



## Appealing a Benefit Decision

### ***What can I do if I am not happy with a benefit decision?***

Where you disagree with a decision on either whether or not you qualify for a benefit, at what rate it should be paid or a decision to end an award you or that you have been overpaid benefit you can challenge the decision. Some decisions do not have a right of appeal and you should seek advice from one of our specialist benefit advisors if you are not sure. The law requires that all benefit notices contain information about whether you can challenge the decision and how to go about this.

### **Can I register an appeal straightaway?**

For all DWP decisions that are dated on or after 28/10/13 and for all Tax Credit decisions dated after 06/04/14 you must first go through the **mandatory reconsideration** process – please see our factsheet for more information on this. This means that the DWP/HMRC must have the opportunity to look again at and correct their decision.

You have the opportunity to explain why you think the original decision was incorrect and provide additional evidence to support the dispute. The idea is to speed up the process for getting decision corrected. However, not all decision will be changed at the mandatory reconsideration stage.

If you are still unhappy with a decision after the mandatory reconsideration has been carried out you can register an appeal. For most appeals you will need to send a copy of the Mandatory Reconsideration Notice; you should be sent two copies – one to keep and one to send.

### ***I have the Mandatory Reconsideration Notice - How do I register an appeal?***

Appeals should be now registered with the HM Courts and Tribunals Service (HMCTS); this is called 'direct lodgement'.

The appeal must be made in writing and there are rules about the information needed to ensure that

the appeal is properly made; the easiest way to do this is to use the relevant HMCTS form; SSCS1 or

SSCS5 if you are appealing a Tax Credits decision. We have copies of this form available at our offices or it can be downloaded.

The completed form should be sent directly to HMCTS, SSCS Appeals Centre, PO Box 1203, Bradford BD1 9WP (for cases in England and Wales). If your appeal does not include all the information required, HMCTS may return it for you to complete and this could result in you missing the deadline.

### ***What else needs to go on this form?***

The SSCS1 form will ask a number of standard questions – including whether you want to attend a hearing of the appeal and if you need to make any special arrangements (interpreter, signer, hearing loop, etc).

### ***Do I have to go to Court?***

Although appeals are dealt with by HM Courts and Tribunal Service you will not have to appear in a Court or swear an oath. Instead the Hearings are usually held in an ordinary room around a large table. Benefit appeals are *inquisitorial* by nature not confrontational.

We strongly recommend that you ask for an **oral hearing** of the appeal. This gives you the opportunity to speak to the Tribunal panel about the issues and it is often the case that it is easier to explain things in person than to try and write them down.

### ***What is the deadline to register an appeal?***

You should ensure that the appropriate form is received at the designated HMCTS offices **within 1 month** of the date of the decision.

### ***What happens next?***

The DWP will be notified that an appeal has been registered and will be asked to prepare a set of appeal papers. The appeal papers will include copies of all information in relation to your appeal.

There is no deadline for when the appeal papers should be prepared, but the DWP are required to do so as soon as possible – this could take 8-10 weeks

from you asking for an appeal, or even longer, dependent on the type of appeal you have.

**IF YOU WANT ASSISTANCE FROM US WITH YOUR APPEAL YOU SHOULD CONTACT US WHEN YOU RECEIVE THE APPEAL PAPERS**

We will look at your appeal papers and advise you if we can take on your case. We have a lot of people asking for help with appeals and we simply cannot take on every case, so we have to try to prioritise the cases where we think our involvement might make the most difference.

**What can I do if you do not take my case?**

Where we do not take on a case we will try to give advice and information about the issues involved and hints on additional evidence that might assist. It is often the case that the success of an appeal depends on the verbal evidence given at the Hearing.

Any relevant evidence to support your appeal can be sent to the Tribunal in advance of the Hearing.

**What sort of evidence will I need?**

It really depends on what type of appeal you have. For disability benefits (DLA/ PIP/ ESA) it can help to have doctors' reports or clinic letters from consultants, which explain how you are affected by your health conditions. Sometimes doctors will write letters for the Tribunal, but they will often charge a fee for doing this.

**What happens next?**

You will be sent a letter telling you the date of your appeal – this could take around a further 20 weeks. Although HM Courts and Tribunals Service is based in Birmingham, your appeal will be listed locally (Northampton or Wellingborough dependent on where you live). You should usually be given at least 2 weeks notice of the Hearing, unless you have

agreed to accept a date at short-notice. You can contact HMCTS on 0300 123 1142.

**What happens at the Hearing?**

An independent panel will take a fresh look at your case – these will be made up as follows:

- **PIP/DLA appeals** – 3 panel members (Judge, Doctor, Lay member)
- **ESA appeals** – 2 panel members (Judge, Doctor)
- **Industrial Injuries appeal** - 2 panel members (Judge, Doctor)
- **Other types of appeals** (eg overpayments or cohabitation cases) – 1 panel member (Judge sitting alone)

**Can you accompany me to the Hearing?**

Unfortunately we do not usually have the capacity to attend appeal hearings. Tribunals are generally fairly informal and the panel are used to dealing with ordinary people. They use the law to make their decision but do not expect people before them to be expert in the law; instead they want to hear credible, reliable and consistent evidence to help make their decision.

**You can claim travelling expenses from the hearing (although if you need a taxi this will require prior permission from HM Courts and Tribunals Service).**



Community Law Service offer specialist benefit advice to assist with identifying benefit entitlement, claiming benefits, understanding benefit decisions and registering benefit challenges and appeal. We can offer appointments to give advice and assistance to prepare for benefit appeals.



## THINGS YOU CAN DO TO IMPROVE YOUR CHANCES AT APPEAL:

1. **ASK FOR AN ORAL HEARING** – although this may feel daunting, you stand a much better chance if you go along and speak to the panel. You can explain your problems and answer questions to give a better understanding of your case. You will be asked about this on the SSCS1 Form.
2. **READ THE APPEAL PAPERS** – you can make notes to take in to the hearing with you to highlight what you think is relevant. You can also send in a written statement (or submission) highlighting the main points for your case.
3. **CONSIDER WHAT AREAS YOU NEED TO PROVE** – for example, get information about what the law says you have to show to qualify for benefit and try to ensure you address only relevant issues. Ask for advice about this if you are not sure. You are likely to also better understand this if you read the original decision letter and Mandatory Reconsideration Notice, as well as the appeal papers.
4. **CONSIDER WHETHER YOU HAVE ANY EVIDENCE WHICH HELPS PROVE YOUR CASE** – if you do, send it in to the office that made the decision as soon as possible. If you have already returned the questionnaire to HM Courts and Tribunals Service, send the extra evidence to them.
5. **BE AWARE THAT THE TRIBUNAL WILL ASK ABOUT THINGS SUCH AS HOW YOU TRAVELLED TO THE HEARING** – If you are arguing you cannot walk more than 50 metres, this is not supported if you walk 3 miles to the hearing.
6. **KEEP TO DEADLINES** – 1 month to appeal; send in any extra information as early as you can.