

How to appeal

Guidance for those registered as or applying to be a childminder or a childcare provider

This leaflet explains how and when you, as someone applying to provide or already registered to provide childminding or childcare, can appeal against our decision to take steps that affect your registration. Please read this leaflet carefully.

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What is an appeal?

You have a right to appeal against the effect of a magistrate's order, or against certain decisions we make. The appeal is your opportunity to explain to an independent body – the First Tier Tribunal (Health, Education and Social Care Chamber) – why you believe that the magistrate's order or our decision is wrong.

You can appeal against a magistrate's order that:

- varies, imposes or removes conditions of your registration
- cancels your registration.

You can appeal against our decision to:

- change the conditions that apply to your registration, which may include adding new conditions, varying existing ones or removing them (conditions can restrict or allow you to operate in a particular way, such as limiting the number of children you can care for due to health reasons)
- cancel your registration
- refuse your application to register as a provider of childcare
- refuse your application to add additional premises to your existing registration
- refuse your application to offer childminding/childcare on specific non-domestic premises for up to 50% of your total operating time under your existing childminder/childcare on domestic registration
- refuse your request to vary or remove conditions
- refuse your application to 'waive' your disqualification from providing childcare
- suspend your childcare registration.

If you wish to appeal against a suspension, please see our leaflet 'Suspension: information for providers, parents and carers when childcare is suspended'¹ or you can ask us to send you a copy by phoning our helpline (0300 123 1231).

Who do I appeal to?

You can appeal to the First Tier Tribunal (Health, Education and Social Care Chamber) ('the Tribunal'), which considers appeals against our decisions or against the effect of a magistrate's order. The Tribunal is an independent body that has the power to change our decisions or the effect of a magistrate's order.

¹ *Suspension: information for providers, parents and carers when childcare is suspended*, Ofsted, 2012; www.gov.uk/government/publications/suspension-information-for-providers-parents-and-carers-on-suspension-of-childcare.

How do I appeal?

You must appeal by writing to the Tribunal at the address below. The Tribunal must receive your appeal within:

- three months, after service of our notice of decision to refuse registration as a childminder or childcare provider
- 10 working days, after service of our notice of suspension of registration as a childminder or childcare provider
- 28 days, in all other cases.

In order to appeal, you must complete a specific application form which you can obtain from the Tribunal website www.gov.uk/courts-tribunals/first-tier-tribunal-care-standards or by contacting the Tribunal. You must send the completed form to the Tribunal, together with a copy of our decision, within the specified timescale.

If your appeal is against the suspension of your registration you must submit your appeal within 10 working days of the date of the notice of suspension (see our leaflet 'Suspension: information for providers, parents and carers when childcare is suspended').

If you appeal against the decision to refuse your application for registration or approval of premises, or cancel your registration, the cancellation or refusal does not apply until the Tribunal has made a decision about your appeal. If you do not appeal, the cancellation or refusal takes effect 28 days from the date of the notification.

For further information regarding the appeals process, please consult the Tribunal's guidance at: http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=4504, or contact the Tribunal using the following information:

You can contact the secretary of the Tribunal by:

- writing to:
Her Majesty's Courts and Tribunal Service (HMCTS) - Care Standards
1st Floor
Darlington Magistrates Court
Parkgate
DL1 1RU
- phoning: 01325 289 350
- faxing: 01325 289 395
- emailing: cst@hmcts.gsi.gov.uk
- visiting the Care Standards Tribunal website at:
www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about

The Tribunal will decide to either:

- uphold your appeal
- dismiss your appeal.²

What happens if the Tribunal upholds my appeal?

If the Tribunal upholds your appeal, this means that they agree that our decision should not stand or that a magistrate's order is inappropriate. The Tribunal's decision will apply immediately. However, they can:

- place conditions on your registration
- remove a condition from your registration
- change the conditions that apply to your registration
- keep the existing conditions.

We will send you a new certificate of registration that sets out the conditions that apply to your registration, or we will write to confirm that your existing certification will continue without any changes or that we will continue to process your application for approval.

What happens if the Tribunal dismisses my appeal?

If the Tribunal dismisses your appeal, this means that they support our decision or agree with the magistrate's order. This means that our decision will apply immediately or that the effect of the magistrate's order continues. For example, if we decide to cancel your registration, and you appeal against our decision, the law allows you to continue to provide care until the Tribunal has reached its decision about your appeal. If the Tribunal dismisses your appeal, you must **immediately** stop providing the care for which you are registered. If your appeal is against suspension of registration you cannot provide care in the period while you are waiting for the Tribunal to consider your appeal and if the Tribunal dismisses your appeal you cannot resume providing care until the date on the notice of suspension.

We will write to confirm the Tribunal's decision and what this means for you. If your registration continues, we will send you a new certificate of registration setting out any changes in the conditions that may apply to your registration if the Tribunal has changed these conditions.

You may have the right to a review of the Tribunal's decision, or to appeal against the Tribunal's decision. You should contact the secretary of the Tribunal for more information if this is not covered in the Tribunal's guidance.

You may find it helpful to speak to a solicitor for advice.

² The Tribunal has other powers, which include the powers to 'strike out' an appeal or issue a consent order.