



The Commissioners' Office in Scotland

Social Security Commissioners
Child Support Commissioners

Notes for Applicants and Appellants using Form OSSC 1

Commissioners are specialist judges appointed by the Queen to decide appeals against decisions of the **Social Security and Child Support Appeal tribunal** concerning social security benefits, tax credits, child trust funds and child support maintenance.

Form OSSC 1 is to be used for applying to a Commissioner for leave (permission) to appeal, against a decision of an **SSCSA** tribunal. It should also be used for appealing to a Commissioner if the tribunal chairman has already granted leave to appeal, or in a "penalty case" (when leave to appeal is not required).

Form OSSC 1 should be sent to the Commissioners' office **within one calendar month** of the date the tribunal chairman's refusal or grant of leave to appeal or his rejection of your application for leave to appeal was sent to you (or, in a "penalty case", within one calendar month of the date the tribunal's decision was sent to you). If you are late, you must explain why in Part D of the form.

Income Support Cases If you are seeking leave to appeal to the Commissioners because an appeal tribunal has decided you are capable of work, and therefore your income support will stop, you must tell the office dealing with your income support payments.

In these notes, a "**penalty case**" means a tax credit or child trust fund case in which a penalty has been imposed for, e.g., fraudulently or negligently making an incorrect statement or failing to comply with a requirement to provide information.

Before you use Form OSSC 1

- You should ask for a written statement of the tribunal's reasons for its decision.
- You must apply to the tribunal chairman for leave to appeal (except in a "penalty case" (when leave to appeal is not required)).

You should have received information from the SSCSA Tribunal about how and when to apply for a statement of reasons and about how and when to apply to the tribunal chairman for leave to appeal.

Part A – About the Applicant/Appellant

An "**Applicant**" is a person applying for leave (permission) to appeal to a Commissioner. An "**Appellant**" is a person who has been given leave to appeal (or

does not need it) and is now appealing to the Commissioner. Form OSSC 1 is for use by both Applicants and Appellants. It does not matter which you are.

Note that an Applicant or Appellant may be a child or someone else who is unable to act for themselves (e.g. because of mental incapacity). If the application or appeal is being brought on behalf of someone who has died, please put that person's name as the Applicant/Appellant and write "(deceased)" after their surname.

Part B – About any Appointee and/or Representative

An "**Appointee**" is a person who has been appointed to act on behalf of

- a child
- someone else who is unable to act for themselves (e.g. because of mental incapacity)
- someone who has died.

If the application or appeal is being made for a claimant who has an appointee, please put the claimant's name as the Applicant/Appellant in Part A, even if the claimant is dead, and give the Appointee's details separately in the boxes provided in Part B.

If the Applicant or Appellant is mentally incapable of managing their own affairs and a receiver has been appointed by the Court of Protection, or, in Scotland, the estate of the Applicant or Appellant is being administered by a judicial factor or guardian, please put the receiver, judicial factor or guardian down as the Appointee.

Please enclose with the Form OSSC 1 a copy of the form of Appointment to Act (or a copy of a document proving the appointment of a receiver, judicial factor or guardian).

An "Appointee" is different from a "**Representative**" who is someone helping the Applicant or Appellant, dealing with the correspondence and representing them at any hearing. Indeed, an Appointee can have a Representative. If you have a Representative, you should give their details in the boxes provided in Part B. The Commissioners' Office will then correspond only with your representative.

Part C – About the tribunal which decided your case

The place of the tribunal hearing, the date of the decision and the number of your tribunal case should all be on both the decision notice issued on the day of the hearing and the statement of reasons.

If you do not have a statement of the tribunal's reasons, you must explain why. It may be possible for you to appeal without having a statement of reasons but often it is impossible to show that the tribunal was wrong in law if there is no statement of the tribunal's reasons.

Part D – Reasons for any delay

You should have applied to the tribunal chairman for leave to appeal (except in a “penalty case”) **within one calendar month** of being sent a written statement of the tribunal’s reasons for its decision.

Your application/appeal to the Commissioner must be made **within one calendar month** of the date the tribunal chairman’s decision to refuse or grant you leave to appeal (or to reject your application for leave to appeal) was sent to you.

(In a “penalty case”, your appeal must be sent **within one calendar month** of the date the tribunal’s decision was sent to you. That will be taken to be the date you were sent the statement of reasons for the tribunal’s decision if the tribunal automatically sent you a statement or you applied for one within the time allowed).

If your application to the tribunal chairman was rejected because it was late, or if your application/appeal to the Commissioner is late, or both, you must show that there are **special reasons** for the Commissioner to accept your application/appeal. This means that **you must explain the delay**. The Commissioner may take into account other matters, such as the length of the delay, the amount of money at stake, the potential importance of the case, etc., so you can also mention these as special reasons. Use the box provided on the form or a separate sheet of paper if necessary. If you use a separate piece of paper, make sure it has your name on it.

Part E – Reasons for Appealing

You must explain why you think the tribunal’s decision is **wrong in law** (except in a “penalty case”, when you are not limited to points of law). Examples of mistakes of law are:

- The tribunal did not apply the correct law or wrongly interpreted the law.
- The tribunal made a procedural error.
- The tribunal had no evidence, or not enough evidence, to support its decision.
- The tribunal did not give adequate reasons (in the written statement of its reasons).

These are only examples and the tribunal’s decision may be wrong in law for some other reason. You should explain in as much detail as possible why the decision **in your particular case** is wrong in law. If you are unsure whether the tribunal was wrong in law you may wish to consult a Citizens Advice Bureau or other welfare benefits adviser but you should not miss the **one calendar month** time limit for sending in your application form.

What you have said on Form OSSC 1 will be treated as your main submission on the appeal (even if you are now only applying for leave to appeal). You should therefore make sure that you say everything you wish to at this stage. On the other hand, remember that short clear submissions will usually be more effective than long rambling ones. You may use a separate piece of paper if you wish, but make sure it has your name on it and is sent with the form.

Part F – Request for an oral hearing of an Application

If you are applying to the Commissioner for leave to appeal and you or your representative wish to appear before a Commissioner at **an oral hearing of your application**, fill in the relevant boxes in Part F.

The Commissioner will not necessarily grant your request for an oral hearing. If there is no oral hearing, the Commissioner will use the documents to decide whether to give you leave to appeal. Hearings are held in London, Edinburgh, Cardiff, Doncaster, Bury (Lancs.) and, occasionally, elsewhere. Hearings may also take place by video link from a number of places. You will be sent further information if the Commissioner allows your request for an oral hearing.

Do not fill in the boxes about an oral hearing if the tribunal chairman has given you leave to appeal or your case is a “penalty case”. In those cases or if you are given leave to appeal by the Commissioner, you will be given an opportunity of asking for **an oral hearing of your appeal** at a later stage.

Part G – Application/Appeal to the Commissioner

Even if you have a representative, **the Applicant or Appellant or Appointee must sign the form personally in Part G.** Your signature will be taken as authority for the representative named in Part B to act for you. The only exception to this rule is where the representative is a solicitor. A solicitor is presumed to be acting on instructions and may sign the form on behalf of the Applicant or Appellant or Appointee.

Sending Form OSSC 1 to a Commissioners’ Office

Tear off these notes and keep them in a safe place so that you have a record of the address of the relevant Commissioners’ Office.

Send Form OSSC 1, and the documents listed at the end of the form, to the appropriate Commissioners’ Office within the **month** allowed (see the notes to Part D above). **If you are late**, you can still send in your form but you must explain the delay in Part D of the form.

If the appeal tribunal hearing was in **England or Wales**, send the form to –

The Commissioners’ Office,
3rd floor, Procession House,
55 Ludgate Hill,
London, EC4M 7JW.

Telephone: 020 2029 9850
Fax: 020 7029 9819
Minicom: 020 7029 9820
DX 149063 (Ludgate Hill 2)

If the appeal tribunal hearing was in **Scotland**, send the form to –

The Commissioners' Office in Scotland
George House
126 George Street,
Edinburgh EH2 4HH.

Telephone: 0131-271- 4310
Fax: 0131-271- 4398

You must enclose the documents listed at the end of the form. Otherwise, your application or appeal may be rejected or delayed.

Contact the office if you are not told within a week that the form has been received.