

APPEALING A DWP BENEFITS DECISION (UC)

If the DWP didn't change their decision when you asked for a mandatory reconsideration, you can appeal to an independent and impartial decision-making body, called a tribunal.

The tribunal looks at the evidence from both sides, then makes a final decision. The tribunal is part of the court system - it's not part of the DWP.

It can take a long time to get to a tribunal hearing. The process can be daunting but it's worth remembering that many people who appeal their DWP benefits decision win at a tribunal, so if you feel your decision is wrong, don't be put off appealing.

The appeal will look at whether the decision was right at the time it was made -the tribunal has the power to replace the decision you are appealing against with the decision they judge should have been rightly made.

1. Complete the appeal form

You have 1 month from the date on your mandatory reconsideration notice to appeal to His Majesty's Courts and Tribunals Service (HMCTS).

You can start your appeal by either:

- Completing an online appeal form on GOV.UK
- Printing an SSCS1 form from GOV.UK, filling it in, and posting it to HMCTS

If you missed the deadline you can still send in the SSCS1 form, you'll need to explain why it's late (for example, if you were in hospital). Your appeal will usually be accepted if less than 13 months have passed since you were sent the decision, as long as you give reasons for the delay.

Explain why you're appealing

The most important part of the application is 'The reasons for your appeal'- if you're filling in form SSCS1, this is Section 5. In this box you need to give the specific reasons why you disagree with the decision.

Choose to attend the hearing.

You will be asked whether you want to attend a hearing. You have a better chance of a successful appeal if you take part in the hearing. You do not have to choose a face-to-face hearing; you can choose to take part by telephone or video if you prefer. Taking part in the

hearing gives you an opportunity to put your case forward, and allows the decision maker to ask you questions to obtain further information. You can have someone such as a family member, friend, carer, or support worker with you for moral support.

2. What happens next?

HMCTS will send a copy of your appeal to the DWP and ask them to respond within 28 days. You will receive a copy of the DWP's response, this is known as the appeal bundle.

It is often around 70 pages, or sometimes even longer. Don't be put off by the size of it. It may contain information from your journal, and copies of the decision letters you have already received, and any evidence the DWP has gathered from other places or that you sent in. Keep it safe. You will need it to prepare for your hearing.

3. Preparing for your hearing

Look at the appeal bundle

Don't be put off by the references to laws and regulations at the beginning. You are not expected to know about these – HMCTS will know which laws apply.

The most important parts of the appeal bundle are the written explanation of the decision, and the written explanation of mandatory reconsideration. You should read through them carefully and make notes about anything that is wrong or information that is missing.

Gather more evidence

You will want to consider what evidence you need to support your case, since most appeals involve some dispute over the facts of the case.

The type of evidence you might provide is, first and foremost, what you yourself can tell the tribunal. Sometimes it is easy to overlook the fact that what you say to HMCTS is classed as 'evidence'.

Other people may also be able to provide evidence to HMCTS such as, support workers, social services, psychologists, paid carers, or friends and family. You can take along one or more witnesses (it is helpful to tell HMCTS in advance if you want to take witness and make sure that they can attend the hearing). Alternatively, you can ask them to write a supporting letter for you, the letter should explain who they are, how they know you and be signed and dated.

You can send evidence in the form of a document. Depending on the particular facts you want to prove, this might, for example, take the form of a print-out of an itemised telephone bill to show that you rang DWP on a particular day or a copy of your medical records.

Make sure to send the evidence you want to use to support your appeal as early as possible, you can do this by email or post. Do not wait until you are at the hearing.

Write a statement

It can be useful for you to write a statement covering any issues you have identified in the appeal bundle, and anything else you want the tribunal to know. If you send your statement ahead of the hearing date, you don't have to remember everything you want to say on the day, and the tribunal will have had a chance to think about what you've written before they speak to you.

Send your evidence to the tribunal

You should try to send your evidence and your written statement to HMCTS before your hearing date. Details of where to send your evidence will be given to you by HMCTS when you lodge your appeal.

4. The Hearing date

You will get your hearing date in a letter from HMCTS. You are normally given at least 14 days' notice of the hearing. (unless you agreed to a cancellation on the appeal form)

If you cannot attend, you should call HMCTS straight away to let them know. They may agree to rearrange the hearing for another date. If they do, it may take several months to get the new hearing date.

5. The day of the hearing

A friend or family member can attend with you for support. They will not normally be allowed to answer questions for you but should be given an opportunity to speak at the end of the questions, if you want them to.

If your hearing is face-to-face, make sure you get to the venue at least 15 minutes before the hearing is due to start.

If it is a telephone hearing, ensure that your phone is fully charged and that you have somewhere private to take the call.

If it is a video hearing, ensure that your device is charged, your internet connection is stable, and you have logged onto the practice site before the day (details will be given in your hearing date letter).

In the hearing

The composition of the tribunal varies according to the type of case.

For appeals against decisions on ESA or UC work capability the tribunal will comprise a Judge and a medical practitioner, for other decision it will be a judge alone.

Sometimes a person from the DWP will attend the appeal. They are called a Presenting Officer. They are there to represent the DWP but are not involved in making the final decision.

Usually, the tribunal members will be nice and easy to talk to and will just want to get a full picture of the facts of the case from your perspective.

What you can expect in the hearing:

- The judge will introduce the tribunal and explain what it's for - they might call you 'the appellant' and the DWP 'the respondent'.
- They'll ask you questions about your reasons for disagreeing with the DWP decision.
- If someone goes with you, they should be asked if they want to say anything.
- Once everyone has had a chance to speak, you will be asked if there's anything more you'd like to say - so if there's anything you want to add or clarify, you can.
- You may be asked to leave the room while a decision is made and then called back into the room and told the decision, or alternatively the judge will tell you that a decision letter will be sent to you in the post.

When you're being asked questions

- Please answer questions as clearly and fully as you can. It is important that the tribunal gets a true and full picture of the facts of the case.
- Do ask the tribunal to repeat any questions you don't understand.
- Use your own words and don't feel you have to use technical or legal language.
- Be prepared to answer questions about all aspects of the case and the evidence you have provided, not just the reasons you're appealing.
- Make sure you've said everything you want to say - don't be afraid to speak up if you feel there's something else important to say.

6. After the hearing

If you need any further help or advice once you get the appeal decision, please visit your local Citizens Advice Bureau, or call the advice line on 0808 250 5715.