



Challenging a Benefit Decision

From April 2013 a new system of **Mandatory Reconsideration** has applied to all Personal Independence Payment (PIP) and Universal Credit decisions extending to all DWP benefit decision after October 2013 and all Tax Credits (HMRC) decisions after April 2014.

How do I know whether to challenge a decision?

All decisions about benefits are made according to the rules and regulations set out in the relevant benefit law. When a decision is issued it should contain a full explanation for the reasons behind that decision and the information used. If you disagree with the the outcome of the claim and can identify that incorrect information has been used or correct information has been wrongly interpreted then you can challenge the decision.

What is Mandatory Reconsideration?

There are two stages to the challenge process where you disagree with a decision about your benefits; under the old system (for decisions dated before 28/10/13) you could either ask for a review or reconsideration of the decision to be carried out by the decision making body or directly register an appeal. The new system requires that the DWP/ HMRC carry out a review of all decisions before you are permitted to register an appeal. These mandatory reconsiderations will be carried out by Decision Makers within specialist 'Dispute Resolution Teams'; this will not necessarily be your local DWP Benefit Centre. **You can request this by telephone or by letter – whichever you prefer.**

How can I get a decision changed at Mandatory Reconsideration?

You can telephone or write to ask for a reconsideration. You should simply explain

exactly what it is you think is wrong about the decision. Try to be as specific as possible, and explain your problems with the activities which are difficult for you. It is important to provide as much relevant information as possible at this stage to allow for a full review of the decision. Decision Makers will also make an attempt to contact claimants by telephone to discuss the decision and you can use this telephone call to explain more about your case and reasons for disagreeing. This telephone conversation could be important in getting the decision changed quicker and you should try to be available to take the call and perhaps have some notes handy to remind you of the important issues.

What are the Deadlines?

There is a **one-month** dispute period in which to register a challenge against either an original decision or the reconsidered decision. Challenges received after this deadline might not be accepted unless there is a good reason for the lateness or specific rules apply.

A benefit decision is treated as made on the day that the DWP posts the decision notice to the claimant. The date on the decision notice must be the date when they post it. There are accepted assumptions about the time it takes for post to be received – if you say that you have particular problems with receiving post you would be expected to back this up.

How quickly will I hear about the Mandatory Reconsideration?

There is no time limit for the DWP to carry out their reconsideration – simply a requirement that this be done 'as soon as reasonably practicable'. Where a decision has been made to stop a benefit no payments can be made until the decision has been changed to agree entitlement.

Delays with making Mandatory Reconsideration decisions have caused serious problems for **Employment & Support Allowance claimants** wishing to appeal against a decision that they do not have a limited capability for work. Registration of an appeal has the effect of extending the 'Assessment Phase' and allowing the claimant to be treated as having a limited capability for work and therefore releasing ongoing payments at the basic rate as long as there is a current medical certificate.

There is no provision to allow for this extension of the 'Assessment phase' during the time it take for the mandatory reconsideration to be carried out. The only option to receive benefit payments during this time for many claimants will be to make a claim for Job Seekers Allowance; in order to claim and receive payment of JSA you must be available for and actively seeking work – although there are some reduced conditions for disabled claimants.

It is inevitable that claimants will experience some disruption and delay to benefit payments while new claims are processed.

Once the Mandatory Reconsideration has been carried out and an appeal registered any claims for Job Seekers Allowance made in these circumstances will be automatically transferred back to Employment & Support Allowance (if

ESA is being disputed), but claimants should always check the situation with their own claim.

What if I am still unhappy with a decision?

If the decision is not changed at this stage you will be sent written notification and a Mandatory Reconsideration Notice. This document should give reasons for the decision and confirm your rights to appeal. You will need this Mandatory Reconsideration Notice if you wish to register an appeal with the HM Courts and Tribunals Service (HMCTS); this is called 'direct lodgement'.

There is a one-month deadline from receiving notification of the revised decision to register an appeal.

Under mandatory reconsideration you are unable to register an appeal unless the decision has been already looked at again and the Mandatory Reconsideration Notice issued.



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.



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; there is a new HMCTS appeal form (form SSCS1) which replaces the DWP form GL24. We have copies of this form available at our offices.

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.

Claimants will have to make sure that they have taken action to instigate both stages to challenge a decision in time. Firstly there is a deadline to request a mandatory revision and then there is a second deadline to register an appeal with HMCTS.

How can Community Law Service help?

We currently have a very high volume of enquiries about Mandatory Reconsiderations. We would encourage you to telephone/write and register this yourself.

However, if you feel you cannot do this, or your case is very complex, please contact us. Otherwise, telephone the office that made the decision you disagree with and register the mandatory reconsideration and contact us if you still disagree with the next decision.