



Northern Ireland

Courts and
Tribunals Service

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Pensions Appeal Commissioners



An Agency within

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through the administration
of justice

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Communications Group.

Introduction

The Pensions Appeal Commissioners are responsible for dealing with applications for permission to appeal and appeals from Pensions Appeal Tribunals under the Armed Forces Compensation and War Pensions legislation. There are two Commissioners who are very experienced lawyers and who are independent of the United Kingdom Government, the Northern Ireland Executive and the Civil Service. In particular it is to be stressed that they are independent of the Ministry of Defence, the Service Personnel and Veterans Agency, and the Appeal Tribunals who hear the initial appeals by claimants.

Their job is to decide if an appeal tribunal was wrong on a point of law when it made its decision. The Commissioners are assisted by a Legal Officer who is authorised to issue directions and interlocutory rulings in individual cases, although all final decisions are given by Commissioners.

The Tribunals Courts and Enforcement Act 2007 provides for an appeal to a judicial body known as the Upper Tribunal in assessment cases. The Upper Tribunal operates in a similar manner to the Pensions Appeal Commissioners and assessment applications and appeals to the Upper Tribunal can be lodged at the same office as appeals to a Commissioner.

Applications

This leaflet tells you what will happen now you have asked for permission to appeal. The procedure is as follows.

- A Commissioner will receive your application and the file containing all the documents to support your claim. A form known as a PAC 1 is the best means of starting the process. You will probably have been sent one by the Pensions Appeal Tribunal Office but it is also available from our website or on request.
- A Commissioner may need more information from both sides before they make a decision. They may also hold a hearing. If the Commissioner decides that the tribunal was wrong, he or she may ask you to give your permission, in writing, to treat the application as an appeal. This means that the matter will be dealt with more quickly.
- Once the Commissioner has received all the information needed, he or she will send you their decision, in writing, as soon as possible.
- The office will send a copy of the decision to everyone involved in the application.
- You cannot appeal if a Commissioner refuses your application.

Appeals

If you get permission to appeal to a Commissioner against the tribunal's decision, the procedure will be as follows.

- We (that is the office) will send your appeal to an officer from the Service Personnel and Veterans Agency. They have one month to send a Commissioner comments on your appeal.
- When we receive these comments, we will send you (and your representative if you have one) a copy.
- You or your representative will then have one month to send in written comments on the officer's comments.
- We will send the officer a copy of your comments.
- We will then pass your file to a Commissioner.
- If your file contains enough information for a Commissioner to make a decision, he or she will send you a decision in writing.
- If your file does not contain enough information, a Commissioner may hold a hearing or ask for more information from the relevant officer, or from you or your representative.
- Once the Commissioner has considered all the necessary information, he or she will send you their decision, in writing, as soon as possible.
- We will send a copy of the decision to everyone involved in the appeal.

The hearing

If a Commissioner decides to hold a hearing, it will be as close to your home as possible.

The office will write to you and your representative to tell you the date, time and place of the hearing. We will do this at least 14 days before the hearing is due to take place.

The hearing is informal. A Commissioner will listen to what everyone involved has to say and may ask some questions. You should call the Commissioner either 'Mr Commissioner' or 'Madam Commissioner', whichever is appropriate.

An officer of the department is under a duty to give a Commissioner all the facts which are relevant to your case. This means that you may hear the officer giving information which appears to support your case. You must however continue to make your own case and not rely exclusively on the officer of the department.

Appealing against a Commissioner's decision

If you think the Commissioner's decision was wrong on a point of law, you can appeal to the Court of Appeal. You must first ask a Commissioner for permission to appeal. You must do this within three months of receiving the decision you do not agree with.

If you are given permission to appeal, we will tell you in writing. If it is refused, you may apply directly to the Court of Appeal at:

Royal Courts of Justice
Chichester Street
Belfast
BT1 3JF

Frequently Asked Questions

Do I have to pay any money to the Pension Appeal Commissioners' Office for appealing to the Commissioner?

No.

Can I have someone to help me?

Yes. You can have someone to help with filling in the form, dealing with correspondence and attending any hearing before the Commissioner. Your representative can be a friend etc. Please see our website for the main organisations which deal with Commissioners' work.

If you already know the name of the person who will help you with your case please enter the details in Section B of the form.

Will there be a hearing before the Commissioner?

The Commissioner may hold a hearing or may consider that he or she can properly decide the case on the papers. If a hearing is to be held, you and the other parties to the application/appeal (usually the Service Personnel and

Veterans Agency) will be notified and have an opportunity to attend. Your representative can come with you. If The Commissioner decides to hold a hearing he will try to do so in a reasonably convenient place. The hearing will not be like a court hearing. It will be less formal and you will have an opportunity to make any relevant points in your own words.

If you would like the hearing to be in private you may request this on the form and the Commissioner will decide whether or not to hold a private hearing.

Is appealing to a Commissioner the same as appealing to a Tribunal?

No. You can only appeal to a Commissioner on a point of law. This does not mean that in your grounds of appeal you have to use technical legal language. It does mean that you or your representative must think the Tribunal's decision is wrong in law and explain why you think this is so.

Examples of errors of law are -
The Tribunal -

- did not apply the correct law to your case;
- wrongly interpreted the law;
- did not observe the rules of natural justice;
- had no evidence, or not enough evidence, to support its decision;
- did not give adequate reasons for its decision.

It is not enough to just repeat one or more of these examples. You should explain on the form why you think the Tribunal has made a mistake

in law. For example if you think the Tribunal did not give adequate reasons you should explain why this is so and why you do not understand the decision. You can do this in your own words on the form.

It will be helpful to the Commissioner if you explain as fully as you can why you think the Tribunal was wrong in law. If the Commissioner thinks he or she can properly decide your case on the papers he or she may do so. If you explain as fully as possible on the PAC 1 form it helps the Commissioner to decide -

- (a) whether or not a hearing should be held; and
- (b) whether or not the Tribunal may have been wrong in law.

What should I do if I have missed a time limit?

Do not delay any further. Submit all the documents and evidence you have to hand and explain any reasons for the delay.

What will happen if I win my appeal to the Commissioner?

After your appeal the Commissioner will send you a written decision. If your appeal is successful the Commissioner will set the Tribunal decision aside. He or she may then either give the decision which the Tribunal should have given, or send back the matter to another Tribunal to re-hear and re-decide your case.

I don't know if my appeal should be to a Pensions Appeal Commissioner or to The Upper Tribunal?

Most appeals lie to the Pensions Appeals Commissioners. Your decision notice from the Pensions Appeal Tribunal should state if it is an assessment decision under the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 2006 or 2011. If it does then your appeal will lie to a similar body, the Upper Tribunal. In such cases you should use the form UTNI 1. In all other cases you should appeal using form PAC 1. If you remain unsure as to which form to use do not delay in submitting your application. We would suggest that you lodge both forms UTNI 1 and PAC 1 with us and let us know that you were not sure which form to use.

Contact Details

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Should you require any further information about the NI Courts and Tribunals Service please visit our website at www.courtsni.gov.uk or alternatively contact our Communications Group.

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