

APPEALING A BENEFIT DECISION INFORMATION SHEET

Overview

You can appeal a decision about your entitlement to benefits, for example, Personal Independence Payment (PIP), Employment and Support Allowance (ESA) and Universal Credit.

Appeals are decided by the Social Security and Child Support Tribunal. The tribunal is impartial and independent of the government. The tribunal will listen to both sides before making a decision

How to appeal

Before you appeal you must usually ask for the decision about your benefit to be looked at again – this is called ‘mandatory reconsideration’.

If you do not need to do this, your decision letter will say that you can appeal straight away. The letter will explain why you do not need a mandatory reconsideration – include this explanation when you submit your appeal.

Appeal to the tribunal within one month of getting your mandatory reconsideration decision. If you start your appeal after a month you will have to explain why you did not do it earlier. Your appeal might not be accepted.

After you submit your appeal, you can provide evidence to the tribunal. Your appeal will be decided at a tribunal hearing.

Benefit decisions you can appeal

You can appeal a decision about:

- 30 hours free childcare scheme
- Attendance Allowance
- Bereavement Support Payment
- Budgeting Loans
- Carer’s Allowance
- Child Benefit
- Cold Weather Payment
- Compensation Recovery Unit
- Contracted Out Employment Group
- Disability Living Allowance (DLA)
- Employment and Support Allowance (ESA)
- Funeral Expenses Payment
- Health in Pregnancy Grant
- Home Responsibilities Protection

- Housing Benefit
- Incapacity Benefit
- Income Support
- Industrial Death Benefit
- Industrial Injuries Disablement Benefit
- Jobseeker's Allowance
- Maternity Allowance
- Pension Credit
- Personal Independence Payment (PIP)
- Retirement Pension
- Severe Disablement Allowance
- Sure Start Maternity Grant
- Tax Credits
- Tax-Free Childcare
- Universal Credit
- Widowed Parent's Allowance
- Winter Fuel Payment

Check any letters you have received about your benefit if you do not know the exact name.

Submit your appeal

You can appeal a decision about your entitlement to benefits, for example, Personal Independence Payment (PIP), Employment and Support Allowance (ESA) and Universal Credit.

You must ask for the decision about your benefits to be looked at again before you can appeal, unless your decision letter says you do not need a 'mandatory reconsideration'.

You will need:

- Your National Insurance number
- The details of the representative helping with your appeal (if you are using one)
- Your mandatory reconsideration notice – you get this after you ask for the benefit decision to be looked at again

If you do not need a mandatory reconsideration your decision letter will say why. Include this explanation when you submit your appeal.

You will need to choose whether you want to go to the tribunal hearing to explain your appeal in person. If you do not attend, your appeal will be decided on the basis of your appeal form and any supporting evidence that you provide.

The appeal process is an online process and can be accessed at <https://www.appeal-benefit-decision.service.gov.uk/benefit-type>.

Appealing by post

Make a postal appeal for a Universal Credit, ESA or PIP decision using form SSCS1. This is available at <https://www.gov.uk/government/publications/appeal-a-social-security-benefits-decision-form-sscs1>.

Help with your appeal

You can appoint someone as a 'representative' to help you with your appeal. A representative can:

- Help you submit your appeal or prepare your evidence
- Do a submission before the tribunal, for example, a doctors report
- Act on your behalf
- Give you advice

Anyone can be a representative, including friends and family.

You might also be able to find a representative through a library or from an organisation in your area that gives advice on claiming benefits, for example Swindon Carers Centre.

Your representative will have permission to act on your behalf, for example to respond to letters. They will be sent all the information about your appeal, including any medical evidence.

To register a representative, you can either:

- Name your representative when you submit your appeal
- Register a representative at any point after you submit your appeal

Write to HMCTS Benefit Appeals to register a representative after you have submitted your appeal. The address is:

HMCTS Benefit Appeals
PO Box 12626
Harlow
CM20 9QF.

The benefit appeals helpline can be contacted on 0300 123 1142 if you need help submitting an appeal.

After you submit your appeal

Your appeal will be sent to the department that made the decision about your entitlement to benefits. They will respond to your appeal explaining why they made the decision. You will get a copy of the response.

Providing evidence

You can provide evidence to help the tribunal understand your condition or circumstances so they can make a decision. Evidence can include a letter from your doctor or someone who knows you.

You will be told where to send your evidence after you submit your appeal. Send it as soon as you can so the tribunal have time to read it before the hearing.

The DWP should review their decision based on any new evidence that is submitted. Decisions should not be negotiated directly with the claimant via a telephone call but should be communicated by letter.

How long does the appeal process take?

It usually takes up to 6 months for an appeal to be heard by the tribunal.

Your appeal might be delayed unless you:

- Send any evidence as soon as you can before the hearing
- Arrive at the hearing on time (if you are attending)
- Register your representative as soon as you can (if you are using one)

What to expect when going to a tribunal

This is not a court hearing and the tribunal judge is more an investigator of the facts surrounding the claim.

What to bring with you

If you are going to a tribunal, you should bring:

- Your hearing letter with your case number – the case number helps you find where you need to go in the building
- Any papers you need for your hearing
- Food and drink, including water – not all buildings have refreshments available.

What to wear

You cannot wear anything on your head in a tribunal building unless it is for religious reasons.

There are no other rules about what you should wear, but dress smartly if you are able to.

When to arrive

You need to arrive 30 minutes before the time stated in your hearing letter. Do not arrive earlier as you may be turned away, particularly during busy times.

The time given in your letter is when the day's cases start. Your case might not be first so be prepared to wait.

Make any arrangements you need to, for example, childcare or taking time off work.

Who will be at your tribunal hearing?

- The appellant – is usually the person who disputes a decision about their claim for a benefit, made by a government agency (commonly the Department of Work and Pensions)
- The representative – this is a person who attends a hearing to advise the appellant or the other party, and help them present their case. A representative may be a friend or relative, a person who is legally qualified or professionally trained or from a welfare rights organisation or advice centre
- The other party – if a person other than the appellant has an interest in the outcome of an appeal, they may attend the hearing. For example, the appellant's ex-partner in a child support case, or the landlord in a housing benefit appeal.
- The presenting officer – this is a person representing the office or agency that made the decision under dispute (most commonly the Department of Work and Pensions)
- The tribunal panel – an appeal is decided by a tribunal judge sitting alone or by a tribunal panel of up to three people. The tribunal is always chaired by a legally qualified tribunal judge, appointed by the Senior President of Tribunals. Sometimes the panel may include a doctor or a person with experience in disability issues. The judge or panel members will make sure they understand and are able to give the relevant evidence.
- The clerk to the tribunal – the clerk will show people where to sit in the hearing room. The clerk will stay in the room during the hearing.

- The public/media – be aware that most hearings are open to the public and, although uncommon, the media or press and public can attend hearings.

What happens at the tribunal hearing?

A tribunal judge and one or two experts will make a decision about the case. Who the experts are will depend on which benefit you are appealing. The tribunal judge and experts are impartial and independent of the government.

If you attend the hearing

You will have the opportunity to explain your appeal.

You will be asked questions about your condition or circumstances by the tribunal judge or the experts.

The department that made the original decision may also be at the hearing. They may also ask questions, but they are not part of the tribunal and do not decide the result of the appeal.

You can get support during the hearing, for example an interpreter, hearing loop or accessible tribunal room. You can request support when you make an appeal.

Note: You cannot use your own interpreter during the hearing.

Claiming Expenses

You may be able to claim for reasonable expenses for going to the tribunal, for example:

- Travel expenses to cover the fare if you get there using public transport
- Travel expenses of 12p per mile if you drive, plus 2p per mile for upto 2 passengers
- Meals - £4.25 if you are away from home for more than 5 hours, £9.30 for more than 10 hours and £13.55 for more than 12 hours
- Loss of earnings - £38.96 if you are away from work for up to 4 hours or £75.59 for 4 hours or more
- Care expenses up to the National Minimum Wage, for example a childminder

The clerk will help you fill in a claim form when you go to the hearing.

You will need to include proof, for example:

- Receipt
- A letter from your employer for loss of earnings

If you are unhappy with the tribunal's decision

You may be able to:

- Get a decision cancelled ('set aside')
- Appeal to the Upper Tribunal (Administrative Appeals Chamber)

Your decision letter will have more information.

Get a decision set aside

You will be told how to get a decision 'set aside' (cancelled) if you think there has been a mistake in the process.

Appeal to the Upper Tribunal Administrative Appeals Chamber

You can only appeal to the Upper Tribunal (Administrative Appeals Chamber) if you think the decision was wrong for a legal reason, for example, if the tribunal did not:

- Give proper reasons for its decision, or back up the decision with facts
- Apply the law properly

You must then follow three steps:

1. Ask the Social Security and Child Support Tribunal for full written reasons (known as a 'statement of reasons') within one month of the date of the decision. The decision letter will tell you how to do this
2. Ask the Social Security and Child Support Tribunal for permission to appeal to the Upper Tribunal (Administrative Appeals Chamber)
3. If the Social Security and Child Support Tribunal refuses, ask the Upper Tribunal (Administrative Appeals Chamber) for permission to appeal. The relevant form (Form UT1) can be accessed at <https://www.gov.uk/government/publications/form-ut1-application-for-permission-to-appeal-to-an-upper-tribunal-judge-and-notice-of-appeal-for-social-security-child-support-tax-credits-housin>.