

How to expedite a social security appeal

CPAG's Welfare Rights Bulletin issue 135 (August 2013)

MODEL LETTER

[Address]

[Date]

First-tier Tribunal

[address]

By [recorded delivery / fax / email]

Dear sirs,

FOR THE URGENT ATTENTION OF THE DUTY JUDGE
APPLICATION FOR DIRECTIONS

Re: [Client name] [Client NINO] (Appellant) v [Respondent name] (Respondent)

1. This is an application, under Rules 2, 5, 8 and 24 of the First-tier Tribunal (Social Entitlement Chamber) Rules of Procedure 2008 ['the Rules'], for the Tribunal to make the following directions:
 - a. The Respondent shall within [xx] days of the date of this direction comply with Rule 24 by sending to the Tribunal and to the appellant a response to the appeal.
 - b. If the Respondent does not comply with this direction, it shall without further order of the Tribunal be barred from taking further part in proceedings.
2. Because of the urgency of the Appellant's situation, which is particularised below, the Tribunal is respectfully asked to determine this application within [xx] days.

Case history

3. On [date] the Respondent decided that the Appellant was not entitled to [benefit].
4. On [date] the Appellant sent an appeal against that decision to the Respondent. The Appellant explained the need for urgency and asked the Respondent to comply with Rule 24 within [xx] days.

5. On [date] the Appellant wrote to the Respondent reiterating the need for urgency and stating that unless Rule 24 was complied with within [xx] days the Tribunal would be asked to direct the Respondent to make a response.
6. Upon receiving an appeal, Rule 24 requires the Respondent to send its response to the Tribunal and the Appellant as soon as reasonably practicable. The Respondent has not given any explanation for the delay or produced any evidence of why it has not yet been reasonably practicable to send a response to the Tribunal.

Jurisdiction

7. The Tribunal has the power to issue directions before it has administratively been notified by a respondent of the existence of an appeal: *FH v Manchester City Council* (HB) [2010] UKUT 43 (AAC) and *Social Security Decision R(H) 1/07*.

Fair and just to make direction sought

8. The overriding objective of the Rules is to enable the Tribunal to deal with cases fairly and justly: Rule 2(1). This, in particular, includes:
 - a. dealing with the case in ways which are proportionate to the importance of the case: Rule 2(2)(a); and
 - b. avoiding delay, so far as compatible with proper consideration of the issues: Rule 2(2)(e).
9. It is submitted that the following factors demonstrate that it would be fair and just in the circumstances to make the direction sought:
 - a. the prompt resolution of this appeal is of exceptional importance to the Appellant, and the delay is causing the Appellant hardship because:
 - i. the benefit in question constitutes [all/most] of the Appellant's income [insert details]. As the Court of Appeal said in *Wiles v Social Security Commissioner* [2010] EWCA Civ 258, §46-47, such decisions

directly affect... access to the most fundamental necessities of life... [and] may be of fundamental importance [to a claimant]... making the difference between a reasonable life and a life of destitution;
 - ii. non-payment of the benefit means the Appellant risks homelessness [insert details – especially relevant in HB appeals where the appellant has a private landlord];

- iii. non-payment of the benefit means the Appellant cannot buy necessary services **[insert details – for example, if the Appellant has to pay for the services of a carer];**
 - iv. the appellant **[and/or his family]** can be described as particularly vulnerable because **[insert details – eg disability, especially any health problem exacerbated by the uncertainty of delayed appeal proceedings];**
 - v. the appellant has children aged **[xx]** whose interests are endangered by the delay **[insert details];**
 - vi. the Appellant cannot rely on alternative resources because **[insert details - eg he has no family able to support him, he has been turned down for a crisis loan, there is no nearby food bank];**
- b. the Appellant has a strong case **[insert details];**
 - c. the Appellant has attempted to persuade the Respondent to reconsider his decision so as to avoid the need for a Tribunal hearing but the Respondent has not made any reasoned response **[insert details];**
 - d. as indicated above, the Appellant has attempted to persuade the Respondent to comply with Rule 24 without the need for a direction from the Tribunal, but the Respondent has not made any reasoned response;
 - e. the Respondent has not, despite requests to do so, produced any evidence or explanation for why it has not despite the passage of **[xx]** weeks been reasonably practicable to make a response;

10. Enclosed with this application are the following documents:

- a. the Appellant's notice of appeal;
- b. the letter sent to the Respondent asking for the appeal to be dealt with urgently;
- c. the reminder letter sent to the Respondent warning that the next step would be this application for a direction from the Tribunal;
- d. **[evidence substantiating any assertion that the Appellant has a strong case];**

- e. **[evidence substantiating the hardship being caused to the Appellant by delay. This might include a witness statement from the Appellant].**

Yours faithfully,

[Name]