- [Couples where one or both are disabled, each need their own bedroom](#) or space for essential equipment – and have been allocated it by the Council.

- [A separated parent sharing care of children needs room for them to stay.](#)
- [Women and children fleeing violent partners need a "safe room" in their home if he comes to attack them.](#)

**The total Benefit Cap** is also being challenged. This is where your total benefit income, including rent, is cut to £500 a week for single parent or two parent families and couples without children, and £350 a week for a single person. This is done by cutting your Housing Benefit. Women are challenging discrimination against women and mothers in particular:

- [Single mothers and children fleeing domestic violence](#)
- [An unwaged carer for her disabled grandmother](#)

## PEOPLE IN PRIVATE RENTED ACCOMMODATION

Almost 40% of the annual £25bn housing benefit bill is paid to private landlords, who often get away with charging extortionate rents for poor quality housing. Tenants asking for repairs or furniture have been threatened with eviction or harassed, so it is important to know your rights.

**Groups that support tenants and also campaign, are:**

- London Renters  
[www.londonrenters.org.uk/?page\\_id=8](http://www.londonrenters.org.uk/?page_id=8)
- [Generation Rent](#) (UK-wide)

Councils are increasingly placing people in private rented accommodation. The Focus E15 mums and many others are campaigning to keep social housing, so people are not forced into private rented with fewer rights. Sometimes the council still manages the property, sometimes



they "discharge their duty" and you have a private landlord.

If you are made homeless and apply to the council for housing, you may be put in temporary accommodation while they decide if you are "in priority need", for example, you have children, are fleeing domestic violence, are sick/disabled, including mental health. See: [http://england.shelter.org.uk/get\\_advice/homelessness/help\\_from\\_the\\_council\\_when\\_homeless/priority\\_need](http://england.shelter.org.uk/get_advice/homelessness/help_from_the_council_when_homeless/priority_need)

Despite Legal Aid cuts, **you can get Legal Aid for homelessness problems.** People and families are challenging being sent far away to cheaper areas (i.e. social cleansing). Reasons can include: distance from home borough, family, friends, support network; disruption to medical treatment, children's education or contact with separated parent, caring commitments, waged work, or volunteering. See: Homelessness Schedule 2012 [www.legislation.gov.uk/ukxi/2012/2601/made](http://www.legislation.gov.uk/ukxi/2012/2601/made)

**If you are homeless and vulnerable, you can apply to be housed and supported by the council under community care law**, regardless of your immigration status. You are likely to need a community care solicitor to represent you. The law is complicated but generally people are considered vulnerable if because of age, illness, disability or any other circumstances they need care and attention which they can't get unless the council takes responsibility.

**Deposits.** If you are placed in private rented accommodation by the council, they may pay your deposit. Otherwise private tenants generally need to pay four to six weeks' rent as deposit, plus the first month's rent. All deposits paid since April 2007 must be registered with a deposit protection scheme – you can

check if yours is registered here: <https://www.depositprotection.com/is-my-deposit-protected>

These have disputes services where landlords have to justify why they want to withhold some of your deposit. Wear and tear on the property is not a valid reason, and the condition only has to be as good as at the start of the tenancy – it helps to take pictures when you move in.

Your landlord has to register the deposit within 30 days and send you information about it. If they don't, you can take them to county court and win up to three times the deposit amount back in damages.

**Rent increases.** Your landlord can't increase your rent during the fixed term of your contract without your agreement or a legal process. Usually, landlords increase the rent between contracts. There is no legal limit to how high the rent can be raised.

**To challenge this, you can go to tribunal (Property Chamber).** Their decision is binding and they can lower or raise the rent. You should pay the old rent level while you challenge the increase, as paying the new rent counts as agreeing. Tribunals should only be used if you have gathered lots of evidence that show your rent is higher than others for similar properties in the area, otherwise it's quite likely they will agree with the landlord, as they have a reputation for not being very tenant-friendly.

If you are a regulated tenant (mainly pensioners with a longstanding tenancy) the landlord can only apply to the rent officer once every two years.

If either party is not happy with the rent officer's decision they can apply to the rent assessment committee. See: [http://england.shelter.org.uk/get\\_advice/p](http://england.shelter.org.uk/get_advice/p)

[private\\_renting/private\\_renting\\_agreements/regulated\\_tenancies](#)

**Disrepair** in private rented homes is a major problem. Your home should be free of what are called "category 1 hazards" including excessive cold and damp, unsafe gas and electrics. You can report disrepair to the council (copy your letter to local councillors/MP). You may also want to negotiate directly with your landlord, especially if you can read up on their duties – see here:

<http://hackneyrenters.org/deposits-fees-repairs/repairs/>

**Evictions.** If your landlord has not registered your deposit, the common no-fault eviction notice, called an S21, is not valid. They may not know this, and if they serve you a notice, it is better not to tell them – this way when it comes to court, it will be thrown out, and they will have to give you another two months' notice with a new S21. Unless you have broken the terms of your contract, you can't be evicted during the time written on your contract. But landlords do not need a reason to evict you after this. They have to give you two months' notice. Then it will go to court, where they can apply for a warrant of possession, then bailiffs – this can take up to five months. **You do not have to leave your home until a bailiff is at your door.** See:

[http://england.shelter.org.uk/get\\_advice/eviction/eviction\\_of\\_private\\_tenants/eviction\\_of\\_assured\\_shorthold\\_tenants](http://england.shelter.org.uk/get_advice/eviction/eviction_of_private_tenants/eviction_of_assured_shorthold_tenants)

People in the community are defending each other against evictions. Get support if you can from your local advice centre, neighbourhood centre, campaigning group, neighbours, etc.

If you live in the same building as your landlord, sharing some facilities, you may not have tenant's rights. Your deposit is not protected, and you have no legal

protection against eviction. See: [http://england.shelter.org.uk/get\\_advice/haring\\_and\\_subletting/excluded\\_occupiers](http://england.shelter.org.uk/get_advice/haring_and_subletting/excluded_occupiers)

## **UNIVERSAL CREDIT: is it coming in?**

“Universal Credit” (UC) is the plan to merge several working-age benefits into one: Jobseeker's Allowance ● Employment and Support Allowance ● Income Support ● Child tax credit ● Working tax credit ● Housing Benefit.

Many of the existing premiums and additions for specific needs would be reduced or cut entirely. In two-parent families, many fathers would get paid all the benefit, instead of mothers getting the Child Tax Credit separately – increasing women and children's financial dependence and their vulnerability to domestic violence. And UC would leave many of us without money for long periods by the change to monthly payments in arrears instead of fortnightly, and claims can only be made online. But the government has not been able to push it through because of opposition!

So far, UC is being tried out in pilot areas, on single jobseekers with simple claims – [14,000 people are on it](#). A number of people have been left without money, or have run up rent arrears, not knowing that they have to pay rent from UC. The government's planned “roll-out” dates are delayed. The [Public Accounts Committee of MPs](#) criticised waste of up to £425 million of public money so far. Claimants and some unions, such as PCS, are [protesting against it being brought in](#) – contact your nearest anti-cuts or welfare rights community group to find out more and get involved.

## CHALLENGING BENEFIT SANCTIONS

Sanctions to your Employment and Support Allowance (ESA) or Jobseekers Allowance (JSA) mean that your benefits are stopped or reduced as a punishment. Jobcentre staff are brutally stopping benefits for trivial reasons, saying that claimants have not kept to what they must do, whether they are jobseekers or sick and disabled people on ESA. Sanctions are a major reason for destitution, see the report [Feeding Britain](#).

Work conditions for ESA only apply to the Work-Related Activity Group. Our **Sickness & Disability Benefits** section below explains how to apply for exemption from work conditions.

In the first three months of 2014, there were 15,955 sanctions on ESA claimants, compared with 3,574 in the same period in 2013.

[www.bbc.co.uk/news/uk-28776102](http://www.bbc.co.uk/news/uk-28776102)

But **jobseekers have won protections** which the Jobcentre should respect. Mums and other carers, disabled jobseekers, can put restrictions on the hours and type of work they can manage. Regulations say:

*“The requirements placed on claimants will be reasonable, taking into account his/her capability and circumstances, for example health conditions, disability and caring responsibilities. For example a lone parent or lead carer with a child under the age of 13 will be able to restrict his/her availability for work to jobs that can fit around school hours. An adviser should only require a claimant to apply for or accept a job if it is in line with the type of work the claimant must be available for (including any restrictions that are appropriate).”*

[www.dwp.gov.uk/docs/jsa-draft-regs-2012-memorandum.pdf](http://www.dwp.gov.uk/docs/jsa-draft-regs-2012-memorandum.pdf)

That is, the adviser can only make you do something if it fits in with what you can manage and is reasonable for you to do.

**Full-time carers and single parents on Income Support with children under three do not have to do work-related activity**, and you may have “good cause” to postpone work-focused interviews. [www.gingerbread.org.uk/news/251/income-support-sanctions-risk](http://www.gingerbread.org.uk/news/251/income-support-sanctions-risk)

If you are a carer, you can get JSA as long as you are available for work 16 or more hours per week.

**Jobcentre staff must take into account lots of different situations affecting claimants**, including bereavement, having to go abroad for family reasons or having to go to court:

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/288093/admr4.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/288093/admr4.pdf)

**Women fleeing domestic violence** can be **exempted** from jobseeking for up to three months. We want this extended.

**If you are a disabled carer claiming ESA and you are in the WRAG**, get advice on how you might postpone interviews and work-related activity because of your caring responsibilities. Contact **Carers UK**'s Adviceline for more information: 0808 808 7777.

### If you are sanctioned

**Ask your MP or an organisation ready to help** to complain in writing to the Jobcentre manager. This can speed up getting your benefit restored. MPs usually write to a senior official, which can help win your case and improve how other claimants are dealt with, by setting a precedent which can apply widely.

**Or you can challenge it yourself.** It's best to write so you have a record, but if you can't and have to call instead, try to have someone with you as a witness, or record the call on your mobile (if you have one). Or go to an advice centre and call together with someone there.

Southwark Benefit Justice has produced an excellent info sheet 'Challenging the Sanctions' available at <http://antibedroomtax.org.uk/2013-05-25-18-53-12/factsheets>

[Boycott Workfare](#) have "Know Your Rights" leaflets on what work activity is not compulsory.

You can ask the Jobcentre to look again at the decision to sanction you, if you think:

- They were wrong to sanction you.
- They are deducting too much.
- They have been deducting for too long.

### **There are two stages to challenge a sanction.**

When you receive the notification from the Jobcentre (or find out without notification!), write to them at the address on that letter **within one month** and ask them to reconsider their decision. You need to give reasons why it is unreasonable / unfair. Include information and evidence to support this, such as you missed an appointment because you were not given the correct address. Keep a copy of all letters. Press the Jobcentre to look again at its decision. Press your MP to support you by writing to the Jobcentre too. Jobcentres officially have to answer an MP's letter.

Then, the Jobcentre should send you another notification. If they still sanction you, **appeal within one month** using the SSCS1 form – get it from your local CAB, Jobcentre or download the form. At this

second stage, your reasons can be the same as before. Consider going to your local press to shine a spotlight on the terrible treatment you have received! The press has often been keen to expose horror stories which embarrass Jobcentre and government.

**If your JSA is stopped, ask for hardship payments.** These are less than JSA. The amount can vary as you get more if you are vulnerable, such as pregnant or ill.

**Be sure to keep your Council Tax Support and Housing Benefit.** If your main benefits are suddenly cut off or you lose your other income, you can ask your Council for a "nil income" form to continue getting HB & CTS. Or you can download it – type "nil income form" in the search box on your local council's website. Example:

[www.leicester.gov.uk/your-council-services/advice-and-benefits/housing-benefit-and-council-tax-reduction-scheme/nil-income-form/](http://www.leicester.gov.uk/your-council-services/advice-and-benefits/housing-benefit-and-council-tax-reduction-scheme/nil-income-form/)

## **SICKNESS & DISABILITY BENEFITS** (three main ones)

### **Employment and Support Allowance (ESA)**

Getting ESA depends on the Work Capability Assessment (WCA) and a points system. The massive UK-wide campaign against the WCA and Atos (the multinational company carrying out the WCA) and [successful legal challenge](#) against the WCA has had a huge impact.

The British Medical Association, representing doctors, and many MPs, have voted to scrap the WCA and Atos, and are also opposed to Maximus taking over from Atos. Now, [73% of people whose claim has been decided get ESA](#). Most claimants who survive the assessment phase are now put in the

Support Group, which means you are exempt from any work conditions.

The **assessment** consists of a list of physical, mobility and mental health tasks (called 'descriptors'). You need to score a minimum 15 points to get benefit. See list:

[www.newcastle.gov.uk/sites/drupalncc.newcastle.gov.uk/files/wwwfileroot/benefits-and-council-tax/welfare\\_rights\\_and\\_money\\_advice/lcw\\_from\\_28.3.11.pdf](http://www.newcastle.gov.uk/sites/drupalncc.newcastle.gov.uk/files/wwwfileroot/benefits-and-council-tax/welfare_rights_and_money_advice/lcw_from_28.3.11.pdf)

**To start your ESA claim**, download & print form ESA1 to fill in, and hand in the completed form to the Jobcentre. Or you can call 0800 055 6688 (voice calls) or textphone 0800 023 4888 to ask for the form to be sent to you. Staff will expect to complete the form over the phone and will ask you financial and other questions. You won't have much time to think calmly about your answers, which can mean that you don't answer fully or accurately. If you want to claim by phone, it's best to prepare before you call, look at the form questions beforehand and make notes if you can, and have a friend with you for support. If you don't want to be pressured or answer questions over the phone, you can call just to start off your claim and say you prefer to do it on paper, asking them to send you the form instead.

See: [www.gov.uk/employment-support-allowance/how-to-claim](http://www.gov.uk/employment-support-allowance/how-to-claim)

**For the first 13 weeks** while your claim is being decided you get the low "assessment rate" (£57.35 per week young people / £72.40 age 25+). Then, if you pass the test for ESA, you are put in either the **Support Group** at £108.15 per week or the **Work-Related Activity Group** (WRAG) at £101.15. The main difference is that if you are in the WRAG, you have to attend work-related interviews and courses, subject to benefit

sanctions if you don't attend. People in the community object to forcing sick and disabled people into 'back to work' activities. Private companies are profiting from this. People who need to rest and recover are struggling to attend courses, and dying sooner. In 2012, women undergoing chemotherapy won the right not to have to attend work-focussed interviews during gruelling treatments!

See:

[www.theguardian.com/society/2012/sep/17/plans-forcing-cancer-sufferers-seek-work](http://www.theguardian.com/society/2012/sep/17/plans-forcing-cancer-sufferers-seek-work)

**If your benefit rate is stuck** at the starting (assessment) rate for more than 13 weeks, take it up with the DWP.

#### **Advantages of the Support Group:**

- You don't have to be available for any work or work-related activity, courses, etc.
- You get more money towards your expenses of disability and sickness.
- You are exempt from the total Benefit Cap (unlike ESA WRAG claimants).
- If you want to do volunteering or go on any courses, it is completely up to you.

**It is very important for women claiming contributions-based ESA** (because they were formerly in waged work), **to get into the Support Group**. If you are in the Work-Related Activity Group (WRAG) you can only get contributions-based ESA for one year, but in the Support Group, it carries on without a time limit. Women in the WRAG have found themselves cut off contributions-based ESA but then refused income-based ESA because their partners are earning. Many are then financially dependent on partners, some with DLA as their only independent income. Depending on how many years you paid contributions, you may be able

to reapply for contributions-based ESA after a gap of 12 weeks. More info at [www.gov.uk/employment-support-allowance/what-youll-get](http://www.gov.uk/employment-support-allowance/what-youll-get)

## How to get your disability benefits without going to the Atos/Capita exam

These exams are prejudiced and discredited. Whistleblower nurses and doctors employed by Atos and Capita have spoken out against them. People with invisible disabilities especially, risk being found fit for work and having their ESA cut off, or being refused Personal Independence Payment (PIP).

Under public pressure, the **government has had to confirm that the face-to-face exam is NOT “always required”**, though they try to force people to go.

We have always let people know that they can get benefits without going to the exams.

**We have had many successes with written evidence: women have won exemption from the exam, got their benefit or passed their reassessment.**

Lifting that stress has stopped women’s health deteriorating and kept some out of psychiatric hospital.

You can get the face-to-face assessment cancelled by writing in with your medical evidence, and asking to be assessed on the basis of this written information. To do that, you or someone representing you, must send in medical evidence from your records and letters from the medical professionals treating you, preferably letters which they have written for this purpose. Ask your advice worker, MP, to write in support. They may need to ask the DWP to review the Atos decision that an exam is required.

When you are first applying for disability benefits, it is best you ask a carer,

advocate, counsellor, therapist, CPN or someone reliable who knows you well, to **write on your behalf** – either a cover letter to go with the form, or a letter on its own. **Make sure they know the eligibility rules, points system and exemptions** for the benefit you are claiming, so they can refer to them when they describe your situation (see assessment above for ESA rules, below for PIP rules). Enclose **medical evidence** from your GP, consultant(s), CPN or other qualified professionals about your disabilities/illness, their effects and the risk to your health. If your GP or MP is unhelpful, you can also use the information on the NHS Choices website [Health A-Z](http://Health A-Z) about your condition and its complications – say how this information relates to your situation.

For ESA, you can apply to be put in the Support Group because of “**Exceptional Circumstances**” (**ESA Regulation 25**). Your medical evidence has to state you have a life-threatening illness or show that there is a “substantial risk to your mental or physical health” if you were found fit for work, or if you were put under back-to-work conditions. See: [www.legislation.gov.uk/ukdsi/2013/9780111531877/regulation/25](http://www.legislation.gov.uk/ukdsi/2013/9780111531877/regulation/25)

**You do not even have to complete the ESA50 form** if your letter to the DWP sets out how your condition(s) satisfy the rules and points, and there is enough medical evidence attached. Mind confirms this approach for people with mental health problems.

[www.mind.org.uk/media/309761/Mind\\_ESA\\_factsheet\\_2.pdf](http://www.mind.org.uk/media/309761/Mind_ESA_factsheet_2.pdf)

**If you are called in for the ESA exam**, you can still ask to be exempted on the grounds that it would harm your health, especially if you have a mental or physical illness like anxiety or heart problems, Post-Traumatic Stress

Disorder, or if you are a rape survivor, where stress could cause a health crisis. You can quote Exceptional Circumstances Regulation 25 (as above) in this situation as well. **Copy your MP in on letters to Atos and the DWP.** Ask them to take up your case and what it means for other claimants, with Atos, Jobcentre Plus, the government.

**You can successfully challenge decisions which cause harm to your health – at any point.** Such as: being found fit for work, put in the Work-Related Activity Group of ESA but unable to cope, called for work-focussed interviews, or needless and stressful reassessments after you have established your claim. Use medical evidence with reliable advocacy and back-up from health professionals. Write to the DWP and copy in your MP.

### **If you do decide to go to the exam**

**Never go alone.** Take a friend or supporter with you to take notes and remind you about what you want to point out to the assessor. Note how long the exam takes – is it rushed? See further tips from Edinburgh Coalition Against Poverty:

<http://edinburghagainstopoverty.org.uk/node/5>

**Access.** Insist on access, especially as many Atos testing centres are not accessible or are a long way from the nearest bus stop/tube. In October 2014 a man in Leeds won £2000 compensation from Atos after suing them for disability discrimination as their premises were not accessible.

**Recording the exam.** It can be useful to record any dealings with Atos. You can ask them to record your exam. One claimant successfully got his exam cancelled after he requested recording.

People are pressing to make the right to have it recorded usual practice: [www.publicinterestlawyers.co.uk/news\\_details.php?id=321](http://www.publicinterestlawyers.co.uk/news_details.php?id=321)

### **Challenging being found “fit for work”**

If you are found fit for work you can appeal (this stage is called “mandatory reconsideration”). But you can’t get any ESA while you appeal. **As you are left without money to live on, ask your MP and advice service to intervene urgently with the DWP.** Send them a summary of your situation, copies of medical letters, any previous tribunal decision about your entitlement, etc. Or ask your CPN or other professional to take it up.

People are told to claim JSA meanwhile, but this can cause problems as it amounts to admitting you are fit for work (even if you put disability restrictions on your availability), you have to sign a Jobseekers’ agreement about what you will do each week to find work, and you can be sanctioned when you can’t keep up. An alternative is to contact your council about its **Local Welfare Assistance Scheme.** You may be eligible for financial help called Local Welfare Assistance. To find details of this use the following link or call your local council: [www.cpag.org.uk/lwas](http://www.cpag.org.uk/lwas)

This scheme is new and it is unclear how many people are successful, so contact your MP or local councillors as well to back up your application.

**Mothers claiming ESA.** It is common for assessors to assume that mothers applying for ESA are fit for work because they are caring for children – for once, our caring work is recognised, but only to deny us benefit! Many mums have won back their ESA when they got support to challenge this.

[www.camdennewjournal.com/news/2012/sep/mother-who-was-signed-work-excruciating-pain-another-victim-controversial-disability-b](http://www.camdennewjournal.com/news/2012/sep/mother-who-was-signed-work-excruciating-pain-another-victim-controversial-disability-b)

**If your Housing Benefit has stopped** because you are not getting either ESA or JSA, apply to your council benefits section for a nil-income rating to keep your HB going. You may also be able to find the form on your council's website – type in 'nil-income-form' in the search box.

Example: [www.leicester.gov.uk/your-council-services/advice-and-benefits/housing-benefit-and-council-tax-reduction-scheme/nil-income-form/](http://www.leicester.gov.uk/your-council-services/advice-and-benefits/housing-benefit-and-council-tax-reduction-scheme/nil-income-form/)

**If you are put in the Work-Related Activity Group** and think you should be in the Support Group, your WRAG-rate ESA will not be cut off while you appeal.

**Complaining about the “healthcare professional” who assessed you.** *Care of a patient must be the first concern of any health professional.* This still applies to anyone dealing with your claim even if they are working for the benefits system. If a nurse, doctor or physio working for Atos/Capita has breached their professional standards, for example, disregarding patient welfare or making rude or racist comments, you can report them to their professional body (which one it is depends on their qualifications) as well as complain to Atos/the DWP and your MP. The doctors' professional organisation confirms standards they should meet. See:

[www.margaretmccartney.com/blog/?p=904](http://www.margaretmccartney.com/blog/?p=904)

If at any time, your health or disability gets worse and you think you are entitled to a higher rate of ESA, write to the benefits office with medical evidence of your change in circumstances, asking them to look again at your claim.

## What does the change from Disability Living Allowance (DLA) to Personal Independence Payment (PIP) mean for me?

People are scared by the abolition of Disability Living Allowance. An estimated half a million disabled people, including in waged work, could lose it. But:

- **Adult claimants with an unbroken DLA claim won't be reviewed until 2015** – at the earliest. Timetable: [www.benefitsandwork.co.uk/personal-independence-payment-pip/pip-timetable](http://www.benefitsandwork.co.uk/personal-independence-payment-pip/pip-timetable)
- **DLA stays the same for children under 16** and for **pensioners who were aged 65 before 8 April 2013.**
- **If you get DLA and want to apply for a higher rate**, it may still be dealt with under DLA rules, depending on where you live. London and many other areas have not changed over to PIP if it concerns reviews of current DLA claims. See map of where and when PIP is coming in for reviews: [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/265767/pip-postcode-map.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/265767/pip-postcode-map.pdf)

Many people have a strong case and should not get their DLA reduced or stopped if going for review.

## Claiming Personal Independence Payment (PIP) for the first time

People are watching the new disability benefit closely. Delays with people not getting the money they need were described by the [Public Accounts Committee of MPs](#) as “nothing short of a fiasco.” Campaign pressure already won that PIP claimants **must be assessed** on what they can do “**safely, reliably, repeatedly and in a reasonable time**



**period**". The harsher mobility test for PIP was also challenged, it was unsuccessful but the issue is bound to come up again.

PIP has no low care rate, but in many other ways it is like DLA. **Check the new rules and points scores** before you answer questions about your daily life and mobility. Disability Rights UK has produced a detailed guide on claiming PIP (Factsheet F60) available on its website

[www.disabilityrightsuk.org/personal-independence-payment-pip](http://www.disabilityrightsuk.org/personal-independence-payment-pip)

**To start your PIP claim**, call: 0800 917 2222 (voice), textphone 0800 917 7777. If you want to register your claim in writing, not over the phone, ask for form PIP1. After registering your claim by phone or form PIP1, you will be sent form PIP2 asking about your sickness or disability needs and mobility. **If you are experiencing any delay** in the processing of your claim, complain to the DWP and send a copy to your MP asking them to pursue this.

**If you are caring at least 35 hours a week** for a sick, disabled or older person who gets either Attendance Allowance, DLA or PIP – check what benefits or other help (such as Council Tax exemption) you can get. Carer benefits are complicated, so get advice from Carers UK or your local carers' centre.

## DEBT ADVICE

**First check that you do really owe the money.** Mistakes are common and it is possible that your debts have been miscalculated. If you do owe it, **check if you can get any discounts.** Your debts can be cancelled or reduced to smaller repayments. And check you get all the help available to maximise your income.

**To challenge charges for homecare** (by your council) send in detailed

information about your disability-related expenses. People's individual situations vary widely, and there is no limit on what is or is not a disability-related expense – only examples. Get back-up, as before.

UK-wide info:

[www.disabilityrightsuk.org/charging-community-care](http://www.disabilityrightsuk.org/charging-community-care)

See also "Challenging Charges" in the Campaign Against Care Charges old leaflet.

[www.winvisible.org/HC/selfhelp\\_information.htm](http://www.winvisible.org/HC/selfhelp_information.htm)

**Debt advice agencies in Camden:**

[www.camden.gov.uk/ccm/content/contact/s/categories/contact-debt-advice-agencies-and-solicitors.en](http://www.camden.gov.uk/ccm/content/contact/s/categories/contact-debt-advice-agencies-and-solicitors.en)

**UK-wide help** – Turn2Us website:

[www.turn2us.org.uk/](http://www.turn2us.org.uk/)

**South London** – Oasis:

[www.oasischurchwaterloo.org/what/debt-advice-centre](http://www.oasischurchwaterloo.org/what/debt-advice-centre)

**Zacchaeus 2000:** <http://z2k.org/free-help-advice/>

For help with Housing Benefit arrears call: 08088 02 05 08.

For other debts 020 7259 0801, 10am-12 noon, or fill out their enquiry form online and an adviser will contact you.

**Fuel debts:** companies are under pressure to help customers in difficulty. Some have their own charities which help with one-off debts, e.g. British Gas Energy Trust. Call your company, or visit their website to find out more about help you can get. Check with advice services about extra help if you are a pensioner, have young children, are sick or disabled, etc.

Campaign group **Fuel Poverty Action** have Energy Know Your Rights cards and a [guide](#) to dealing with your energy supplier, etc.

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This Benefit Rights Sheet is expanded from our 2013 self-help info. It was researched and put together mostly through a huge voluntary effort. WinVisible put in many days on behalf of the community campaign for everyone's entitlement and against "welfare reform". Thanks to the claimants, campaigners, advisers, lawyers who contributed their experiences, expertise and leaflets!

**To campaign together, please contact us:**

*Camden Association of Street Properties* (tenants)  
[camdenstreetproperties@yahoo.co.uk](mailto:camdenstreetproperties@yahoo.co.uk)

*Single Mothers' Self-Defence* [smsd@allwomenscount.net](mailto:smsd@allwomenscount.net)

*WinVisible* [win@winvisible.org](mailto:win@winvisible.org) [www.winvisible.org](http://www.winvisible.org) 

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