



Appealing a welfare benefits decision

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Introduction

The effects of brain injury can sometimes lead to brain injury survivors or their carers applying for welfare benefits. Unfortunately, brain injury may not be recognised or understood by benefits decision makers, and you may therefore feel that an unfair decision has been made on your eligibility.

If you disagree with a decision made about your benefits application, there are a number of steps you can take to challenge this. To start with, you should contact the Department for Work and Pensions (DWP) for an explanation of their decision. You can choose to have this provided in writing or over the phone. To do this, contact the benefit office using the contact details on your decision letter. Remember that there are strict limits for requesting an explanation. Details of this will be included in your decision letter.

You can also request a copy of the report produced at your benefits assessment that was sent to the decision maker. For Personal Independence Payment this is called the consultation report form, while for new style ESA or Universal Credit, it is the assessment report form. Go through your report when it arrives, marking any errors or anything you disagree with.

If you are not satisfied with the explanation provided by DWP, you can apply for a mandatory reconsideration - this is another consideration of your application by the DWP. You can do this by contacting DWP using the details on your decision letter or by completing the Mandatory Reconsideration request form available from the UK government website at www.gov.uk/government/publications/challenge-a-decision-made-by-the-department-for-work-and-pensions-dwp.

In most cases, you will need to follow these steps before you appeal. However, in some cases you can go straight to appealing. Your decision letter will tell you whether or not you can go straight to appealing.

How to appeal

To start the process of appealing, you need to complete a form called the SSC1. This is available from your local Jobcentre or the UK government website at www.gov.uk/appeal-benefit-decision/submit-appeal. You can also write to HM Courts and Tribunal Service.

In your appeal form or in your letter to HM Courts and Tribunal Service, you will need to provide a copy of your mandatory reconsideration notice or decision letter and explain



why you disagree with the decision. You will also need to provide your National Insurance number, your name, address and signature.

You can have someone help you with the form and the court hearing that follows, such as a relative, friend, someone from Citizens Advice, a benefits advisory service or your local Headway group or branch. You will need to register them as a 'representative' by naming them when you submit your appeal or at any point throughout the appeals process.

Some further points to consider when appealing:

- Keep dated copies of any application forms or decision letters relevant to your claim, as this can be useful evidence.
- Medical evidence can be very useful at any stage of your application or appeal. This can be in the form of medical reports or letters from your GP.
- Be aware of any time limits within which you need to appeal. This is normally one month of the date on your mandatory reconsideration notice or decision letter. Make a note of important dates on a calendar and set alarms. If you miss the deadline because of the effects of your brain injury or because you are waiting for letters or reports to arrive, you may still be able to appeal but will need to explain why you missed the deadline.
- If you are appealing to receive a higher rate of benefit, consider seeking specialist advice before making an appeal. This is because, although the appeal may be successful, it may also lead to a reconsideration of your entitlement and leave you with less than before the appeal.
- If you are waiting for a reconsideration for an ESA decision, you will not continue being paid while waiting for a mandatory reconsideration, so you should consider going straight to appeal. If you stop receiving ESA while waiting, you can apply for Universal Credit instead but you will not be able to return to ESA.
- If you need help with your appeal, you can contact the benefit appeals helpline.

After you apply

After submitting your appeal, you will get a letter by post with details of a tribunal hearing. The hearing is where your appeal will be discussed and decided by a judge and experts. They will be independent of DWP.

You can choose whether to be present at the hearing or not and whether someone attends with you to offer support or input.



It can take up to 6 months to have a hearing date. While this may be a long time, you can use this time to prepare for it. Some of the ways you can prepare are as follows:

- Check that the date offered for your hearing suits you. If you cannot attend the date for a good reason, phone the court straight away to explain and reschedule.
- Make a note of the date of the hearing on a calendar, or set alarms for it so that you are prompted to remember. You will be expected to arrive on time for your hearing, so it might help to aim to arrive a little earlier than your given time.
- Try to keep the days before and after the hearing date free so that you have time to rest.
- Collect copies of your paperwork, such as your application form, medical evidence and decision letters. Keep them in a safe, clearly marked place such as in a brightly coloured folder so that you remember to take these to the hearing with you. The tribunal should have already received copies of your evidence, but it can be helpful for you take your own copies along too.
- If you have any evidence that you have not yet sent to the tribunal, send it as soon as possible.
- Make arrangements for someone to come with you.

Remember, there is no need to be nervous about the hearing. It is an opportunity for you to present your case and inform decision makers about the impact of your brain injury. The discussion will be informal and it will not be held in a court room full of people. You do not need to dress smartly.

Don't feel rushed to answer questions put to you by the tribunal panel. If you need to take time to respond or need information to be repeated due to the effects of brain injury, tell the panel about this.

You should also tell the panel about any support you have required to attend the hearing that day, such as someone helping you with organising paperwork, helping you to get ready in the morning or helping you to travel to the hearing.

Answer questions as honestly as you can and don't be afraid to add information that you feel is relevant to the panel understanding the impact of your brain injury.

Remember that you may be able to reclaim some expenses such as for travel or loss of earnings related to your attendance. Keep a note of any related expenses and



copies of receipts, and bring these to the hearing with you.

After the hearing

You may receive your decision straight after the hearing, although in most cases this will take a number of weeks and arrive as a letter through the post.

If your appeal is successful, you will start to receive your new payments and any backdated payments owed to you by the DWP.

If you lose your appeal, you can only challenge this if you have a legal basis, not just because you disagree with the tribunal's decision. To challenge the decision at this stage, you will need to appeal to the Upper Tribunal Administrative Chamber. It is advisable to contact Citizens Advice or a welfare benefits advisor at this stage for guidance on next steps.

Useful contact numbers

- **Benefit appeals helpline**
England and Wales: 0300 123 1142
For Welsh speakers: 0300 303 5170
Scotland: 0300 790 6234
www.gov.uk
- **Citizens Advice**
Adviceline (England): 0800 144 8848
Advicelink (Wales): 0800 702 2020
Relay UK - if you can't hear or speak on the phone, you can type what you want to say: 18001 then 0800 144 8884
www.citizensadvice.org.uk
- **Turn2Us helpline:** 0808 802 2000
www.turn2us.org.uk

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