

How to

Win a DLA appeal



Introduction

This guide is for parents and carers who think the Department for Work and Pensions (DWP) have made the wrong decision about their child's claim for Disability Living Allowance (DLA). We want to help you get what you are entitled to.

If you made a claim for DLA for a child and you didn't get the award that you think they were entitled to, you don't have to give up. This guide will help you challenge the decision by asking the DWP to look at their decision again. This is called a 'mandatory reconsideration'. If they don't change the decision straight away, this guide will show you how to appeal the decision and win. (You must ask for a reconsideration before you can appeal). We will also show you how to give yourself the best chance and how to stop it from getting too stressful.

This guide looks long, but don't be put off – you will only need to read one of the coloured sections at each stage.

What countries does this guide cover?

The information in this guide applies to England and Wales. It will also be useful for people in Northern Ireland where the rules are the same but the names of the relevant government departments and forms are different. Please bear in mind that if you are in Northern Ireland it is the Department for Communities (DfC) rather than the Department for Work and Pensions (DWP), the Northern Ireland Courts and Tribunal Service (NICTS) rather than Her Majesty's Courts and Tribunal Service (HMCTS), and the form NOA1(SS) rather than SSCS1.

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How to decide what to do

What is your situation?

If you made a claim for DLA, and you didn't get the result you had hoped for, you don't have to give up. There are things you can do to challenge the decision.



We didn't get anything

You may feel that you should just give up. But the DWP are often wrong. You may be entitled to a lot more help than you are getting – and everybody should get what the law says they are entitled to. Read [How DLA works](#) (or, if you need more detail, Contact's) to check whether you should qualify. If you appear to be entitled, ask for a Mandatory Reconsideration. See [How to ask the DWP to look at their decision again](#) for our advice. If they don't change their decision you should appeal. You have nothing to lose.

Read [How DLA works](#) (or, if you need more detail, Contact's [guide to claiming DLA](#)) to check you understand the rules correctly for the different rates. If you think your child requires enough additional help to

qualify for a higher rate than you've been given, you should ask for a Mandatory Reconsideration.

See [How to ask the DWP to look at their decision again](#) for our advice. If they don't change their decision you should ask for an appeal.



They've given us less than I think we should get

You may still have a good case for the amount you used to get, but you may not have.

It can be hard to tell because your child may need less help than they did when they were younger, but so of course do the non-disabled children of the same age that they are being assessed against. Because you are used to it, you may be underestimating the amount of extra care the child needs. If you are in this position, it is particularly useful to get advice (and not from the DWP!) See [How to find an adviser](#).

If you can't get to see an adviser, talk it through with a friend who has a non-disabled child of the same age. Often this will help make it clear if you are continuing to provide substantially more care and supervision than other children of that age require. Read 'How DLA works' to check if you are still entitled to the rate you used to get. If you think you are, you should ask for a Mandatory Reconsideration. See [How to ask the DWP to look at their decision again](#) for our advice. If they don't change their decision you should appeal.

We had to claim again and they gave us less than they did before



When you ask for a Mandatory Reconsideration or an Appeal they look again at the whole award and, in theory, could lower the award you have. However, this will only happen if there is evidence that the child needs less help than the DWP initially thought. Read [How DLA works](#) (or, if you need more detail, [Contact's guide to claiming DLA](#)) to

check you understand the rules correctly for the different rates. If you feel that your child easily meets the criteria for the award they have received, you can assume the risk of the award being lowered is very small.

Is there a risk you will end up with less money?



Don't delay!

You have one month from the date of the letter they sent you to ask them to look at it again.

If one month has already passed, you should still ask but they don't have to accept it. If the delay was unavoidable or a result of your child's disability (or your own), it will help if you explain that. Longer delays will need better reasons.

You can also ask for a mandatory reconsideration or appeal after the deadline if you have a good chance of winning, but they do sometimes say no. Your request will only definitely not be accepted if 13 months have passed since you were sent the decision.

How to find an adviser

It is now much harder to find advice and help with your children's benefits than it used to be. You should expect that you will have to do most of the work yourself (or with help from your friends – don't worry, this guide will show you what to do, and how to do it). But if you can get a bit of advice to make sure you know what rate you should be getting, it will be really helpful.

[Contact run a free helpline](#) which can tell you what advice services are available in your area – **0808 8083555**. It is open 9.30am–5pm, Monday–Friday.

Since the beginning of Covid-19, many advice services are offering appointments via telephone, email, or videocall as well as, or instead of, face-to-face.

If you need further help, use [Advice Local](#) to find the best options near you. Enter your postcode and select 'welfare benefits' from the drop down menu and search. This will tell you about any Citizen's Advice, law centres, or independent advice agencies in your county. (Beware – it misses out ones in your area but in another county or

borough. If you live near a county border, definitely check you there isn't a closer option by following the advice below).

If that doesn't bring up a service that you can get to, check with [Citizens Advice](#) if there is a Bureau that helps with benefits problems near you. Many now offer advice over the telephone.

Check if there is a [Law Centre](#) near you.

There are sometimes services that you can access through your GP, social worker, or community centre. There's no harm in asking – so call your GP, and your social worker, or community centre if you have one, and ask if there is a service for you.

Some charities provide advice services for particular groups – for example, [The Down's Syndrome Association](#) provides advice for families who have a child with Down's Syndrome. Check if there is a charity that provides benefits advice to people with your illness or impairment. If they provide information on their website about appealing or claiming DLA it may also be very useful as it will usually show how people with similar symptoms to yours have proved their entitlement. (If they don't have a guide to appealing – ask them to link to this one).

Scope offer telephone and email advice to everyone with a disability or caring for someone with a disability.

If you've nowhere else to turn, try your MPs caseworker. These are not usually expert benefits advisers but they will often be familiar with the problem and might well be able to help you. (You could point them towards this guide).

If they say they are too busy...

If the organisation you contact says they are too busy, ask them to keep your name on a waiting list, or to tell you how long before they might be taking on new clients.

Ask if they know any other organisations you should contact for help if they cannot give you an appointment themselves.

Remember that you are likely to have to wait a long time for the appeal hearing (6 -12 months, depending on where you are in the country) so you do have a bit of time to find an organisation which might be able to help you prepare for the appeal hearing.

If you can't find an adviser to help, don't worry. This guide will tell you everything you need to know.

How to
decide what
to do

It may not be possible, but it is also worth trying to get help from an adviser to prepare for the appeal or even represent you at the appeal. It can be very upsetting to have to explain all the difficulties your child has in detail and so it is usually best if you are helped by someone more remote. If you cannot find an adviser to help you prepare for the appeal, ask a friend or relative and ask them to read the relevant bits of this guide.

How DLA works

Whether or not your child is entitled to DLA is decided by how much more help they need than other children of their age, as a result of their disability or illness. This can be help that other children of their age don't need (for example, if your 14 year old needs help with getting dressed), or help that children of their age do need but your child needs more help or it takes much longer (for example, if it takes you 30 minutes to get your 5 year old to brush their teeth, or if you have to spend long periods of time getting a 3 year old to settle to sleep). It doesn't depend on their diagnosis and it doesn't matter if they don't yet have a diagnosis.

DLA is paid at different rates. What rate you get depends on what additional

help they need with things like eating, washing, dressing, learning, communicating, doing fun things, or sleeping, and how often.

To get the higher rate for care, your child must need:

- substantially more practical help, encouragement or prompting with daily living tasks than another child of their age frequently throughout the day, *and*
- for either at least 20 minutes at night, *or* at least three times during the night, *or*
- someone to keep an eye on them during the day and night to make sure they do not hurt themselves or other people.

To get the middle rate for care, they must need:

- substantially more practical help, encouragement or prompting with daily living tasks than another child of their age frequently throughout the day, *or*
- substantially more help than other children their age for at least 20 minutes at night, or at least three times at night, *or*
- someone with them most of the time during the day to help them stay safe, or someone awake and checking on them at night to help them stay safe.

To get the lower rate for care they must need:

- substantially more practical help, encouragement or prompting than other children of their age for at least one hour or more (in one go or spread throughout the day).

To count as needing help at night, your child needs to require a lot more help than another child of their age at a time when you would usually be asleep. For example, if you usually go to bed from 11pm–7am, it would only count as ‘night’ if it happens between 11pm–7am. If you would usually be up, it doesn’t count even though it is after the child’s bedtime. This can sometimes be tricky for parents to assess as if your child has always needed lots of help at night, you have probably got used to being awake a lot of the night. It might be helpful to ask yourself if you would have a different sleeping pattern if your child didn’t need your help over night.

DLA also has a ‘mobility component’ that deals with ability to walk and go places.

To get the higher rate for mobility your child must:

- be at least 3 years of age, *and*
- unable to walk or virtually unable to (for example, if they struggle with even very short journeys such as walking around a school), *or*
- blind or severely visually impaired, *or*
- the exertion of walking would lead to a serious deterioration of their health, *or*
- have a severe mental impairment.

The rules for this category are very strict and specific. Children who are very unpredictable and may come to harm or harm others without supervision can get it however. If you are thinking of challenging a decision because you think your child is entitled to high rate mobility, we suggest you either get advice or look at Contact’s guide [Claiming the higher rate mobility component for children with learning difficulties and autism spectrum disorders](#).

To get the lower rate for mobility your child must:

- be over the age of 5, *and*
- need substantially more supervision or help to go to places they don’t know than other children their age. For example, if your child needs to be prevented from running into the road (when other children their age are aware of road dangers), or needs extra prompting and encouragement to walk and keep walking, or if they cannot keep up and need you to walk at a slower pace for them.

If you are not sure if your child’s needs would count towards DLA, see an adviser or look for information aimed at people with the same disability or illness that your child has. Information about how to fill in a DLA claim form will be very useful, as it will explain what is counted and the sorts of things you should focus on.

The process

Step 1

You got a letter telling you the result of your claim for DLA. You have been told that you are not entitled to anything or you think your child has been given the wrong amount.

You have one month from the date on the letter to ask for a 'Mandatory Reconsideration'. This is where the DWP look at their decision again. (If one month has already passed, you should still ask but they don't have to accept it).

Step 2

Ask the DWP to look again at their decision. This is called a Mandatory Reconsideration. Use our DLA Mandatory Reconsideration Tool to write your letter.

The DWP will look at your claim form again, and any other evidence they have, to see if they will change the decision.

Step 3

The DWP will send you two copies of their reconsideration decision.

If their decision has been changed and you are happy with it, you can stop here.

But if it hasn't, don't be put off. You have 1 month to ask for an appeal. Far more decisions are changed at the appeal stage than at mandatory reconsideration. (If one month has already passed, you should still appeal but they don't have to accept it).

Step 4

Ask for an appeal. You can do this online or using the paper form. You can copy and paste wording from the letter generated by our Mandatory Reconsideration Tool to help you make your case. See [pages 10-11](#) for our advice.

Step 5

The DWP will send both you and the HM Courts & Tribunals Service (who will organise the appeal hearing) an explanation of why they gave you the award that they did. Don't be put off by the size of it.

Step 6

You need to prepare for your appeal and, if you can, send in more information about your child's difficulties. See [pages 14-18](#) for details.

Step 7

You will be told the date of the hearing. If you have any further information about your child's difficulties that you haven't yet sent, send it now.

Step 8

Your appeal will be heard by an independent panel, called a Social Security and Child Support Tribunal. They will make a new decision. See [pages 19-24](#) for details of what will happen and advice about what to do on the day.

If you were successful, you will usually receive your money in 4-6 weeks.

How to ask the DWP to look at their decision again

How to ask the DWP to look at their decision again



We have built a tool that helps you to write the letter asking the DWP to look at their decision again for you - see our [DLA mandatory reconsideration tool](#).

You are supposed to ask the DWP to look at their decision again within one month of the date on the letter they sent you about your DLA claim. If one month has already passed, you can still ask but they don't have to accept it. It will help if you explain that the delay was unavoidable or a result of your child's disability. Longer delays will need better reasons. (It will only definitely not be accepted if 13 months has passed)

You can ask for a mandatory reconsideration over the phone but it is better to do it in writing. Only do it over the phone if you are about to miss the deadline.

If you have any more evidence that you think will help (for example, a letter from one of your child's doctors, or a support worker or teaching assistant at school) send that too. It doesn't have to be a letter they wrote for this purpose – a letter from one of your child's doctors updating another, or a copy of your child's EHCP will also be helpful.

Bad day myth

Lots of people believe that you should describe the help your child needs on their worst days as if they need this level of help every day. This isn't true. If you do this, it will look like you are exaggerating and they won't believe you when you are not exaggerating. Instead say what it is like on a bad day and a better day, and explain how frequently your child has both.

Don't be put off!

Some people find that, after they have put a mandatory reconsideration request in, they get a phone call from someone at the DWP who tries to explain why they think they have made the right award. If this happens to you, be polite but don't allow them to put you off.

Some people are also told that they need to provide further medical evidence in order to have a chance of getting the decision changed. This isn't true. Anything that gives information about your child's support or care needs can be relevant. It is also possible to win an appeal even without any further evidence or information.

Remember, any advice given to you about your claims by the DWP may be incorrect.

What next?

If you have not heard back after 6 weeks, you should ring them and find out what is happening.

If they have changed their minds, congratulations! Your benefit will be backdated to the date you claimed.

If they didn't change their decision, or they did but still didn't give you the amount you think your child is entitled to, remember that you can appeal. You need to tell them within one month.

If one month has already passed you can still ask for an appeal. Explain that the delay was unavoidable or a result of your disability (for example, if you were unable to deal with it until now because meeting the needs of your disabled child takes up all your spare time). Your request will only definitely not be accepted if 13 months have passed since you were sent the mandatory reconsideration decision. See 'How to ask for an appeal'.

Don't be downhearted if they didn't change their minds – they often don't, even where it appears to be clear that they are wrong. Most decisions aren't changed at this stage, but are changed when you go to appeal.

How to ask the DWP to look at their decision again



How to ask for an appeal

You can ask for an appeal online or you can use a paper form.

You can find both at [Submit your appeal on GOV.UK](#)

Both are easy-to-use and understand. If you use the online version, a record of what you have said is sent to your email address. If you use the form, try to keep a copy, or take a photo of each page with your phone.

No matter which you use, there are three things that you should definitely be aware of.

1 You need to explain what you disagree with and why. If you used our [Mandatory Reconsideration Request Tool](#) to produce a letter, and your argument is still the same, you can just copy and paste that on to the form. (You probably have a copy in your email, or it will be saved in your Advicenow account).

If you have not used our tool, look at your decision notice and the list of daily tasks on [page 30](#). For each explain all of the difficulties that your child has with that task and they help that they need. Remember to explain that this is more than another child of the same age would need.

2 If your appeal is not within the one month time limit, you should appeal anyway but explain why the delay was unavoidable or a result of your child's disability (for example, if you were unable to deal with it until now because meeting your child's care needs takes up all your time).

3 Choose to attend the hearing. You will be asked whether you want to attend a hearing or whether you want the case to be decided on the papers alone. Almost everybody wants to choose the paper hearing because it seems less scary. However, you are *much* more likely to win if you have a chance to speak to them. Don't worry, it will not be nearly as frightening as you might think. Since the beginning of Covid many hearings are happening via video – so you may not have to actually 'go' anywhere.

Help to appeal online

If you need help to ask for an appeal online [We Are Digital](#) will help.

They can help with access to a device, or data, or provide guidance and reassurance on how to use the online service.

If you would like their help

- phone the helpline on **03300 16 00 51**, or
- text FORM to **60777**, or
- email them at support@we-are-digital.co.uk

They will respond within 2 working days.

How to ask for an appeal



When you ask for an appeal online, you are asked if you would like to be able to save the appeal and continue later. In order to do this you will need to set up an account. If you say yes and provide your email address, you will be sent an email enabling you to register for the Manage Your Appeal service. This service enables you to keep track of how your appeal is progressing, and you can use it to upload evidence (including audio and video evidence if you want to). It will send you texts or emails to let you know that the DWP have responded to your appeal, to confirm evidence has been received, and when your hearing date has been scheduled. See [How to prepare for the hearing](#) for other ways to sign up.

What next?

The HMCTS will send a copy of your appeal to the DWP and ask them to explain how they came to their decision. The DWP must do this within 28 days, although they can ask for an extension. You will receive a copy of their response. Don't be put off by the size of it. Keep it safe. You will need it to prepare for your hearing.

You should start preparing now.
The next section explains everything you need to do.

If the DWP call you

The DWP have been ringing some people at this stage or before the hearing and offering them an award in return for dropping their appeal. Sometimes the DWP say that you might not win at an appeal or put pressure on you to accept their offer. Advicenow and other charities took DWP to court about this practise because it is not fair. Now, if they make you an offer of a better award after you have asked for an appeal, they are supposed to explain that you can accept the higher award and then appeal again (without having to ask for a reconsideration). In most cases, this would be the best thing for people to do. If you get a phone call and they do not explain about your right to appeal the new award, please [tell us about it](#).

How to
ask for an
appeal

What to do before the hearing

Since the beginning of Covid, more and more hearings have been by video and many people like them better. All of the advice on this page, except about actually travelling to the hearing, applies equally to video hearings.

There are a lot of things for you to do over the next few months. It is important to start preparing as soon as you can. Some things can take a long time.

If you have not already tried to get help and advice do so now (See [How to find an adviser](#)). Some advisers may be able to help do some of this preparation for you. If you are lucky enough to find someone who can help with the preparation, make sure you are clear which things your adviser is going to do for you, and which you need to do yourself.

Manage your appeal

It is a good idea to sign up to the Manage your appeal service. This service enables you to keep track of how your appeal is progressing, and you can use it to upload evidence (including audio and video evidence if you want to). It will send you texts or emails to let you know that the DWP have responded to your appeal, to confirm evidence has been received, and when your hearing date has been scheduled.

If you asked for an appeal online and gave them your email address, you will have received an email with a link to help you sign up. If you did not, you can sign up by calling **0300 123 1142** Monday to Friday, 8:30am to 5:00pm or by emailing contactsscs@justice.gov.uk. If you ask by email, you will need to include your National Insurance number, date of birth and postal address.



Getting help

If you are not getting any professional help to prepare for the hearing, you might want to ask somebody else to help you. You may not need any help, but it might stop it from feeling too stressful. This is particularly useful if you are not very good with paperwork or deadlines. If you do think it might be useful, think about who you could ask – do you have a family member, friend, or someone who helps you who is good with paperwork and organising things?

Support groups

Online and other support groups can sometimes be very helpful. There may be other people who have had the same problems getting DLA for their children, who can give you emotional or practical help.

What to do before the hearing

The papers from the DWP

Look at the big pack of papers that you were sent by the DWP explaining why they made the decision they did. Many people get very confused by the inclusion of test cases at the beginning. Don't let them put you off. If you don't have time to become an expert on all the legal ins and outs of DLA decisions, ignore these.

The most important parts are the bits about your child. Read through it and look for anything you don't agree with. If there is a report from your child's school, does it give a fair picture of your child? School staff tend to be wonderfully positive about children's abilities and progress and sometimes the DWP fail to understand the context (for example, that your child is making progress but that this is because they receive one-to-one help or are in a specialist school). School staff have usually been accurate but the limited nature of the form often leads to the DWP giving the wrong award. Make a note of all the things that are wrong. If you can, say why they are wrong. You can include this in your statement to the tribunal. Also think about how you could get further evidence (from the school for example) that would give a fairer picture.

Check that everything you want the tribunal to read is in the papers. If anything is missing, send in a copy before the hearing. Don't assume that the appeal panel will have access to evidence used in previous claims. If it isn't included in these papers from the DWP, the appeal panel won't see it unless you send it in.

Getting evidence

For most people, the thing that is of most help is written evidence from their child's paediatrician, support staff, or school staff. If your child sees a paediatrician, doctor at the hospital, psychologist, physiotherapist, an occupational or speech and language therapist, other healthcare professional, or has a social worker, evidence from them will often be very useful too. If your GP knows your child well, evidence from them is likely to be very helpful too.

The best evidence will come from people who know your child well and who understand their situation. If your child's paediatrician or GP does not know them well, you should still ask them for evidence, but try to get evidence from other professionals who know them better. This could be another doctor, or other healthcare professional, or somebody who helps your child at school.

The most useful evidence will explain how your child's illness or disability affects them, and the help they need. This is quite unusual, so your doctor or therapist may not understand that. Look at [pages 20-30](#). This is a guide for your child's doctors, therapists, school staff, or anybody else writing evidence for them. When you ask them for evidence to support the appeal, show them this page. It will help them to write evidence that will be really helpful to you.

**What to do
before the
hearing**

Before you ask anybody for evidence – read this!

You are appealing the decision the DWP made on a particular date (on the top of the letter). You need to prove how your child's condition was *at that time*, not how it is now. Write the date of the decision you are appealing in the box on [page 29](#), before you ask anybody for evidence. Then show them [pages 20-30](#).



What to do before the hearing

Paying for medical evidence

GP's and other medical professionals are allowed to charge for evidence.

If your doctor suggests that he or she will charge you, tell them that you only need a brief note from them, and that it could be hand-written if this is quicker. Reassure them that it will only take the time of an appointment. Show them [pages 20-30](#) – so that they are sure of what you need from them.

If they insist on charging you, ask them instead for the last two years of your child's medical records. They will give you this for free and it may contain some useful evidence.

Evidence you already have

Think too about what evidence you already have. Do you have reports of physiotherapy, occupational health, or psychological assessments? Do you have copies of letters that the different doctors and therapists have sent to each other? Does your child have an Education, Health and Care Plan (EHCP). Did you have a needs assessment from the local council? They are likely to be very helpful.

Evidence from somebody that helps your child regularly

If there is somebody who helps your child a lot (this might be someone who helps them at school, a support worker, or paid carer), they may be able to write some very useful evidence too. Ask them to write a letter to the tribunal panel explaining what help they give your child and how often. Show them the guidance on [pages 20-30](#) – it may help them to remember everything.

If they would prefer they can keep a diary of the help they give instead (see below).

Diary

You should think about keeping a diary of the extra help you give your child each day. It will help the tribunal panel to get a proper understanding of the situation. It is particularly helpful if your child's condition isn't the same every day. Keep a diary for a month if you can (but a shorter time will also be helpful). It can be very brief. For example –

“Monday – Shaking very bad today. She needed help to fasten her clothes, and get downstairs. Couldn't walk to school so had to take her in car. Needed soothing and physical help to get to car.”

If you are appealing a decision which relates to your child's ability to walk it is a good idea to record how far they are able to walk without severe discomfort, and how long it takes them. The tribunal will often ask quite specific questions about how far they are able to walk.

Write a statement

If you (or someone who could help you) are good with writing, you should think about writing a statement. These can be very useful as they set out all the points you want to make, which means that you don't have to remember everything to say on the day. They also give the panel time to think about what you've said and why your child should be getting a higher rate, before they meet you.

For more advice on how to write a statement and what to put in it, see [How to write a statement](#). You can also read Andrea's statement about Alfie and see what she put in hers.



What to do with the evidence

Read all the evidence through – does it support your case? If it doesn't, you don't have to send it to the panel (but if they ask if you had any evidence you didn't send them, you have to tell the truth). If you don't think the evidence is useful it may be worth going back to the person who wrote it and discussing it with them. Is there anything they can add?

If you've got useful evidence, upload a photo of it using the Manage your appeal service or photocopy it and send it into the HM Courts and Tribunal Service before your hearing. Send it as soon as you can as this maximises the chance of the DWP changing the decision in your favour which may mean you don't have to wait for the hearing.

**What to do
before the
hearing**

Work out how you will attend the hearing

If it is a video hearing, check you have what you need for it to go smoothly. HMCTS have made a [helpful video](#).

If your hearing is in person, the letter you receive about the hearing will usually give you details of public transport links and parking. At some venues, you can book an accessible parking spot if you phone them in advance. If you need a taxi, ask them to book one for you and check that they will pay for it. This will usually be easier than arranging one yourself.

Work out how you will get there and leave yourself plenty of time. You won't want the stress of worrying about being late.

Arrange childcare

Organise childcare for the time of the hearing. If you are going to a face-to-face hearing, don't take your children with you. If you will be attending a video hearing from your home, ensure the child is somewhere else and cannot hear what is being said. You need to all be able to discuss what help the child needs frankly.

Be aware that the hearing might be quite delayed so try to organise childcare for longer than you might need. If it will cost you, get a note from the carer/childminder confirming their rate – you will be able to reclaim expenses up to the national minimum wage.



Claiming expenses

If you are going to a face-to-face hearing, you can claim travel expenses for the day of the hearing if you use public transport or travel by car. You can also claim for a meal if you are away for more than five hours. If you have to take time off work, you may also be able to claim expenses for loss of earnings. And if you have had to pay a carer or childminder you can claim expenses up to the National Minimum Wage for the time you have been away.

Before you go to your hearing, check what the current rules on expenses are on [GOV.UK](#).

The clerk will help you fill in a claim form. Make sure you take receipts for your travel and lunch. If you have lost earnings, make sure you have a letter from your employer confirming this.

Contact the tribunal before the hearing if you need help.

Make notes of all the things you want to say on the day

This is really useful and also stops the hearing or the preparation for it from getting too stressful. Every time you think of something they got wrong or you don't think they properly understood, make a quick note of it. Remember to take these with you to the hearing so that you can tick them off as you say them. This might be particularly useful if you haven't written a statement.

What to do
before the
hearing

The hearing

Many hearings happen over video now. However, some are still face-to-face. Whatever kind of hearing you have you should prepare in a similar way.

HMCTS have made a [helpful video](#) to help you understand what a video hearing will be like.

Remember the panel do not work for the DWP. They are here to see that you get the benefit if you can show you are entitled to it.

Usually the three members of the panel will be nice and easy to talk to, and will just want to get a full picture of your illness or disability and the help you need. Try to answer their questions fully.

Face-to-face hearings

If you have a face-to-face hearing, you will usually be shown into a waiting room when you arrive at the tribunal centre. You might have to wait here for a little while. When the panel is ready for you, you will be called into the room.

The room the hearing is in will often look like an office and everybody is wearing normal clothes. When you go in, there will usually be a big table in front of you. You (and anyone who goes with you) will sit at one side of the table and the panel will sit on the other side.

The person that sits in the middle of the panel is the Judge. They are legally qualified and should know a lot about benefits. One of the other panel members is a doctor, the other is someone who knows a lot about disability, and may have a disability themselves. The panel should introduce themselves and explain what will happen.

At the end of the hearing, you will be asked to go to the waiting room while the panel discuss your case. This can take up to half an hour but usually takes between 10-15 minutes. You will then be asked back into the room and told the decision. They will give you a written outline of their decision as well.

Sometimes the panel will not be able to make a decision quickly. If this happens, they will post it to you instead. It should arrive within a week.

The hearing

Sometimes the tribunal will decide the case in your favour just on the evidence, statement, or your explanation on the appeal form. If this happens they may ring you the day before or tell you at the beginning of the hearing.

The DWP has a right to have somebody at the appeal to explain why they made their decision. Don't worry about this though. If they do send someone, it will not be the person that made the original decision about your claim.

In the unlikely event that the panel are considering reducing your existing award (for example because you appealed the decision not to give you the high rate of care and the panel feel that you may only be entitled to the lower rate or no award at all), the judge will give you warning and ask if you want a few minutes to consider your options. This is very rare. But if it does happen to you, ask for the hearing to be stopped and explain that you wish to withdraw the appeal. If you do this, the Tribunal is very unlikely to take away the benefit you get at the moment.

At the end of the hearing

The panel will usually make the decision that day. This usually takes between 10-30 minutes. They will give you a written outline of their decision as well.

Sometimes the panel will not be able to make a decision quickly. If this happens, they will post it to you instead. It should arrive within a week.



I have been sent a date for the hearing – I can't go!

If you can't do the date they give you, contact the tribunal centre and ask for another date as soon as you can. Don't put it off or just do nothing about it – they are usually extremely helpful. You may have to explain why you can't go and you should have a very good reason, like a hospital appointment.

It is a good idea to follow up the phone call with a letter and to keep a copy – that way, if anything goes wrong, you can prove you told them.

If you leave it until the last minute, they may not change the day and the appeal might happen without you. If they refuse to change the date, you should do everything you can to move your other appointment.

Rob's story



I had to appeal my daughter's DLA decision after it got put down to only the low rate of care. Suzy has a visual impairment and learning difficulties and needs help day and night.

I didn't want to go to the hearing. I was nervous and I didn't want to take yet another day off work, but I'd been told we would have a much better chance if I did.

It was quite a long wait but once it got started it was all right. They introduced themselves and explained what was going to happen. They were quite friendly.

They asked me what help Suzy had needed this morning.

I explained she had been really tired because she was up half the night. She has night terrors and takes a long time to calm down. I explained how I'd had to do most of her dressing for her, and brushed her

teeth but she can wash her face and brush her hair herself. I explained the help she needs to have breakfast and what a battle it is sometimes to get her to eat anything. I tried to remember to explain why that was more than most nine year olds need. I went into quite a lot of detail, even talking about helping her put her seat belt on and the things I do to stop her taking it off while we're going along.

I'd made a list of all the things she needed extra help with and kept it in my hand. At the end I asked them to wait for a few seconds so I could check I'd said everything. When I had, they asked me to go back to the waiting room.

When they called me back in, they told me that they had given me high rate care and low rate mobility. We went out for pizza and a new toy to celebrate!

Rob, 41

The hearing

What to do on the day

Whether you have a video hearing or face-to-face hearing these tips will help you get the right award, and stop it from becoming too stressful.

What to have with you on the day

- Any notes you have written of the things you want to say.
- Your set of appeal papers
- Receipts for any expenses you can claim back, a letter from your employer if you have lost earnings, and proof of childcare costs if you have had to pay for childcare.
- You can have a friend or relative to the appeal with you. If you have asked somebody to come with you to give you support, show them the information in the box on [page 24](#). It explains what they can do to help.



- If you think it might help, ask a friend or family member to come with you for emotional support. They might also be able to help by reminding you of things you have forgotten. If you do ask a friend, show them the box 'For friends and relatives' on [page 24](#).
- The panel may be running late and so you might have to wait. If you have made any notes of what you want to say, go over them. Try to keep calm.
- Many people find they get very emotional at the hearing. It doesn't matter if you get upset. It won't make any difference to your chances.
- If you had asked for any help with communication or translation and it is not available, you should insist on having the hearing another day.
- If you sent them any evidence before the hearing, check that they received it.

What to do on the day

- If you don't understand a question ask them to repeat it or put it another way. If you still don't understand, tell them that.
- If they say something that isn't right, make it clear that it is not true. For example, if they say "He doesn't have much trouble with walking does he?" make it clear if your child does have trouble with going places.
- Don't worry about using the 'right' language or 'buzz words'. It is much better to use your own words. If you think they haven't understood something you have said, say it again in a different way.
- It's tempting to gloss over the difficulties your child has but try not to. Be as frank as you can be.
- Parents often want to explain the impact of meeting the extra care needs their child has on the rest of their family or their own health. Try not to do this as it is a distraction. Just explain what extra help your child needs and why they need it.
- Try to answer every question as broadly as you can. If you just give short answers, the panel won't be able to get a better understanding of your situation. So try to give longer answers and be willing to explain things. For example, if they ask if your child needs extra help to get washed in the morning, don't just say yes or no. Tell them if they do, what they need help with, how long it takes you, how they respond, and if they need help with anything else in the morning.
- If you find you haven't said everything you want to say because they haven't asked the right question – tell them anyway. It is important that you say everything. A clever tactic is to make notes about what you want to tell them and tick them off as you say them. Make sure that they are all ticked off before you leave. If you need to, you can ask them to wait a moment while you check your notes. If you have taken somebody with you for moral support, this is a very useful thing for them to do.
- If your child's condition goes up and down and they need different amounts of help on different days, you will need to make this clear. It is best if you can say roughly how often you need help with each thing, rather than saying 'sometimes'. For example, 'David's condition is bad for three weeks out of every four. For those weeks his joints are very painful and he cannot walk very far or stand'.

What to do on the day

If it is a video hearing

There are a couple of things it is good to be aware of.

You must not record the hearing – but if you would like it recorded and to have a copy you can request that on the Manage your appeal service. Sometimes the Chair will remind you of that at the beginning.

The Judge will also usually ask who is in the room with you. This is just so that they know who else is there. You are allowed to have a family member or friend present.

Do not eat or drink anything (except water, or if it is to meet a medical need) or smoke or vape during the hearing.

For friends or relatives

If someone has asked you to attend the hearing to give them support, there are several things that you could do that would be very useful.

- Before the hearing, sit down with your friend and write a list of all the help their child needs. Take it with you on the day and tick them off as they are said. If at the end of the hearing there are still things that haven't been said – you can remind them.
- Try not to answer questions on your friend's behalf. If you realise that your friend has left bits out when answering a question – try to remind them, rather than say it for them. However, if they are finding it difficult or becoming very emotional you can answer the question yourself (but ask the Tribunal Judge if it is OK first, just to be polite).
- Read through this leaflet (particularly the sections about the hearing and what to do on the day). This will help you to know what will happen so that you can help your friend.

After the hearing



The tribunal panel will tell the DWP their decision and you'll get an official notice of the decision.

If you were successful, the DWP will work out how much they owe you. You will start receiving the new amount every month, and a sum covering the amount they should have been paying you all along. You will usually receive your money in about 4–6 weeks.

You should also check if you will now be entitled to extra benefits like Carer's Allowance, and Universal Credit. If you already receive Universal Credit, the amount you receive may go up as you will now be entitled to the disabled child element. For some parents, these additional benefits are worth more than the DLA. Check if you are entitled to any extra benefits now by speaking to an adviser (see [How to find an adviser](#)) or by using the [benefits calculator](#) on the Turn2Us website.

If you weren't successful, you will be sent a leaflet to explain your options. Sometimes you might be able to appeal to the Upper Tribunal. This is like a higher court. However, this can only be done if the panel did something wrong with the law. It is very complicated, and very few people can do this without an experienced adviser. If you want to look into this possibility, you need to move quickly – you will need to ask for a copy of the tribunal's statement of reasons within one month. See [How to find an adviser](#).

The DWP also has the right to appeal to the Upper Tribunal if they think the tribunal panel did something wrong. This rarely happens. If it does happen, they will write and tell you.

After the hearing

What does it mean?

Adviser – This is a benefit expert who can give you advice about your claim. They may also be able to help you prepare for the hearing. If you are lucky, you may be able to find an adviser to be your representative at the hearing (see below).

Appeal – This means a panel of three experts who do not work for the DWP will look at your claim and see if the right decision was made. If they think the wrong decision was made, they will change it.

Attention – The law specifies that one kind of help that counts towards entitlement to DLA is ‘attention’. This can be physical help such as spoon-feeding a child or doing buttons up (if they are old enough for other children of the same age to be able to do this without help). Or it can be non-physical help such as prompting a child through the stages of getting dressed, or encouraging a child to eat or stay focussed.

Bodily functions – The law specifies that entitlement to DLA has to be based on needing extra help with ‘bodily functions’. This is anything to do with the body and how it works, for example eating, drinking, washing, dressing, going to the toilet, sleeping, thinking and communicating.

Clerk to the Tribunal – This is the person who organises the hearing and deals with the paper work.

Daily living activities or tasks – This means anything that you reasonably need to do every day or most days. This includes things like eating, washing, dressing, taking medication, sleeping and so on, and also learning, communicating, and having fun. Also referred to as ‘bodily functions’ by the DWP. We have used this phrase because we think it is more easily understood.

Department for Work and Pension (DWP) – This is the government department that deals with most benefits, including Disability Living Allowance.

Social Security and Child Support Tribunal – This is the name for the panel of three experts who do not work for the DWP who will hear your appeal to see if the DWP made the right decision.

HM Courts and Tribunal Service (HMCTS) – This is the government department that organises the tribunal and the hearing.

Hearing – This is when your appeal is looked at by the Tribunal. You can either have a hearing in person (also called an ‘oral hearing’) when you go and speak to the Tribunal face to face. Or you can have a written hearing (also called a ‘paper hearing’) when the tribunal just look at the papers again on their own. We strongly advise you to go to a hearing in person. You have a *much* better chance of success if you do.

(continued)

What does it mean?

Manage your appeal – A new service from HMCTS that enables people to manage their appeal online, keep track of progress, and submit further evidence (including video and audio), and a statement. See [page 14](#) for details of how to use it.

Mandatory Reconsideration – This means the DWP will look at their decision again. You must ask for a mandatory reconsideration before you can appeal a decision. [See page 10.](#)

Mandatory Reconsideration Decision Notice – This is the letter the DWP sent you to tell you of the Mandatory Reconsideration decision. You will have received two copies. You must include a copy of the mandatory reconsideration decision notice with your appeal form.

Preliminary view/decision – During Covid HMCTS piloted a streamlined process that allowed cases to be looked at by a judge sitting alone. If the judge could see from the evidence already received that the appellant was entitled to a higher award, they offered a preliminary decision. Both the claimant and the DWP were asked if they accept the preliminary decision. If either did not, the case continued to an appeal hearing. If both did accept the preliminary decision, the award was changed straight away. At the time of writing, it is not clear if this process will continue. If you are offered a preliminary decision by the HMCTS, only accept it if you think it is the correct award. If you think you might be entitled to more, ask for an appeal hearing.

Representative – This is an expert in benefits who might help you prepare for the hearing and may be able to come with you to help you put your case.

SSCS1 – This is the paper form that you can use to ask for an appeal. You can also ask online, using [Submit your appeal.](#)

Supersession – This means having your child's claim looked at again because their illness or disability has changed since the date of the decision.

Supervision – The law specifies that one kind of help that counts towards entitlement to DLA is 'supervision'. This means where the child needs someone with them to avoid substantial danger. This could be because the child might need to be physically restrained to stop something from happening (for example, running into a road) or where they need to be watched in case something happens (for example, a seizure) and they need help afterwards. All children need some degree of supervision, so to entitle a child to DLA the child must need a lot more supervision than other children their age.

Tribunal Judge – This is the person that sits in the middle of the panel who will make a decision on your case. They are legally qualified.

Upper Tribunal – This is like a higher court. If you weren't successful in your appeal, you might be able to appeal to the Upper Tribunal, but you can only do this if the panel made a mistake with the law.

What does
it mean?

Useful contacts

Find the appeal form or ask for an appeal online

You can find both the online system for asking for an appeal and the latest form to use if you wish to do it by hand/post on [GOV.UK](https://www.gov.uk).

Speak to the DWP

DLA Enquiry Line

Telephone: **0800 121 4600**
Textphone: **0800 121 4523**
Monday to Friday, 9am-5pm

Find further information about appeals

Benefit appeals come under the section of HM Courts and Tribunals Service known as the Social Security and Child Support Tribunal. You can find details about appeal venues and how to get to them, how to reclaim expenses, and information about the appeal process on [GOV.UK](https://www.gov.uk)

www.gov.uk/appeal-benefit-decision

Find further information about DLA

Contact

Contact is a charity working with and for families with disabled children. They have some really useful information about claiming DLA for children and how to cope with the trickiest bits of the form which may help with your appeal. They can also help with other problems you might have with DLA.

Helpline: **0808 808 3555**.
Monday-Friday, 9:30am-5pm

Textphone: **0808 808 3556**



Find an adviser

See [page 6](#) for help to find an adviser.

Show this section to the people you are asking for evidence from

Guide to writing useful evidence for Disability Living Allowance appeals

This section is written for doctors, social workers, support workers, paid carers, teachers, occupational therapists, and other professionals who might be able to tell the appeal panel what they need to know. It explains how to write helpful evidence for this kind of benefit appeal.

Evidence from doctors and other professionals helps the tribunal to come to the right decision more than anything else. Your evidence doesn't need to be long or typed, but it would be most useful if it included everything you are aware the child concerned needs help with.

Whether a child is entitled to DLA is decided by how much help they need. They may not get this help, many people 'manage', but these benefits are based on help they should have in an ideal world.

**This appeal is about a decision that was made on
..... *[parent to fill in]*. Your evidence needs to
be about how their condition affected them at that time.**

If you are a medical professional, start by confirming any diagnosis and any treatment that they receive.

If you are not, start by saying what help you regularly provide for the child.

Then you need to go into the detail. If they cannot walk even short distances without discomfort, or if they are very slow, please say. If they need help to walk around school for example, please explain what difficulty they have and what help they need.

Equally, if they need more help than another child their age to go further afield to places that are unfamiliar, please say that. This might be help to stay safe or encouragement, prompting or soothing.

(continued)

**How to
write useful
evidence
for DLA**

Next, look at the help they need in the home or at school. As far as you know, do they need extra physical help, prompting, or encouragement to:

- get up or go to bed
- eat meals and snacks
- get washed and have a bath or shower
- go to the toilet
- get dressed and undressed
- move about indoors
- stay safe
- communicate with other people (this includes reading, hearing, and speaking)
- take part in leisure activities (playing with friends, going swimming, taking part in clubs or fun activities)
- participate in all learning activities, including taking part in PE, Art or Music.

If they *can* do any of these things on their own but it takes them a very long time, causes them pain, or may put them (or somebody else) in danger the law sees this as needing help.

Do they need help overnight, to stay in bed, go to the toilet, calm down if they get distressed, etc? If you are aware that they often have difficulty sleeping it will be useful to say that.

If you are aware that they have been hurt, or could have been hurt, as a result of their condition, you should say so. Perhaps they have fallen, had violent seizures, or self-harmed.

If you are aware of a time when they have hurt or posed a danger to somebody else, it would be most useful to include this.

Can you explain what help they need to take their medication, or do their therapy, and how often they have to take it/do it?

Lastly, does their condition fluctuate? If it is bad on some days but better on others, it would be useful to make that clear.

How to write a statement for DLA

On the left, is information to help you write your statement to the panel. It tells you all the things you should try to put in your statement and how to begin.

On the right is the statement Andrea sent to the panel looking at her son Alfie's appeal. We have included it to show you what sorts of details about your child's illness or disability you should include in your statement.

Information to help you write your statement

- Explain why you are writing.
- Tell them what rate you think your child should be entitled to. If you don't know, just say "I believe I am entitled to more". Go to **pages 7–8** for more information about the different rates.
- If your child has a diagnosis or diagnoses explain them here.
- Explain the main symptoms or difficulties they have because of their illness or disability.
Remember to explain how it affects them.

Andrea's Statement about her son Alfie's difficulties

I am writing to you to explain my reason for appealing the decision to award my son Alfie Nowak only the lower rate of care of DLA.

I am appealing the decision as I believe that Alfie is entitled to the high rate of care and low rate of mobility.

Alfie has been diagnosed as having ADHD, Oppositional Defiance Disorder, learning difficulties, and behavioural problems.

Alfie gets very distressed and finds it impossible to follow rules. He is sometimes violent and destructive. He can be so impulsive that he can put himself and others in danger.

(continued)

How to write a statement

- If your child has physical difficulty walking, it is most useful to talk about distances in terms that mean something to you. For example, it is better to say “Walking between lessons causes him pain” than “He can only walk for 50 metres”.

If your child can walk but needs more help than another child their age to keep them safe, calm or to find their way, explain what help they need, and what would happen if they didn't get it.

- If you can, spell out what help your child needs.

Explain what problems they have with each part of their daily life.

Alfie can get very angry about going places, for example, going to school. It is only a 5 minute walk but it is a huge battle every day. In order to get him to go and to keep moving without difficulty I have to soothe and calm him constantly. I hold his hand because this helps keep him calm and means I can restrain him if he starts to get angry or panic. When he gets angry or panics he will impulsively run away, including into the road. Alfie also panics at the sound of unexpected noises – dogs barking, a loud motorbike, a scream or siren. At other times he can get aggressive or destructive and has tried to start fights or break things if I haven't been there to physically restrain him. By contrast, most of his peers now walk to and from school on their own.

Alfie often feels overwhelmed and needs prompting, encouragement and soothing to get up, get dressed, eat his breakfast and get washed and ready for school. He will often refuse to go upstairs and brush his teeth, for example, unless I go with him. This is because he is scared to be on his own.

He also needs supervision – without it most days he would either eat far too much or get distracted and eat nothing at all. Without supervision he would not wash his face or brush his teeth or hair either.

Alfie is scared of baths and showers and will avoid them at all costs. He has a bath and a hairwash twice a week and we have to go through a whole rigmarole of calming and encouraging and soothing to make that happen. Even then, sometimes he will get aggressive and cross about it and physically prevent it from happening.

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When we get to school Alfie often refuses to go in. He needs help from both me and his support worker to calm down and get into the classroom without running away or hurting anybody.

At school he needs extra help and supervision to keep him engaged, soothed, and prevent him from getting excited and destructive or violent. He needs extra help to learn and to communicate confidently with his peers and teachers. He can be very oppositional about changing clothes and, to avoid difficulty, he doesn't change for PE or put an apron on for Art.

Alfie particularly struggles with transitions – for example when one activity ends and another begins. He needs extra help from his TA to cope with this and keep calm, and he is escorted round the school at these times. Similarly he finds the beginning and ending of school very hard and needs a lot of support from both me and his TA.

Alfie finds it hard to go to sleep and wakes frequently. He requires a lot of reassurance and soothing to go to sleep and I am often still doing this at midnight. If he wakes in the night, he panics and anything can happen. I need to check on him so many times a night, it's often easier for me to sleep in the same room.

(continued)

How to write
a statement

- Tell them if your child has ever been hurt (or might have been hurt), because of their illness or condition. →

You also need to tell them if they have hurt somebody else because of their illness.

You should also say if the child have ever hurt himself/herself on purpose.

Alfie can act impulsively and make poor decisions that put him in danger. He can and has ran into the road when he was angry, he has climbed on to the school roof and attempted to jump off, and he has climbed over the fence and tried to run away. He needs to be supervised at all times so that he can be restrained if necessary.

He can also be destructive to things and has broken other people's phones, computers, glasses or artwork. He can also be very verbally aggressive to others and shout and threaten them. He has only very rarely actually hurt anyone but it has happened.

- Is there anything your child doesn't do because they don't have the help they need? →

Alfie is a keen swimmer and is very good at it, but I cannot take him swimming as I have hurt my leg.

- If not getting the help you need causes other problems, it is very useful to say so. They won't make the connection for themselves. →

Having to be supervised by his mum all the time causes difficulties for Alfie's self-esteem (which makes him more likely to be sad and angry and have difficult behaviour). If he could have help from other people to engage in swimming and other activities this would improve.

- It is important that they understand how often you need help. So try to make sure you have said how often each thing happens. →

Alfie needs help to take his medication twice a day and to go to therapy at CAMHS once a week. Getting him to take his medication can take 2 minutes or it can take 30. Calming him and getting him to his therapy appointment takes 60–90 minutes to get there, 30 minutes back.

- If you anyone helps your child by reminding or encouraging them to do things, explain it. →

Alfie needs reminding and encouraging to do almost everything.

(continued)

- If you disagree with anything in the papers they sent you, you need to tell them what was wrong and why this isn't right.

The report from the DWP said Alfie didn't need help at night, but he requires between an hour and 3 hours more help to stay calm and in bed, and supervision to help him stay safe, than another child of his age every night when I would otherwise be in bed.

- If there is any other evidence that backs up what you are saying, refer to it.

The letter from Alfie's school confirms his difficulties at school.

The letter from CAMHS confirms his difficulties both day and night.

When you have finished writing the statement, read it back through more than once. Does it say everything you want it to say?

The information in this guide applies to England and Wales.

The law is complicated. We recommend you try and get advice from the sources we have suggested.

The cases we refer to are not always real but show a typical situation. We have included them to help you think about how to deal with your own situation.

advicenow.org.uk
Making sense of the law and your rights

If you would like this guide in another format
please email guides@lawforlife.org.uk

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