



If you are unhappy with your benefit decision

► Arthritis Care has produced factsheets on each of these benefits and can provide further information. See back page for contact details.

This factsheet covers the process of challenging benefit decisions administered by the Department for Work and Pensions (DWP). This includes benefits such as Employment and Support Allowance (ESA), Universal Credit (UC) Disability Living Allowance (DLA), Attendance Allowance (AA) and Personal Independence Payment (PIP).

Mandatory reconsiderations

You have the right to appeal to an independent tribunal, the 'First-tier Tribunal', against most benefit decisions. However, you cannot appeal against a decision on a DWP-administered benefit unless you have first requested the DWP to reconsider their decision. This is called a 'mandatory reconsideration'. If you disagree with the reconsidered decision, you can then appeal and take your case to a tribunal.

The dispute period

There is a 'dispute period', during which you can ask for a decision to be reconsidered. This normally lasts for one calendar month from the date the decision is sent to you. If you have missed this one-month deadline, you may be able to ask for a late revision. This may be accepted up to 13 months after the normal deadline if:

- the decision maker thinks it is reasonable; and
- special circumstances make it impracticable for you to seek a revision within one month.

When you ask for the decision to be reconsidered, a DWP decision-maker will look at your request and, if they agree with it, they will revise the decision.

Asking for a reconsideration

You can ask for a reconsideration over the phone. You should then confirm your request in writing, using the office address printed on the decision letter. Be sure to keep a copy of your request.

When you ask for the decision to be reconsidered, you should explain why you think the decision is wrong. If possible, provide evidence.

► See Arthritis Care's factsheets on 'Personal Independence Payment' and 'Attendance Allowance' for more information.

In the case of benefits paid because of your disability, such as PIP or AA, you may need to see the evidence that was used in making the decision before you can properly put forward your case.

In this case, when you phone the DWP, you should do the following:

- request a reconsideration of the decision. State your grounds simply at this stage, such as (for PIP), *'I believe that you have underestimated the degree of my disability and consequently underestimated the extent of my mobility problems and/ or the difficulties I have in carrying out daily living activities'*; and
- ask them to send you copies of all the evidence that was used in making the decision; and
- ask them not to take any further action until you have had the chance to respond to that evidence.

When you receive the evidence, you should have a better idea of why the decision was made. This will help you frame your argument and build up evidence to support your case.

However, if you are challenging an ESA decision, it is best to ask them to carry out the reconsideration as quickly as possible, even if it means doing it without further evidence. This is because your options for claiming benefits are limited during the reconsideration process. You will still have the opportunity to submit it at the appeal stage.

Building a case for disability benefits

Sometimes the only evidence used will be the information you gave on the benefit claim form. In most cases, however, there will be a report produced by a healthcare professional who was asked to assess you on behalf of the DWP.

Once you have obtained a copy of this report, compare it with the account that you gave of your situation in the claim form. Try to find where any discrepancies arise. For example, you may have written on the claim form that you could not get on and off the toilet without support, but the healthcare professional noted in their report that they thought you could manage by yourself. Now try to get medical evidence showing that what you said on the form was correct – such as a letter

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from your doctor or consultant confirming the difficulties and risks you have getting on and off the toilet unassisted.

Once you have obtained evidence to support your case, send it to the address printed on the decision letter. If it is likely to take a while for you to obtain the evidence, inform the DWP how long it is likely to take, so that they do not make a decision straight away.

The mandatory reconsideration notice

Once a decision has been reconsidered, the decision maker will send you two copies of a 'mandatory reconsideration notice' to let you know the outcome. You will need the extra copy of the notice if you wish to appeal.

Appealing to a tribunal

Appeals for DWP-administered benefits are independent of the DWP. They are run by the HM Courts & Tribunals Service (HMCTS). Appeals are made direct to the HMCTS, except in Northern Ireland, where they are made to the Department for Social Development.

How do you appeal?

To obtain a SSCS1 form:

Go to: gov.uk/social-security-child-support-tribunal/appeal-tribunal

You must either ask for mandatory reconsideration or take other steps before you appeal to the Social Security Tribunal. Appeals for DWP-administered benefits can be made on the SSCS1 form. You must attach a copy of the mandatory reconsideration notice when you appeal.

One of the questions on the SSCS1 form asks if you want to attend a hearing of your appeal or if you want it to be decided on the papers alone. It is better to attend the hearing, particularly if you are appealing against a decision relating to a disability benefit.

Appeal time limits

Your appeal must normally reach the HMCTS within one calendar month of the date the mandatory reconsideration notice was sent to you. If your appeal is late, you must explain why. The appeal tribunal will consider your reasons and can extend the time limit by up to 12 months. The longer the delay, the better the reasons must be.

The appeal response

The HMCTS will send a copy of your appeal to the DWP and ask them to provide a 'response' to explain how they came to their decision. The DWP must normally do this within 28 days. The DWP will send you a copy of the response.

The hearing

You must be given 14 days' notice of the time and place of the appeal hearing. The appeal should be informal. The appeal tribunal will be made up of a judge and possibly one or two other people, depending on the type of appeal. In the case of disability benefits (such as DLA or PIP), one of these people will be a doctor.

Occasionally there is also a representative from the DWP, to put forward their case.

The judge will normally start by introducing the tribunal and explaining its role. They usually go on to ask you questions about the issues related to your appeal. For disability-related appeals, they will often ask you to describe what you do on an average day. You should be given the opportunity to explain your case to the tribunal.

Once the tribunal is satisfied that everyone has had the chance to put forward their case, they will ask you to leave the tribunal room while they make the decision.

The decision

You should be given a decision notice on the day of the hearing, or soon after that. A copy will then be sent to the DWP. This is so they can put the tribunal decision into effect and pay you any benefit owed.

If the appeal is unsuccessful, you can ask for a more detailed explanation: the 'statement of reasons' for the decision. You have one month from the date of the tribunal decision in which to do this. Once you have read the statement of reasons, it should be clear to you how and why you have been unsuccessful.

If you disagree with the decision, you may be able to appeal further to an 'Upper Tribunal'. You can only do this if the tribunal has made a legal error. For this reason, you should obtain advice before taking things further.

Sources of legal help

Your local Citizens Advice:

citizensadvice.org.uk

Civil Legal Advice – England and Wales

Tel: 0345 345 4345

gov.uk/legal-aid/how-to-claim

Law Centres Network – England and Northern Ireland

Tel: 020 3637 1330

lawcentres.org.uk

Scottish Legal Aid Board

Tel: 0845 122 8686

slab.org.uk

Northern Ireland Legal Services Commission

Tel: 028 9040 8888

nilsc.org.uk

Disclaimer: This factsheet is only a guide and does not cover every circumstance. We have done our best to make sure the factsheet is correct as per the date below. Some of the information may be oversimplified or may become inaccurate over time - for example, because of changes to the law. We recommend that you get independent advice before making financial decisions based on this factsheet.



ARTHRITIS CARE

How Arthritis Care can help you

Want to talk to someone about your arthritis?

Or read more about the condition?

Call our free, confidential Helpline on 0808 800 4050 for information and support. We're open weekdays from 09:30 to 17:00 – we'd really like to hear from you.

We have over 40 free booklets and factsheets on various aspects of arthritis, from diet and surgery, to managing pain and fatigue. These can be sent to you in the post – just ask our Helpline staff for details.

Go online

You can download all our booklets and factsheets as PDFs from arthritiscare.org.uk/information

We also have an Online Community, where you can chat to others with arthritis, and can be reached at arthritiscareforum.org.uk



Arthritis Care and Arthritis Research UK have joined together to help more people live well with arthritis. Read how at arthritisresearchuk.org/merger. All donations will now go to Arthritis Research UK and be used to help people with arthritis live full and active lives in communities across England and Wales, Scotland, and Northern Ireland.

Thank you

Contact us

Our Helpline:

0808 800 4050

Our website:

arthritiscare.org.uk

Our offices:

England:

020 7380 6540

Northern Ireland:

028 9078 2940

Scotland:

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Social media:



@arthritis_care



facebook.com/arthritiscareuk



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Please check our website for up-to-date information and reference sources or call 020 7380 6577.



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