

How HM Revenue & Customs handle tax credits overpayments

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How HM Revenue & Customs handle tax credits overpayments

Introduction

This is a guide aimed at advisers and intermediaries who provide support and guidance to tax credits customers.

HM Revenue & Customs (HMRC) will ask customers who have been paid too much tax credits to pay back the extra money. A customer can challenge the overpayment by appealing or disputing. More information is available at Section 1.

HMRC can recover an overpayment from its customers in two ways.

Section 1 – overview of overpayment recovery

If the customer is still getting tax credits under their original claim

If the customer's original claim is continuing, HMRC will take 25 per cent from their four weekly or weekly payments of tax credits until the overpayment is recovered.

If the customer's original claim is continuing and the customer is getting maximum tax credits HMRC will take 10 per cent.

If the customer's original claim is continuing and the customer is getting only the family element of Child Tax Credit HMRC will take 100 per cent, so the customer will receive nothing until the overpayment is repaid.

HMRC call this 'ongoing recovery'.

If the customer is no longer entitled to tax credits or has made a new claim

If a customer is no longer entitled to tax credits or gets tax credits because they have made a new claim and have an overpayment from an old claim, HMRC ask them to repay the overpayment direct. This is known as 'direct recovery'.

If a customer is currently paying back one tax credits overpayment by direct payment, and paying back another from an ongoing award at either 10 per cent or 25 per cent, they can contact the **Payment Helpline (0845 302 1429)** and ask for the overpayment being recovered by direct payment to be suspended until the overpayment being recovered from the ongoing award is completed.

The earlier a customer contacts HMRC, the easier it is to resolve any issues the customer has with the repayment. If the customer doesn't make a payment or doesn't contact HMRC it will seek to recover the debt.

Challenging an overpayment

Appeal

Customers may appeal if they think that the decision HMRC made, which created the overpayment, was incorrect. More detail about how to do this can be found in leaflet "WTC/AP - Child Tax Credit and Working Tax Credit: how to appeal against a tax credit decision or award". You can get a copy of this leaflet:

- by phoning the Tax Credits Helpline on 0845 300 3900
- by downloading a copy from the HMRC website at [WTC/AP - Child Tax Credit and Working Tax Credit: how to appeal against a tax credit decision or award](#)

Example: Daisha claims tax credits for her three children. Her eldest child finished her GCSEs but decided to stay on at school to do her A levels. Daisha told HMRC and continued to receive tax credits for three children. When HMRC worked out Daisha's final tax credits for the year, they included only two children. Because Daisha received money for three children, HMRC thought that it had overpaid her. Daisha appealed the decision and asked HMRC to

change her award as she should have received tax credits for three children. If she is successful, the overpayment will disappear.

If a customer appeals a decision, which created the overpayment, then any recovery action will be suspended until the outcome of the appeal is known. Benefits and Credits will write to the customer explaining the outcome of the appeal.

Dispute

Customers who accept that they have received more than they were due may still dispute recovery of the overpayment if they believe the overpayment was caused by HMRC failing to meet its responsibilities. Customers should contact the Helpline (0845 300 3900) as soon as possible. More detailed advice can be found in leaflet "COP26 – What happens if we've paid you too much tax credit?" You can get a copy of this leaflet:

- By phoning the Tax Credits Helpline on 0845 300 3900
- By downloading a copy from the HMRC website at [COP26 – What happens if we've paid you too much tax credit?](#)

Example: Eric and his wife were paid tax credits for three children when they only have two. When Eric received his award notice, he phoned HMRC to say the number of children was wrong. HMRC did not correct the mistake and kept on paying Eric too much tax credit. After the end of the year, Eric had received more tax credits than he should have and so had an overpayment. Eric used the dispute process because he doesn't think he should have to pay it back because he told HMRC of the mistake as soon as he saw his award notice.

If a customer disputes recovery of an overpayment, then Benefits and Credits will arrange for suspension of any recovery action while HMRC reconsider. If HMRC decide that the customer should repay the overpayment then action to recover it will continue. Benefits and Credits will write to the customer explaining the outcome of the dispute.

Code of Practice 26 (COP26)

Customers who contact HMRC because they do not understand why they have an overpayment or to dispute the overpayment, will get a written explanation from Benefits and Credits and be advised to go to the website or contact the Helpline to get a copy of Code of Practice COP26 which explains the principles behind HMRC's approach.

Section 2 – the 'ongoing recovery' process

Process

Where a customer has an overpayment in an ongoing award, recovery of the overpayment is automatic. The automatic rates of recovery are set at 10 per cent, 25 per cent or 100 per cent and applied as set out in section 1. These rates are designed to avoid the reduction in payments causing financial difficulty to the customer.

Automatic Recovery Rate Causing Hardship

If a customer cannot afford the reduction in the payments they receive, they should contact the **Tax Credits Helpline on 0845 300 3900**. The Helpline will arrange for Benefits and Credits to check if the rate of recovery can be adjusted.

An adjustment to increase the amount of tax credits paid will not normally be made if the award is only made up of the Family or Baby elements of Child Tax Credit or if the customer's payments have reduced following an investigation that established deliberate error or fraud.

Where a decision on hardship is required Benefits and Credits pass the case to Debt Management and Banking (DMB) who will arrange to contact the customer to check what is

affordable. DMB will consider the financial and personal circumstances to determine whether a relaxation of the recovery rates, or if a full or partial remission of the overpayment is appropriate. The decision on hardship will be in line with considerations applied to direct recovery cases so in some circumstances DMB may need to obtain income and expenditure detail from the customer to inform the decision. DMB will also review the customer's employment status, whether on sickness or incapacity benefits, and prospects for any improvement.

DMB will update Benefits and Credits who will inform the customer of the outcome in writing.

If an intermediary has all the relevant information, and decides to write, they should address the letter to Benefits and Credits at: **Tax Credits Office, Preston, PR1 0SB.**

Section 3 – the 'direct recovery' process (customer no longer receives tax credits or has made a new claim)

Notifying the customer of an overpayment – TC610

When, following the end of an award, a tax credits overpayment has been established a Notice to Pay form (TC610) is automatically issued to the customer. The TC610 advises the customer of the amount due to be repaid to HMRC, within 42 days, and advises them that they can opt to spread the repayment over a period of 12 months. The TC610 also notifies the customer of the Payment Helpline telephone number (0845 302 1429), which they can contact to discuss paying back their overpayment. The Payment Helpline is part of Customer Contact Directorate. An example of the TC610 can be found at Section 5.

- If the customer pays in full HMRC will take no further action.
- If the customer contacts HMRC for help HMRC can discuss their affordability to repay and agree a Time to Pay arrangement appropriate to the customer's financial circumstances. Where there is low affordability due to unemployment, or the customer is on sickness or incapacity benefits, HMRC may consider putting on hold or remitting the debt – depending on individual circumstances. Further information is available at Section 4.
- If the customer contacts the Tax Credit Helpline to dispute their overpayment HMRC can send forms TC846 and COP26 or the customer can download these from the HMRC website. Suspension of the overpayment will be automatically applied on receipt of the completed TC846. If HMRC receive correspondence, disputing the overpayment, it will suspend recovery until a decision has been reached.

Written reminders

If an overpayment has not been fully repaid 42 days following the issue of the TC610 notice to pay, and the customer has **not** contacted HMRC, details of the overpayment will be automatically sent to DMB. A reminder letter asking for payment will be sent automatically by DMB's computer system:

- if the customer pays in full following this letter, HMRC will take no further action
- if the customer disputes the recovery of the overpayment, HMRC will suspend action to recover the overpayment while it reconsiders
- if the customer contacts HMRC for help, HMRC can agree a payment arrangement or consider putting on hold or remitting the debt due to low affordability
- if the customer does not pay in full, or contact HMRC to agree a payment arrangement, HMRC will issue a further (stronger worded) warning letter

Telephone contact

Following the issue of the reminder letters, if the customer has not contacted HMRC, the Debt Management Telephone Centre (DMTC) will call them. The DMTC will discuss the customer's ability to repay (as detailed previously) and payment options, including an instalment arrangement:

- If the customer pays in full HMRC will take no further action.
- If the customer disputes the recovery of the overpayment, HMRC will refer the customer to the Tax Credit Helpline. DMB will withhold recovery action, allowing the customer time to do this.
- If the customer sets up a time to pay arrangement then recovery action will stop providing payments are kept up to date.

If DMTC establish that the customer cannot currently make an arrangement to repay the overpayment, and meet their living expenses at the same time, they will explain to the customer that the case will be put on hold for 12 months. Following this period the Debt Technical Office (DTO) will review the case and decide on the most appropriate action. In some cases HMRC will remit the overpayment immediately, depending on the customer's circumstances. In these cases DMTC will refer details to the DTO to deal with.

Personal contact

If the customer still fails to pay in full, or has not been in contact, the overpayment will be transferred to the DTO to follow up. The DTO will check that the customer is due to repay the overpayment. The case will be reviewed for Household Breakdown, Dual Recovery and to ensure that the customer has been notified of the overpayment. Where HMRC have confirmed that the customer is due to repay, it will try to contact the customer by phone or letter to set up an arrangement to pay wherever possible. Any letter sent by the DTO will provide the customer with a telephone number to contact them on.

If the DTO cannot make contact with the customer they may refer the case to the Field Force staff for a visit. This is normally at the customer's home but it can be arranged elsewhere if it is more convenient for the customer. At this stage HMRC will consider the customer's ability to repay and can still agree a payment arrangement. Every effort is made to contact the customer before HMRC start enforcement action.

Household breakdown cases

When a couple split up, and an overpayment arises from their joint claim, HMRC will ask each former partner for 50 per cent of the overpayment.

If one of the former partners wishes to pay more than 50 per cent, this can be accepted without the need of agreement with the ex-partner. Former partners may agree, between themselves, to vary the percentage that they each repay. However, if no offer is made, or a payment arrangement is not adhered to, HMRC reserve the right to seek 50 per cent from each former partner.

Legal proceedings

If the customer still does not pay or HMRC have, despite all efforts, been unable to establish any contact with them, HMRC will usually go to court to obtain judgment to enable it to enforce payment of the outstanding debt. HMRC use:

- summary proceedings in England, Wales, Scotland and Northern Ireland
- county court proceedings in England and Wales
- Ordinary Cause in Scotland

HMRC also have the power to use distraint but do not generally apply it to tax credit customers.

Charging Orders

Charging Orders on the customer's primary residence will not be considered for a stand alone tax credits debt. However, where an order is appropriate for other HMRC debts, HMRC can include the amount of any tax credits overpayment.

Section 4 - how HMRC decide what's affordable (direct recovery)

Time to Pay – introduction

When a customer contacts HMRC about repaying a tax credit overpayment HMRC will discuss their ability to repay. HMRC will make an informed decision using the new tax credits Time to Pay Negotiating Framework or, where appropriate, the information obtained relating to income and expenditure (more details of this follows in the sections below). In all cases special circumstances, such as employment status and receipt of benefits, are taken into account. Where there is low affordability due to unemployment or the customer is in receipt of sickness or incapacity benefits HMRC will arrange to either put recovery on hold or remit the overpayment depending on the individual circumstances.

Time to Pay – up to ten years

If the customer cannot or does not wish to repay the overpayment immediately then up to 12 months Time to Pay is offered as standard. The Payment Helpline will agree a Time to Pay arrangement up to three years for customers who can afford to repay within this period. If a customer requires an arrangement in excess of three years, or is unable to repay due to low affordability, the Payment Helpline will transfer the call to DMTC. If a customer asks for a repayment period of more than 12 months, and up to ten years, then HMRC will consider the request. HMRC will make an informed decision based on the responses to a short series of questions, laid out on the new tax credits Time to Pay Negotiating Framework. A copy of the new Negotiating Framework can be found at Section 5. Income and expenditure details are not required for agreements up to ten years.

Time to Pay – more than ten years

If a customer requests a period longer than ten years they will have to give HMRC full details of their income and outgoings to help HMRC see what is affordable and sustainable for the customer. HMRC do not wish to enter into agreements with an unrealistic repayment plan as this will cause stress for the customer and be less effective in recovering the overpayment. When HMRC consider these cases it will take into account any exceptional circumstances the customer advise of that may lead to extra living costs, for example, if the customer is looking after someone who is chronically ill or disabled.

Payment arrangements set up for periods of ten years or more are reviewed periodically. If, after ten years, the customer has consistently adhered to their payment plan HMRC will remit any outstanding balance.

Offers of less than £10 per month

Time to Pay arrangements will not be set up for amounts of less than £10 per month, unless the arrangement will clear the total overpayment within three years. If the customer cannot afford to pay £10 per month HMRC will withhold recovery action for 12 months. If the customer can still not afford to pay this minimum amount, and there is little or no prospect for improvement, HMRC will consider remitting the overpayment.

Low affordability

In assessing a customer's ability to repay an overpayment, HMRC compare their actual expenditure with figures provided by research carried out by the Office for National Statistics. HMRC will ask customers for an explanation if they say they have to spend more.

HMRC understand that customers have less discretion or control over existing commitments and fixed costs as listed in the following chart, and HMRC will take these fully into account unless they appear excessive.

Rent	Pension payments
Mortgage	Life assurance
Secured loans	HP or conditional sale
Council Tax	TV licence
Court fines	Maintenance or child support

The Income and Expenditure form shows, in more detail, the information HMRC ask customers to provide if they want to spread their instalment payments over more than ten years. HMRC prefer to collect information on this form but it will accept others detailing what's coming in and what's being paid out. An example of the Income and Expenditure form can be found at Section 5.

Customer is unemployed and has no savings or assets

Where the customer advises they are unemployed, and have no savings or realisable assets, the case will be reviewed in 12 months and consideration given to remit the outstanding overpayment. After this period, the DTO will contact the customer to establish if their circumstances have improved. Where the circumstances have improved sufficiently HMRC will seek to negotiate a suitable Time to Pay arrangement. If circumstances have not improved the DTO will remit the overpayment and notify the customer in writing.

Customer is on Sickness/Incapacity benefits

Where a customer is in receipt of Sickness or Incapacity Benefit or Employment and Support Allowance, and has little prospect of ever gaining paid employment, HMRC will remit the outstanding overpayment and write to the customer. If, however, there is some prospect of the customer re-gaining paid employment HMRC will withhold any recovery action for a suitable period of time and then review the customer's financial circumstances and their ability to pay. HMRC will inform its decision by asking appropriate questions.

Customer is unable to meet living expenses

As explained in the introduction, HMRC can recover overpayments from customers in two ways:

- recovery from an ongoing tax credits award
- direct recovery

Benefits and Credits manage the process for recovery from an ongoing award. The customer should call the Tax Credits Helpline (0845 300 3900) for any queries about recovery from an ongoing award.

DMB manage the direct recovery process including cases where a customer cannot afford to repay an overpayment.

If the DMTC establish that a customer cannot currently make an arrangement to repay an overpayment and meet their living expenses at the same time they will refer the case to the DTO.

The DTO will look at each case on its own merits and at the ability of the customer to make repayments. COP 26 underpins this activity.

The DTO may need to phone the customer to obtain documentary evidence of income and expenditure details. If the DTO cannot contact the customer by phone it will write and ask the customer to get in touch.

The letter will have the phone number of the DTO. If the customer gets in touch, the DTO will discuss the current income and expenditure to establish whether anything has changed since initial contact with the customer.

In some cases the DTO will set a date for a further review, usually 12 months but shorter if appropriate, if the customer's circumstances are expected to change (for example by returning to employment or self-employment).

If the customer still does not have the means to clear the overpayment, and there is little prospect of the position changing then the DTO will consider remitting the overpayment. The customer will be informed, by letter, of the outcome.

Special circumstances

Mental health cases

HMRC will deal with mental health cases carefully and sympathetically to avoid distress to the customer.

HMRC will need a letter from a health care professional or mental health social worker explaining the mental health problem to enable it to deal with these cases. The evidence should include the nature of the illness and as far as possible, whether the illness is likely to be long-term (for example, schizophrenia) or where the prospects for recovery are expected to be good.

If the information has not been provided HMRC will need to write to the claimant or third party asking for the documentary evidence. Only in exceptional circumstances will the evidence received be insufficient to relieve the claimant from responsibility for payment.

If the mental health problems existed at the time the overpayment occurred then Benefits and Credits can consider whether exceptional circumstances are such that writing off the overpayment is appropriate. If the mental health problems exist at the time the overpayment is being recovered then DMB will review the circumstances:

- For sole debts HMRC will write to the third party and the customer to let them know that it will not continue with recovery of the overpayment.
- For joint debts HMRC will continue with recovery from the other partner in line with the section above.
- For Household Breakdown cases HMRC will write to the customer to advise them that it will not continue with recovery of their share of the debt. However, HMRC will pursue the ex-partner for their share of the debt (more information is available at section 3).

Exceptional circumstances

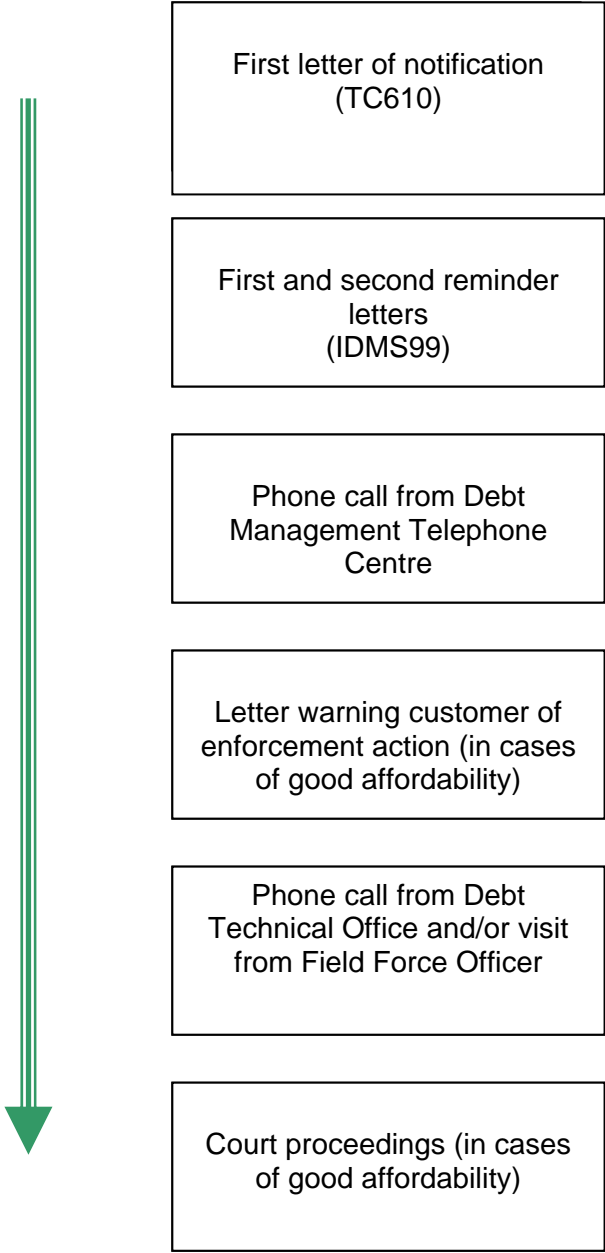
In exceptional circumstances, for example if a customer or family member of the customer is seriously ill HMRC may be able to put direct recovery of an overpayment on hold until the customer is able to fully discuss their financial situation. DMB may write off the overpayment altogether. Customers/advisors should phone the Payment Helpline to explain the exceptional circumstances.

Section 5 – useful information

Useful Tax Credits Helpline numbers

Tax Credits Helpline				
name	opening hours	contact number		description
customer Helpline	8.00 am to 8.00 pm seven days a week	telephone	0845 300 3900	for information about tax credits, including Working Tax Credits and Child Tax Credits
		textphone	0845 300 3909	also for customers wishing to give information about possible tax credit fraud or abuse
		overseas	+44 28 9053 8192	for customers living abroad who are not able to contact HMRC using the 0845 number
intermediaries priority line	8.00 am to 8.00 pm seven days a week	telephone	0845 300 3946	for information about tax credits, including Working Tax Credits and Child Tax Credits
tax credit overpayment Helpline	8.00 am to 8.00 pm seven days a week	telephone	0845 302 1429	all customer enquiries regarding the recovery of an overpayment of tax credits

Business process flowchart



An example of the initial letter TC610 asking for repayment



Helpline 08:00 to 20:00 0845 300 3900
Minicom/Textphone 0845 300 3909

Reprint ref 999999999

Date 99 X<----- 9999

RECIPIENTSRMCh35C02PACTERS
RECIPIENTSRMCh35C02PACTERS
ADDRESS LINE 1 MAX 35 C02PACTERSXX
ADDRESS LINE 2 MAX 35 C02PACTERSXX
ADDRESS LINE 3 MAX 35 C02PACTERSXX
ADDRESS LINE 4 MAX 35 C02PACTERSXX
ADDRESS LINE 5 MAX 35 C02PACTERSXX
P0202XX

HM Revenue & Customs
Accounts Office Cumbernauld
Glasgow
G67 1YZ

[As Appointee for]

[Claimant 1 Name xxxxxxxxxxxx]
[Claimant 2 Name xxxxxxxxxxxx]

National Insurance Number AAMNNNNA
National Insurance Number AAMNNNNA

NOTICE TO PAY Section 29 (3) of Tax Credits Act 2002

We have sent you a notice showing an overpayment of tax credits for the period ending [DD/MM/CCYY].

The total amount you have to pay back is shown below and is due by [DD/MM/CCYY].

The total amount of Working Tax Credit overpaid to you is £[9999999.99]

The total amount of Child Tax Credit overpaid to you is £[9999999.99]

The total amount of tax credits overpaid is £[9999999.99]

[The total in Euros is €[9999999.99]

This conversion has been made under European Commission rules using a rate of @ x 0.000000 = £1]

Information on how to pay is shown on the back of this form.

You may spread your repayment over the next 12 months if you wish. To arrange this, or discuss other payment options please phone the Payment Helpline on 0845 302 1429.

Please have your bank details, sort code and account number ready when you phone us.

TC610

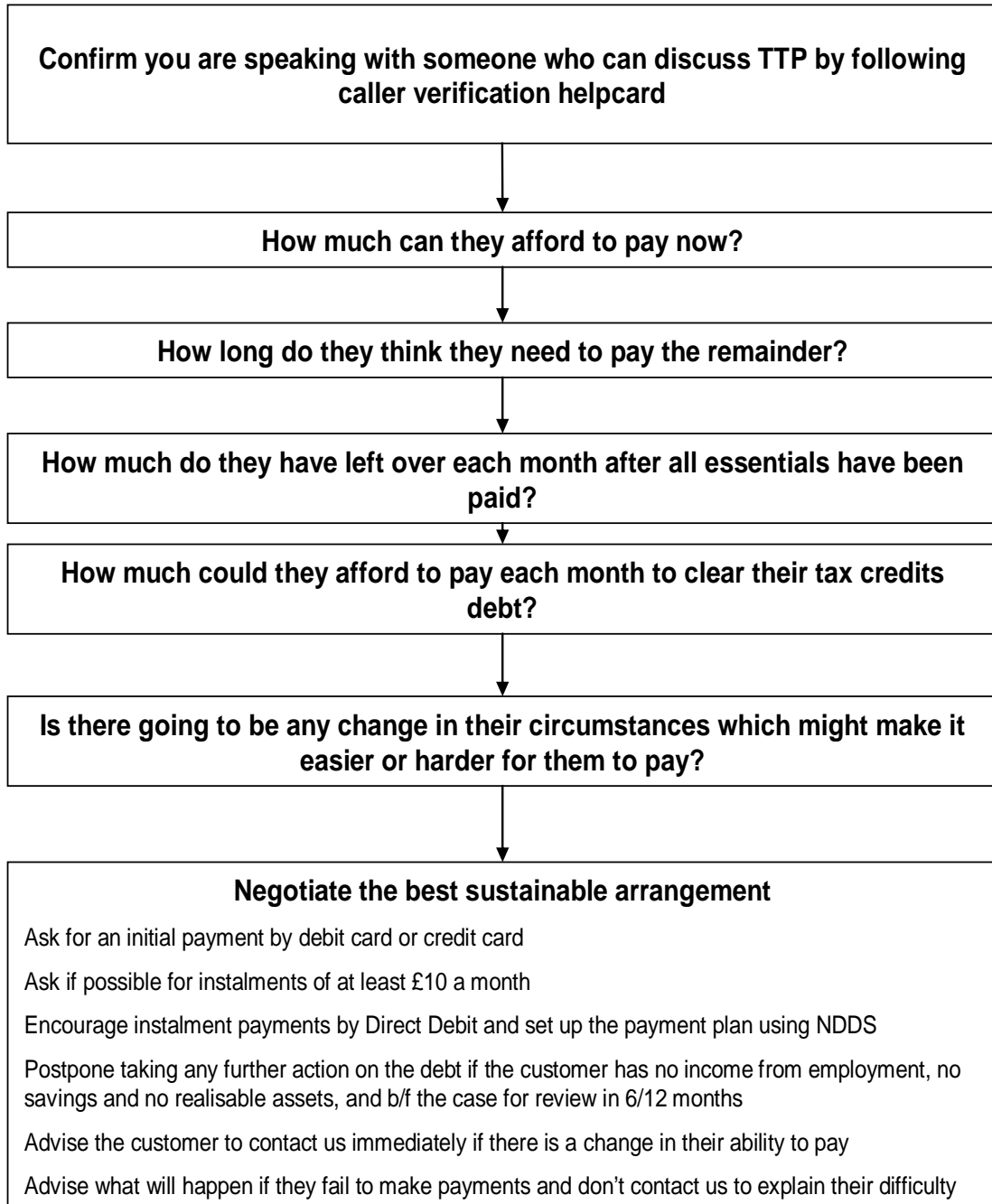
▼ If you need to use the payslip, please detach here ▼

HMRC 09/08

Tax Credits

Time To Pay Negotiating Framework

For use in TTP requests for tax credits debts where the customer requires above a year and up to 10 years to repay the debt



An example of the income and expenditure form used by HMRC

		Reference:	Nino:
1 Personal Details		4 Bank and Savings account	
<input type="checkbox"/> If Other Please state Full Name: _____ Single <input checked="" type="checkbox"/> Married <input type="checkbox"/> Partner <input type="checkbox"/> Date of Birth: _____ >> Address _____ _____ Postcode _____ Contact phone number(s) _____ _____ _____		Current account details Account number _____ Sort Code _____ Current balance _____ Overdraft Limit _____ Savings or Building Society Accounts details (branch(es) and address(es)) Account Number(s) 1 _____ 2 _____ 3 _____ Amount in the accounts 1 _____ 2 _____ 3 _____	
2 Dependants (people you look after financially)		5 Property and Assets	
Number of Children in each age group Age 0-15 _____ Age 16-18 _____ Other dependants (give details) _____ _____		<input type="checkbox"/> Own property <input type="checkbox"/> Rented property <input type="checkbox"/> Jointly owned property <input type="checkbox"/> Other (i.e. B & B) Value of property if owned £ _____ - Mortgage balance outstanding £ _____ - Endowment Policies £ _____ - Name of Company _____ Maturity Date _____ Surrender Value £ _____ - Stocks and Shares (value) £ _____ - Details _____ Premium Bonds £ _____ - National Savings Certificates £ _____ - Motor Vehicle(s) make and registration (give details) <input type="checkbox"/> owned <input type="checkbox"/> lease <input type="checkbox"/> hire purchase <input type="checkbox"/> Company Car If on HP give date of final payment _____ Any sums due for work done _____	
3a Employment			
Works Number (if appropriate) _____ Employer _____ Other paid employment _____			
3b Self Employment			
Self employed as: _____ Give details of contracts and other work in hand: _____ _____ Periods of Unemployment _____			
3c Current unemployment			
Unemployed for (say how long): _____ Address of office where registered as unemployed _____			

An example of the income and expenditure form - continued

6 Income (either per week (w), month (m) or year (y))		
	amount	per
Net take home pay		
Including reg overtime, commission, bonuses etc)		
Self Employed Income/drawings		
Tax Credits		
Child benefit		
Income Support/Job Seekers Allowance		
Other social security benefits		
Spouse/ Partners/others contribution		
Pension income		
Other income		
Total Income weekly	£	-
Monthly	£	-
Yearly	£	-
7 Expenses (state whether per week, month or year)		
Expenses. Do NOT include any payment made by other members of your household out of any income not included in Income section		
	amount	per
Mortgage(s)/Rent		
Council Tax/Rates		
Utilities (water/electric/gas etc)		
HP payments		
Mail order payments		
Maintenance Payments		
Court Order payments		
Credit/store card minimum repayments		
Loan repayments payments		
Pension Contributions		
Media (internet/SKY/cable etc)		
Household expenses (food etc)		
Health (prescriptions etc)		
Child related costs (clothing/child care etc)		
Insurance payments (life/buildings/contents etc)		
Telephone (including mobile) (fuel/insurance/road tax etc)		
Other (including pets, repairs etc)		
Totals		
Weekly	Monthly	Yearly
0.00	0.00	0.00

8 Liabilities (amount owed)	
	Amounts owed Last payment due
Loans	
Repayments of Social fund payment HP	
Court Orders	
Credit/store Cards	
Mortgage/rent arrears	
Council Tax arrears	
Utilities arrears	
Maintenance arrears	
Mail Orders	
Other Debts	

9			
	Weekly	Monthly	Yearly
Total Income	0.00	0.00	0.00
Less			
Total Expenses	0.00	0.00	0.00
Disposable	0.00	0.00	0.00