

How to

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# Win a Work Capability Assessment appeal

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## Introduction

If your claim for Employment Support Allowance or the Limited Capability for Work element of Universal Credit has been refused, stopped or reduced, don't give up. The DWP make incorrect and unfair decisions all the time.

This guide and accompanying [Work Capability Assessment Mandatory Reconsideration Tool](#) will help you to challenge the decision by asking the DWP to look at their decision again (called a 'mandatory reconsideration') if you have to.

Most people must ask for a mandatory reconsideration before you can appeal.

Some Employment Support Allowance (ESA) claimants don't need to ask for a mandatory reconsideration before they ask for an appeal. You can go straight to appeal if this is the first time you have claimed ESA and you got no award, or if you have claimed for ESA again and you have received no award for the first time but have received an award previously.

All Universal Credit claimants and some ESA claimants must ask for a mandatory reconsideration before they can appeal.

This guide will help you work out what you have to do and show you how to do it really well.

If the DWP don't change the decision at the mandatory reconsideration stage, this guide shows you how to appeal the decision about your limited work capability and win.

An appeal is when an independent panel (who do not work for the DWP) will look at your claim to see if the right decision was made. Appeals take much longer, but they are much more likely to be successful. This guide will help you.

This guide will help you challenge a decision that:

- Closed your application because you didn't send back the work capability questionnaire in time without good reason.
- Closed your application because you didn't attend the assessment without good reason.
- Found you are not entitled because your disability or illness does not limit your ability to work enough (in DWP speak, you do not have limited capability for work).
- Gave you the wrong award by putting you in the wrong group. For example, if you claim Universal Credit, a decision that puts you in the limited capability for work (LCW) group when you believe you meet the criteria to be put in the limited capability for work-related activity (LCWRA) group. Or if you claim ESA, put you in the work-related activity group instead of the support group.

It won't help you to appeal a sanction. If you have been sanctioned, see [A survival guide to benefit sanctions](#).

## How this guide will help

Unfortunately, most people find it hard to get all the help they would like to sort the problem out. We will explain where you might be able to get advice on [page 13](#). However, bear in mind many people have to do most or all of the work themselves, or with the help of their family and friends.

We have made this guide as helpful as possible. This guide will take you step-by-step through the whole process of getting the decision about your ESA or Universal Credit changed. We will show you what to do at each stage, how to stop it from getting too stressful, and how to give yourself the best chance of getting a good result. And we have created a [tool](#) to help you write a really good mandatory reconsideration letter that sets out your case.

This guide looks long, but don't be put off – you will only need to read a few pages at each stage. We have colour-coded the sections, so you know where you are and what you have to do next. If you are confused about where you are in the process or what might happen next, see [page 15](#).

## Do you need 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. (They cannot tell you what to say on the appeal form – read this guide for our advice).

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](mailto:support@we-are-digital.co.uk)

They will respond within 2 working days.

You can find out more about the service [on their website](#).

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### What countries does this guide cover?

The information in this guide applies to England, Wales and Scotland. 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.

# Things to understand



Universal credit was brought in to replace 6 means-tested benefits. The part of Universal credit that replaces Employment Support Allowance (ESA) is called the limited capability for work element. Your entitlement is worked out in exactly the same way as ESA – this is called the Work Capability Assessment. The Work Capability Assessment for each benefit uses the exact same activities, descriptors and points system. The appeal process is also exactly the same. This is why we have written this guide and our [Work Capability Assessment Mandatory Reconsideration Tool](#) that covers them both.

The main difference is that they called the two groups in each benefit by different names (see below).

Your entitlement to ESA or Universal Credit on the basis of being unable to work is based on how your illness or impairment affects you, and what very specific things you are unable to do without assistance.

Whether or not you are found capable of work is decided using a points system. For example, if you cannot usually stay standing or sitting (or a combination of the two) at a desk for more than an hour because it makes you too tired or it hurts, you get 6 points. If you cannot usually go to even a familiar place on your own, you get 9 points, etc. You can see the activities, descriptors and points on [page 44-48](#).

| Employment Support Allowance | Limited capability for work element of Universal Credit    |
|------------------------------|--|
| Support group                | Limited capability for work-related activity group (LCWRA) |
| Work-related activity group  | Limited capability for work group (LCW)                    |

You only score one set of points from each activity (for example, getting about), so use the one that you meet that gives you the most points. In order to be found unable to work (and therefore receive ESA or Universal Credit on that basis) you need to score at least 15 points in total. Or there needs to be a 'substantial risk' to you or others if you were found not to have limited capability for work (see box).

### Substantial risk

If you do not get 15 points or more, you can still get the benefit if you can argue that there is a risk that you (or someone else) would be in danger if you were refused. For example, if you have seizures, violent outbursts, frequent falls, or need supervision to stay safe, you could argue it would be dangerous for you to work or have to travel to a job without help. Or if you have poor memory or confusion, and would be unable to meet the requirements to receive Jobseeker's Allowance (or Universal Credit on the basis that you are looking for work), you could argue that there was a substantial risk that you wouldn't be able to feed or care for yourself. If looking for a job or going to work is likely to make your condition worse or risk you having a relapse (for example, if you are a recovering addict, or have a condition like Chronic Fatigue Syndrome or Long Covid), then that too can be counted.

Similarly, if you have been put in the work-related activity group but it is fairly clear that you could not manage to reliably do the work-related activity you would have to do to keep receiving the benefit, you could argue that there is a substantial risk of harm to you if you were not put in the support group (in ESA) or limited capability for work-related activity group (in Universal Credit).

The risk counts as 'substantial' if it cannot reasonably be ignored. When judging if the risk is substantial, the DWP or appeal panel are supposed to judge both the likelihood of something happening and the potential seriousness if it does happen. So it is possible to argue that although the likelihood is not big, the consequences would be very bad and therefore the risk is 'substantial'.

Lots of people with mental health problems, cognitive difficulties, Chronic Fatigue Syndrome, or conditions that are much worse on some days than others, get ESA or Universal Credit this way.

Many advisers say it is always worth raising the argument of substantial risk if you can, as it allows the appeal panel to use their common sense.

If you get 15 points on any one indicator (except in activities 8, 10 and 15 – ‘Finding your way and being safe’, ‘Consciousness during waking moments’, and ‘Getting about’), you will be put into the support group in ESA or the limited capability for work-related activity (LCWRA) group in Universal Credit. If you are in these groups, you get extra money to support your higher needs, and you don’t need to do ‘work-related activity’ (meet regularly with an adviser at the Jobcentre, go to occasional training courses, and do various tasks that the DWP say will make you better able to get a job later). If you are entitled to New Style ESA (because you have paid enough NI contributions) you can also receive it for more than a year.

If you haven’t checked what rate you should be getting yet, use our [Work Capability Assessment Mandatory Reconsideration Tool](#). It will help you work out if the DWP has made the right decision. If they haven’t, the tool helps you to write a really good letter that asks for a mandatory reconsideration (if you need to do that before you can appeal) and sets out your case.



# What are you going to live on?

What are you going to live on?

Following a court case in July 2020, some ESA claimants can appeal straight away and no longer have to ask for a mandatory reconsideration first. This is important because once you have lodged an appeal, you can ask ESA to pay you on the assessment rate while you are waiting for the hearing. You can go straight to appeal if this is the first time you claimed ESA and you were found not to have limited capability for work (you got no award), or if you were found not to have limited capability for work this time and the last time you claimed ESA you did receive an award.

If you claimed Universal Credit, you can receive Universal Credit while you wait for the reconsideration and appeal on the basis of looking for work. (Don't worry, it won't mean you can't argue that you are not able to work in the appeal).



Find out more about getting other benefits while you wait for a decision on your reconsideration on the [Citizens Advice website](https://www.citizensadvice.org.uk).



# What is your situation?

What is your situation?



They said I was well enough to work

Some people in this situation feel like they should just give up, others feel absolutely furious. The DWP often don't apply the criteria correctly. Challenging the decision can take a long time, but everybody should get what the law says they are entitled to. Remember you have nothing to lose.

Most people in this situation have to start by asking for a mandatory reconsideration, but if you applied for ESA (rather than the limited capability for work element of Universal Credit) and it was either the first time you had claimed, or when you last claimed ESA you received an award, you can go straight to appeal. This is very useful as it means you can get the assessment rate of ESA while you wait for your appeal hearing and it means that if you win your appeal you will be able to stay on ESA rather than move to Universal Credit (which for most people pays a lower amount). See [How to ask the DWP to look again at their decision on page 18](#) for more details.

If you claimed Universal Credit or have claimed ESA before and the last time you were not given an award (and either you didn't challenge it or you did not manage to get the decision changed) then you do need to ask for a mandatory reconsideration first. Start by using our [Work Capability Assessment Mandatory Reconsideration Tool](#).

What is your situation?



**They have put me in the wrong group! I should be in the limited capability for work-related activity (LCWRA) group, but they've put me in the limited capability for work (LCW) group**

This is the same as being put in the work-related activity group, rather than the support group in ESA. Some people in this situation feel like they should just be happy they got something. Others are concerned that if they ask for the decision to be looked at again, they might lose their award. This is technically true, but if the DWP have recognised you are entitled to at least 15 points, you are unlikely to lose your award completely. If you are concerned, try to see an adviser.

Remember, everybody should get what the law says they are entitled to, and the DWP often don't apply the criteria correctly. Use our [Work Capability Assessment Mandatory Reconsideration Tool](#) to check what award you think you should have got. If it's not the same as you were awarded, use our tool to ask the DWP to look again at their decision. If they don't change their decision, you should appeal.

**I was on New Style ESA in the support group until I was reassessed. I got moved to the work-related activity group and now I don't get anything**



This is because you can only get New Style ESA for one year if you are in the work-related activity group. If you were in the support group you could stay on New Style ESA as long as necessary. Use our [Work Capability Assessment Mandatory Reconsideration Tool](#) to check what award you think you should have got. If you might still be entitled to be in the support group, use our tool to request a mandatory reconsideration. If they don't change their decision you should appeal.

**My condition has got worse since I was assessed**



If your illness or impairment has got worse since the date of your decision, it cannot be taken into account in an appeal. Instead, if you now meet higher scoring descriptors you should make a new claim or ask for your current claim to be reassessed.

**What is your situation?**

**My claim was closed because they say I didn't send back the questionnaire on time**



You should ask for a mandatory reconsideration of the decision to close your claim and explain what happened. Maybe you did send the form back but it went missing, or maybe you failed to send the form back but you had a good reason. If the reason for your difficulties returning the form is connected to your condition (for example, if you were in hospital, if you are unable to deal with your post without help, or if you were too anxious or distressed to complete the form) you have a very good case for them to reinstate your claim.

If you don't think you ever received the form, bear in mind the DWP will have evidence of having posted it to you. So, you will need to explain either that you have had difficulties in general with post not being delivered to your address, or that you didn't know the form had arrived because you need help to manage your post, and you didn't receive that help. Use our [Work Capability Assessment Mandatory Reconsideration Tool](#) to write the letter.

What is your situation?



**My claim was closed because they say I didn't attend the medical assessment without good reason**

You should ask for mandatory reconsideration of the decision to close your claim and explain why you failed to go to the assessment. If the reason for your difficulties is connected to your condition (for example, you were unwell that day, you didn't open the letter about the assessment because you need help to manage your post or were too anxious to cope) you have a very good case for them to reinstate your claim.

Similarly, if you had asked for a home assessment and were waiting to hear back from the DWP about whether that was possible, you could argue that was a good reason not to go to the assessment at an assessment centre. Use our [Work Capability Assessment Mandatory Reconsideration Tool](#) to write the letter.

**If you have had a hard time with the assessment stage, you are not alone.** Forms that were definitely sent back often go missing, wheelchair users have been sent to assessments in buildings that are up a flight of steps with no ramps available, people have been phoned for a telephone assessment with no warning, and there are often things in assessors' reports that didn't actually happen.

It is unfortunately true that instances of gross unfairness like this seem to be commonplace. It is one of the many reasons that we have written this guide and created the mandatory reconsideration tool to help you get what you are entitled to.

# How to find an adviser

For many people, it is not easy to find advice and help with your benefits. You should expect that you will have to do most of the work yourself (or with help from your friends or carers). Don't worry, this guide will show you what to do, and how to do it.

But if you can get advice to help you work out what rate you should be getting and if you should ask for a mandatory reconsideration, it will be really helpful. Obviously if you do find someone who offers to help you further, take it.

Following COVID, many services are offering appointments via telephone, email, or videochat, as well as face-to-face.

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 there isn't a closer option by following the advice below).

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

Check if your local council has a welfare rights service. If you didn't find their details in Advice Local search, phone the council and ask for 'welfare rights', or check the website.

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



See if [Disability Law Service](#) can help 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, your social worker, or community centre if you have one, and ask if there is a service for you.

How to find an adviser

## How to find an adviser

Some charities provide advice services for particular groups – for example, [The Royal British Legion](#) support people who have served in the armed forces and their families and even represent at appeal. 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 ESA (or the limited capability for work element of Universal Credit) 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).

If you have nowhere else to turn, try your MP's 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 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 tribunal.



# The Process

## Step 1

You get a letter from the DWP telling you their decision on your claim. Use our [WCA Mandatory Reconsideration](#) tool to ask for a mandatory reconsideration if

- your claim has been closed because they say you didn't send back the ESA50 questionnaire in time.
- your claim has been closed because you didn't go to the assessment.
- you claimed Universal Credit and you have been found not to have limited capability for work, or think you have been given the wrong award.
- you claimed Employment Support Allowance and you have been found not to have limited capability for work for the second time in a row, or you think you have been put in the wrong group.

You are supposed to ask within one month of the date at the top of the letter to ask for a mandatory reconsideration, although you can ask later. Our mandatory reconsideration letter tool will show you how and where to provide an explanation of the delay. A mandatory reconsideration is where the DWP look at the decision again. The decision letter from the DWP will tell you if you must do this before you appeal.

- If you claimed ESA for the first time and you were given no award (have been found not to have limited capability for work), or you have been given no award for the first time when you have received an award of ESA before (whether awarded by DWP or appeal panel), then you do not need to ask for a mandatory reconsideration and should appeal straight away. Your decision letter from the DWP will confirm that you can appeal without asking for a mandatory reconsideration. Jump to step 4.

## Step 2

Ask for the DWP to look again at their decision. This is called a mandatory reconsideration. Use our [Work Capability Assessment Mandatory Reconsideration Tool](#) to check what award you should have got and write a really good letter to the DWP that sets out your case.

The DWP will look at your questionnaire again, the assessment report, and any other evidence you may have sent in (like a letter from your doctor or consultant) to see if they will change the decision.

(continued)

The Process

### Step 3

The DWP will send you two copies of their reconsideration decision. It should say at the top of the letter “Mandatory Reconsideration Notice”. You need these if you wish to appeal. If their decision has been changed and you are happy with it, you can stop here. But if it hasn’t (and for most people, it hasn’t), don’t be put off. You have 1 month to ask for an appeal but you can also ask later. (If one month has already past, see [page 20](#)).

### Step 4

Ask for an appeal. You can do this online or using the SSCS1 form. If you have used our mandatory reconsideration tool, you can copy and paste wording from the letter generated to help you make your case. See [page 21-23](#) for our advice.

If you did not need to have a mandatory reconsideration, or did not use our tool, see our advice as to what wording to use to ask for an appeal on [page 21-23](#).

### Step 5

The DWP will send both you and the HMCTS a bundle of documents called the ‘appeal papers’ – this is an explanation of why they gave you the award that they did. Don’t be put off by the size of it. Read through this bundle and make a note of anything which you disagree with, especially in the medical assessor’s report about you. In addition, make a note of anything important relating to your impairment or illness which has not been included.

Sometimes after you have appealed, the DWP phone you up and offer you a new award because they recognise that you will win your appeal. Accept their offer if you believe it is what you are entitled to. If it is lower than the award you were hoping for, accept the award and then appeal that decision (without asking for a mandatory reconsideration). They should explain that you can do this. If they didn’t explain that you could appeal this new decision or you felt they were trying to put you under pressure to accept, please tell us [via our survey](#) so that we can hold them to account.

### Step 6

You need to prepare for your appeal and, if you can, send HMCTS more information about your difficulties. See [page 24-29](#) for details.

(continued)



## Step 7

You will be told the date of the hearing. If you have any further evidence about your difficulties that you haven't yet sent to the tribunal, send it now. Keep a copy.

## 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 [page 30-35](#) for details of what will happen and advice about what to do on the day.

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

The Process

# How to ask the DWP to look again at their decision



How to ask the DWP to look again at their decision

You need to ask the DWP to look again at their decision (called a 'mandatory reconsideration') within one month of the date on the letter they sent to tell you of their decision. If one month has already past, don't worry. See [page 20](#).

Some ESA claimants don't need to ask the DWP to look at their decision again. If you claimed ESA for the first time and got no award because they said you did not have limited capability for work, or if last time you claimed ESA you got an award and this time you didn't, you do not need to ask for a reconsideration and can ask for an appeal straight away. If you do not need to ask for a reconsideration, it will say so on the letter that the DWP sent you about the decision.

If you want to ask for a mandatory reconsideration *and* an appeal at the same time you can, but it is best to do one or the other. We would advise you to go straight to appeal.

Technically you can ask for a mandatory reconsideration over the phone, but it is definitely better to do it in writing. Only ask for a mandatory reconsideration over the phone if you are about to miss the one-month time-limit. If you do this, follow up your request in writing. There is a form you can use but we suggest that you write a letter using our free [Work Capability Assessment Mandatory Reconsideration Tool](#).

If you have any more evidence that you think will help (for example, a letter from your doctor, social worker, support worker, or carer, or any other recent reports you have had) send that too. If you need a few weeks to get more evidence, you need to decide if it is worth waiting. Many advisers say it is not, as it is better not to delay the mandatory reconsideration, as only a small percentage of these types of decisions are changed at this stage. Instead, as you will probably need to appeal, get the evidence ready to send with the appeal form.

**Don't take advice from the DWP about whether it is worth you asking for a mandatory reconsideration or appeal.**

Remember any advice they give you is likely to be incorrect and may be self-serving. We suggest you get independent advice if you can, or follow the information in this guide.

When you ask for the DWP to look at their decision again, people are often told that they need to provide further medical evidence or there is no point. This isn't true. They may not change the decision at the reconsideration stage, but it's very possible to win at the appeal hearing without any new information or evidence. Indeed, they often don't change the decision at the reconsideration stage even when presented with excellent evidence.

People who have been put in the work-related activity group for ESA or limited capability for work (LCW) group in Universal Credit, are often 'warned' that they could lose their current award if they appeal and be left with nothing. This is technically true, but it is not common. Be aware that the DWP are trying to put you off. We suggest that you look at the descriptors that you meet and the points that you think you should have got – if you get far more than 15 points, it is unlikely that you will lose your award completely.

## What next?

If you have not heard back after 8 weeks, you should ring them and find out what is happening.

If they have changed their minds, congratulations! Your award will be backdated to the date you claimed. Any amount above the amount you received (either from ESA, or Jobseeker's Allowance, Income Support, or Universal Credit) will be backdated.

If they didn't change their decision, or they did but still didn't give you the award you think you are entitled to, you should appeal. You need to ask for one within one month of the date at the top of the mandatory reconsideration notice.

Don't be downhearted if they didn't change their minds – they often don't, even where it appears to be very clear that they are wrong. Only a small percentage of decisions are changed at this stage, but most are changed when you go to appeal.

**How to ask the DWP to look again at their decision**

### If one month has already past

If one month has already past, you have gone over the time-limit to ask for a mandatory reconsideration. You can still ask but they don't have to accept it. They usually do however if you have a good reason.

It will help a great deal if you can explain that the delay was unavoidable or a result of your illness or disability. For example, if you were unable to deal with it until now because you need help to deal with your post, you have depression, you get confused, you were unable to get advice or you were very unwell. Longer delays will need better explanations.

Similarly, if you miss the one-month time-limit to appeal, you can ask for an appeal anyway. You will need to explain your reasons for missing the time-limit. It will be helpful if you can explain that the delay was a result of your impairment, illness or disability (see above for examples). Other good reasons might be that you did not receive the mandatory reconsideration notice safely, or were away from home when it was delivered.

A judge will then decide whether to allow the appeal despite its lateness. The DWP then has one month to object to your reasons for missing the time-limit. If they do not object, your appeal continues. If they do object, a Judge makes the decision of whether or not to accept your late appeal.

Your appeal will only definitely not be accepted if 13 months have past since you were sent the decision.

# How to ask for an appeal

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

You can find both on the [Submit your Appeal page of GOV.UK](#).

Both are easy-to-use and understand. If you use the online version a record of what you have said gets 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.

## 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](mailto:support@we-are-digital.co.uk)

They will respond within 2 working days. You can find out more about the service [on their website](#).

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, go to your email or your account where it is saved. Look at your decision letter. For the first activity that

they didn't award you the correct amount of points for, tell them what it is that you don't agree with (for example, that they said you can cope with a minor unplanned change, when you cannot). And then you can copy and paste the wording from your mandatory reconsideration request letter that explains the difficulties you have with that activity (for example, I cannot cope with minor unplanned changes as I get very stressed and feel that I cannot cope. If the bus stop is closed for example, I will get upset and need to go home. (For less confident computer users, you do that by highlighting the text you wish to copy and pressing ctrl and C at the same time. Then go to where you want the text to appear and press ctrl and V at the same time).

Repeat this for each of the activities you don't think you have received the correct amount of points for.

If you haven't used our tool, look at your decision notice and the list of activities and descriptors on [page 44-48](#). Add each activity you don't think you have scored the right number of points for, and for each explain all of the difficulties that you have with that activity and what help you need (remember it doesn't matter that you don't get any help).

Remember to tell them ways in which not being entitled to the benefit or not being put in the right group would put you at substantial risk of harm (see [page 6](#) for a reminder of the 'substantial risk' rules).

How to ask for an appeal



## How to ask for an appeal

**If you did not need to ask for a mandatory reconsideration first**, you will also need to add the following wording to your appeal form:

“I wish to appeal the decision that I do not have limited capability for work and can appeal directly to the Social Security and Child Support Tribunal without having to apply for a mandatory reconsideration first.”

You can still use our [Work Capability Assessment Mandatory Reconsideration Tool](#) to help you with the wording that sets out which activities and descriptors you should have got more points for if you like. Select the fourth option on the first page ‘You claimed Employment Support Allowance and you have been found not to have limited capability for work for the second time in a row, or you think you have been given the wrong award.’

- 2** If your appeal isn’t within the time limit, you should appeal anyway but explain why the delay was unavoidable or a result of your disability (for example, if you were unable to deal with it until now because you need help to deal with your post, or you have been particularly unwell).

- 3** Choose to go to a 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 won’t 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.

## 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 in your appeal bundle. Don’t be put off by the size of it. It is often around 80-150 pages. 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 to offer a higher award

Sometimes the DWP recognise that you will win your appeal and phone you up to offer you a higher award. If this happens to you, accept their offer if you believe it is what you are entitled to. If it is lower than the award you were hoping for, accept the award and then appeal that decision (without asking for a mandatory reconsideration). If they didn't explain that you could appeal this new decision or you felt they were trying to put you under pressure to accept, please tell us [via our survey](#). Working with Public Law Project and Advicenow users, we took the DWP to court over this and won so that they had to change this practice.

This is different to suggested changes to your award offered by a tribunal judge who has looked at all the paperwork as described on [page 22](#).

How to  
ask for  
an appeal

# What to prepare before the hearing

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

The guidance below assumes you are preparing for a face-to-face hearing. Since the beginning of Covid, more and more hearings have been by video and many people like them better. All of the advice, except about actually travelling to the hearing applies equally to video hearings.



What to prepare before the hearing

## Get advice

If you have not already tried to get advice, do so now (See 'How to find an adviser' on [page 13](#)). 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 they are going to do for you, and which you need to do yourself.

Do not wait until you know the date of the tribunal, as most advice centres have a long waiting list.

## When will the hearing be?

How long it takes for the hearing to be scheduled varies from five to 12 months, depending on where you are in the country. Usually you will not get told the date of the hearing until 2-3 weeks before (you should be given at least 14 days notice unless you agreed to be given less) so it's important to start getting ready as soon as you can.

It is useful to know how long you have to prepare for your appeal. You can phone the tribunal centre dealing with your appeal and ask them how long you are likely to be waiting for a date for the hearing.



## 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](mailto: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. It might be 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, neighbour, or someone who helps you who is good with paperwork and organising things?



## Support groups

Support groups can sometimes be very helpful. There are likely to be other people there who have had the same problems, who can give you emotional or practical help.

There are also online communities that can offer you support in the same way. Yourable.com is popular. There are also lots of Facebook groups for people with particular conditions.

## 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 relevant 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 work capability assessment decisions, ignore these.

The most important part is the report from the medical assessment. Read through it and look for anything you don't agree with.

- Did the assessor ask you the right questions and correctly record your answers?
- Are there things in there that didn't happen or don't reflect your conversation at all?
- If you had the assessment over the phone, did the assessor grasp the extent of your difficulties?
- If your health condition or disability is better or worse on different days, did the assessor understand that?

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.

What to prepare before the hearing

**Don't be shocked if the assessment report is full of inaccuracies.** This seems to happen horribly frequently. We have heard of completely incorrect diagnoses being recorded, easily verifiable physical conditions being ignored or incorrectly recorded, and records of whole conversations that never occurred. If you find this has happened to you, you are right to be angry about it – it is terrible – but don't take it personally. It happens to a lot of people. However, don't get too focused on it. Appeal panels know how bad assessment reports often are and so it is easy to get them set aside in favour of other evidence.

If you are angry about it and have the energy for two things, put it in a complaint to the organisation who did the assessment. For most claimants, that is [Health Assessment Advisory Service](#), although there are two centres run by the DWP themselves. If you only have the energy for one thing though, focus on your appeal as that is the only thing that will change your award.

## Getting evidence

For most people, the thing that is of most help is written evidence from their doctor or other professionals. If you have a social worker, community psychiatric nurse, occupational therapist, support worker, or any other professional, evidence from them will be very useful too.

The most useful evidence will explain how your illness or disability affects you, and the help you need (paying particular attention to the descriptors that you meet). This is unusual and really complicated, so your doctor/social worker or other professional may not understand that.

Look at [page 42-48](#). This is a guide for your doctor, social worker, or anybody else writing evidence for you. Mark the particular activities and descriptors you believe you meet on this page, and write the date of the DWP decision in the box. When you ask them for evidence to support your appeal, give them these pages and ask for them to comment on those specifically. It will help them to write evidence that will be really helpful to you.

The best evidence will come from people who know you well and who understand your situation. If your GP does not know you well, you should still ask him or her for evidence, but try to get evidence from other professionals too. This could be your social worker or community psychiatric nurse, a paid support worker, a personal assistant, your occupational therapist, somebody who works at a day centre you go to, support staff at your school or college, or somebody else. You could also get evidence from a carer, friend or relative who helps you a lot.

You are appealing the decision the DWP made on a particular date (on the top of the letter). You need to prove how your illness or impairment was at that time, not how it is now. The tribunal cannot take into account any improvement or worsening of your condition since the date of the DWP's original decision. Write the date of the decision you are appealing in the purple box on [page 43](#), before you ask anybody for evidence. Then show them [page 42](#).

What to prepare before the hearing



## Paying for medical evidence

GP's and other medical professionals are allowed to charge for evidence and many do. However, if they know you cannot afford it they are often willing to do it for free.

If your doctor suggests that he or she will charge you, tell them that it doesn't need to be terribly long, and that it could be hand-written if this is quicker. Reassure them that it will only take the time of an appointment. Use 'How to write useful evidence for an ESA appeal' on [page 42-48](#) and mark which descriptors you meet. Ask them to read it, so that they are sure of what you need from them.

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

## Evidence from your support worker, personal assistant, carer or anybody that helps you

If there is somebody who helps you a lot (this might be somebody you pay, or who helps you at college or work, or it might be your partner, a family member, or a friend), 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 you and how often. Show them the section for doctors and other professionals on [page 42-48](#) – it will help them to remember everything.

It can be very useful for this person to come to the hearing with you – so that the panel can ask them questions. They may be asked to wait outside until their evidence is needed – so you may need to be prepared to go in alone at first.

## Is there any evidence that you already have?

There may be useful evidence you already have or can easily get. Maybe you have letters from doctors or support services already that support your case. Perhaps you have had an occupational health assessment at work or for adaptations at home? Or young people may have an Education and Health Care Plan (EHCP), or Disabled student grant assessment. If you have recently been assessed and awarded PIP it is well worth requesting that report and sending it in. Similarly, if you have successfully appealed a work capability assessment decision previously, send in that previous tribunal decision, or ask the tribunal office to find a copy of it and pass it to the new tribunal.

What to prepare before the hearing

## Diary

You should think about keeping a diary of the difficulties and help you need each day. It will help the tribunal panel to get a proper understanding of your situation. It is particularly helpful if your illness or disability is not the same every day. It also needs to reflect how you were affected at the time of the decision about your benefit, so is of most use if your health has not got worse since then.

Keep a diary for a week (or if you have a condition which fluctuates, a longer period will be helpful). It can be very brief. For example – ‘Monday – Very confused today. Marie needed to remind and prompt me to do simple everyday tasks, and not to get distracted. We went to the shops and I needed help to cross the road safely’. Include everything that is connected to the activities and descriptors that entitlement to these benefits are based on (see [page 44-48](#) for the list).

If you get help from somebody and find this sort of thing hard, you could ask them to keep a diary of the help they have given you instead (as an alternative to the letter – see above).

## Be realistic

Be realistic about what you want to happen. There is no point going to the tribunal hearing hoping to get put into the support group if you don’t meet any of the required indicators. If you have seen or spoken to an adviser – did they tell you what rate they thought you might be entitled to? Have you used our [Work Capability Assessment Mandatory Reconsideration Tool](#) to check what points you should get, by your own assessment?



## Write a statement

You should think about writing a statement for the tribunal, or getting a friend to help you. These can be very useful as they set out all your points, 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 have said before they meet you.

They are also a useful way of telling the panel about mistakes and things left out of the assessment report. Stay away from accusing the assessor of lying as that is very difficult to prove. Instead give a flavour of the sort of things that are wrong and ask that the tribunal listen to other evidence instead.

For more advice on how to write a statement and what to put in it, see ‘How to write a statement’ on [page 49](#). You can also read Mikaela’s statement and see what she put in hers.

## What to do with the evidence

Read all the evidence through – does it reflect your difficulties accurately? If it doesn’t, you don’t have to send it to the panel. 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. Looking again at our guidance on how to write useful evidence on [page 44-48](#), is there anything they can add to make it more useful?

What to prepare before the hearing



If you have 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 and always take paper copies with you on the day. (Sending the evidence in advance is useful because it maximises the chance of the DWP changing the decision in your favour.

On the day of your hearing, take your copies with you and ask the clerk or panel to confirm that they have received them.

## How will you 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 most venues, you can book an accessible parking spot if you phone them in advance.

## How can you afford to go to a face-to-face hearing?

You should be able to 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 had to pay a carer or childminder you can claim expenses up to the National Minimum Wage for the time you have been away. In some circumstances, they will pay for a taxi for you – but you need to get this agreed in advance (you are likely to need a letter from your doctor saying that you cannot use public transport). 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 when you go to the hearing if you ask. Make sure you take receipts.

Contact the tribunal before the hearing if you need help.

What to prepare before the hearing

# What will happen at 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.

Attending a hearing isn't like going to court. You can go alone or take a friend or family member with you for moral support.

The hearing itself will usually last about 40 minutes.



## Face-to-face hearings

If you have a face-to-face hearing, you will usually have to go through security procedures. Expect to have to open your bag and be patted down with a metal detector. If you are at a Magistrates Court you will have to walk through a metal detector and have your belongings x-rayed. If you have an ICD (implantable cardioverter defibrillator) then take the card with you to prevent you from having to walk through this. Arrive 10 minutes early to go through security.

After security, you will usually be shown into a waiting room. You might have to wait here for a little while. While you are waiting, the clerk to the tribunal will call your name and come over to talk to you. This is your opportunity to check that the tribunal received the evidence and statement you have sent them, and to hand in any evidence or statement you have not already sent. When the panel are ready for you, the clerk will call you into the room.

The room the hearings are in are all slightly different. Often they will look like a rather boring office and everybody is wearing normal clothes. When you go in there will 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 sit on the other side. There will be water and tissues on the table ready for you if you need it.

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.

What will happen at the hearing?

The panel will usually be made up of two people – a judge and a doctor. The doctor does not work for the government or the DWP. The panel should introduce themselves and explain what will happen.

Remember the panel are completely separate from the DWP. They are here to see that you get the benefit if you can show you are entitled to it.

Usually the 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.

The DWP have a right to send somebody to your appeal to explain why they made their decision and they now do this more and more. Don't worry about this though. If they send someone, they are nice and non-confrontational. It will not be the person that made the original decision about your claim.

Remember it is YOUR appeal. If you get upset, you can ask for a short break. If you are in discomfort from sitting in the chair after a while, you can simply get up and walk around the room a bit.

In the unlikely event that the panel are considering a reduction of your existing award (for example because you appealed the decision not to put you in the support group, and the panel feel that you may not be entitled to any 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.



### Your hearing might be postponed

In some areas, hearings are often postponed. Usually, if this has happened, you will get a phone call earlier in the day to warn you not to go. Sometimes, you don't get a warning. Hopefully this won't happen to you, but it is possible that you will arrive to find that you have had a wasted journey.

### At the end of the hearing

The panel will usually make the decision that day. This usually takes between 10-20 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. If they are not able to make a decision quickly, it does not mean that you have not been successful with your appeal.

What will happen at the hearing?

## If the hearing has been scheduled for a time you cannot go

Email or call 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.

If you leave it until the last minute or don't give a good reason, they may not change the day and the appeal might happen whether you are there or not. Don't delay. If they refuse to change the date, you should do everything you can to move your other appointment.

## How do I stay calm?

Staying calm isn't easy, particularly in very stressful situations, like waiting for your appeal hearing. Having a friend or family member or support worker with you can help.

Many people find that the best way of reducing stress immediately is to concentrate on their breathing. Take several long, deep breaths. If you can, breathe in through your nose. Try to take the air into your stomach (you should feel your stomach rising). And then slowly breathe out through your mouth. It might help to close your eyes and picture nothing, others like to imagine a scene they find calming. Some people prefer to keep their eyes open and to slowly read all the notices on the wall. If you do this, try to concentrate on details. It doesn't matter what you look at or think about – what is helpful is slowing down your thoughts and your breathing.

Some people also find it useful to clench and then relax their fists, arms, and jaw; and to frown and then relax, or raise their eyebrows and then relax them.

If you are getting stressed because of the number of things you have to remember – write a list (or get someone to write a list for you). As soon as it is down on paper, you don't have to remember it.

What will happen at 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.

- If you think it might help, ask a friend or family member to be 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 35](#).
- Make sure you log on or arrive at the tribunal centre in plenty of time.
- Don't dress up or make a big effort with your appearance. It is important that the panel see you as you are on a normal day. Otherwise, they might get the impression that you don't need help, even if you do.
- 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, use this time to go over them.
- Be aware that the tribunal will take into account what they see you do from the moment you are visible. For example, if you have said you can't sit still for long, or have great difficulty walking, they might watch how you are. If you are having a good day, and your illness or disability is normally worse, make sure you tell them.
- If you had asked for any help with communication or translation and it is not available, insist on having the hearing another 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. Don't agree to anything you don't understand to be polite.
- If they say something that isn't right, make it clear that it is not true. For example, if they say "You don't have much trouble with sitting do you?" make it clear if you do have trouble with sitting for more than an hour.
- If you have written a statement, ask if they have had a chance to read it. If they have, you won't need to worry about covering everything in the discussion. If they haven't, they will usually pause for a moment while they read it.
- 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.
- They usually ask whether your condition has changed since the decision. Remember that you need to prove that the DWP made the wrong decision *at the time*, so it is unhelpful to dwell too much on how your condition has got worse. It is better to emphasise where your difficulties have remained broadly the same.

What to do  
on the day



- They will often ask you if you had any problems this morning. If somebody has helped you (perhaps by physically helping you to get up, or by prompting and encouraging you and keeping you calm so that you can manage the hearing) be sure to tell the panel. Tell them if you needed help to read or understand the instructions to log on to the video hearing or how to get to the tribunal centre.
- Don't make light of your illness or disability. Be as frank about your condition as you can be.
- Try to make sure you don't exaggerate the problems that you have either. If you do, the panel might not believe you when you are not exaggerating.
- Try to make sure that you explain how you meet the specific descriptors. For example, if they ask if you manage when things don't go according to plan, don't just say yes or no. Spell out what difficulties you have and give examples of when you have not coped well and what happened as a result.
- 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 (unless you wrote a statement, in which case you don't have to worry about this). A clever tactic is to make notes about what

you want to tell them (for example, take a list of everything you think you should have been given points for and why you meet those descriptors) and tick them off as you say them. Make sure that they are all ticked off before you leave. If you have taken somebody with you for moral support – this is a very useful thing for them to do – they can remind you to say anything you might have forgotten.

- If how your illness or impairment affects you changes and you 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'. The rules say that the tribunal must make their decision based on how you are on the majority of days.
- 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. Remember – you can ask for a break to compose yourself.

### 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.

## What to have with you on the day

- The appeal papers you were sent by the DWP.
- Copies of the evidence and/or the statement you have sent in beforehand.

You can take 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 next box. It explains what they can do to help.



## For friends or relatives

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

- Before the hearing, sit down with your friend and write a list of all the ways in which they meet the activities and descriptors that their case is based on. Have 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.
- You cannot 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 – or make a note as you will usually be asked at the end if there is anything you want to add. However, if your friend is finding it difficult or becoming very emotional you can ask the judge if you can answer the question yourself.
- If they get upset or stressed you can try to calm them down. If this doesn't work, ask them if they want a short break.
- Read the sections of this guide 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.

What to do on the day

# After the hearing

The tribunal panel will tell the DWP their decision and you will 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 any amount they owe you while you waited for the appeal. You will usually receive your money in about 4-6 weeks.

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. You cannot appeal to the Upper Tribunal without the Statement of Reasons. See 'How to find an adviser' on [page 13-14](#).



If you don't believe you are well enough to work (or manage the jobseeking tasks you need to do to get JSA or Universal Credit on the basis that you are looking for a job) you may be able to try again for the limited capability for work element by submitting a new fit note from your doctor. If you have recent NI contributions because you have been working you could make a new claim for New Style ESA. (But you won't get the assessment rate while you are waiting for a Work Capability Assessment again, unless you can show that your condition has got significantly worse, or that you have a new condition).

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?

|  |  |
|--|--|
| <b>Adviser</b>                               | 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 or even represent you.  |
| <b>Appeal</b>                                | This means a panel of two 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. See <a href="#">page 22</a> .  |
| <b>Carer</b>                                 | This is a person who helps you often, like every day or every week. It might be somebody you pay, or might be your partner, a family member, or a friend or neighbour. The help they give you might be physical help (for example to get in the bath or up the stairs), they might help you by getting your shopping because you can't get to the shops by yourself, or they might help you by encouraging and prompting you to do things, or supervising you to make sure you are safe.   |
| <b>Clerk to the Tribunal</b>                 | This is the person who organises the hearing and deals with the paperwork and admin.   |
| <b>Department for Work and Pension (DWP)</b> | This is the government department that deals with most benefits, including Employment Support Allowance and Universal Credit. They also run Jobcentres and the office which arranges the face to face assessments.   |
| <b>Descriptors</b>                           | These are the descriptions of very specific difficulties on which entitlement to ESA or Universal Credit on the basis of limited capability for work is based. Each descriptor that applies to you gives you points. If you receive 15 or more points, you are entitled to ESA. If you receive more than 15 points on one descriptor (except in activities 8, 10 and 15 – 'Finding your way and being safe', 'Consciousness during waking moments', and 'Getting about') you will be put in the support group (for ESA) or limited capability for work and work-related activity group (for Universal Credit) and are entitled to a higher rate. |
| <b>First-tier Tribunal</b>                   | This is another name for the panel of experts who hear appeals. Benefit appeals are heard by the Social Security and Child Support First-tier tribunal.  |

What does it mean?

(continued)

|  |   |
|--|---|
| <b>HM Courts and Tribunal Service (HMCTS)</b>                        | This is the government department that organises the tribunal panel and the hearing.  |
| <b>Hearing</b>   | 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 <i>much</i> better chance of success if you do.  |
| <b>Limited capability for work (LCW)</b>                             | <p>This is the group that you are put in if you claim Universal Credit and the DWP accept that your condition limits your ability to work now, but that you will be able to return to some form of work in the future and they want you to do some things to prepare for this.</p> <p>It is the equivalent of the work-related activity group in ESA. You have to get 15 points on the work capability assessment, or if there would be a ‘substantial risk’ (see <a href="#">page 6</a>) if you were not, to be put in this group and you have to do work-related activity to continue receiving the benefit.</p>  |
| <b>Limited capability for work and work-related activity (LCWRA)</b> | This is the group you are put in if the DWP or the tribunal agree that you get 15 points on any one indicator (except in activities 8, 10 and 15 – ‘Finding your way and being safe’, ‘Consciousness during waking moments’, and ‘Getting about’) , or if there would be a ‘substantial risk’ (see <a href="#">page 6</a> ) to yourself or others if you were not put in this group. It is the Universal Credit version of the support group in ESA. If you are in this group you get extra money to support your higher needs, and you don’t need to do ‘work-related activity’ to continue receiving the benefit. |
| <b>Limited capability for work element</b>                           | Universal Credit is a new benefit being brought in to replace 6 income-based benefits – one of which is income-based Employment Support Allowance. Under universal credit everyone has to sign to accept a work commitment, if you can’t work at the moment but it is thought that in time or with additional support you may be able to in the future, then you will be placed in this group.  |
| <b>Manage your appeal</b>  | A new service from HMCTS that enables people to manage their appeal online, keeping track of progress, submitting further evidence (including video and audio), and a statement. See <a href="#">page 25</a> for details of how to use it.  |

(continued)

What does it mean?

|   |   |
|---|---|
| <b>Mandatory Reconsideration</b>                  | This means the DWP will look at their decision again. Most people must ask for a mandatory reconsideration before you can appeal a decision. See <a href="#">page 18</a> . People who claimed ESA for the first time and were found to not have limited capability to work, or claimed ESA and were found to not have limited capability to work for the first time but have received an award before, don't need to ask for a reconsideration and can jump straight to the appeal stage. If you don't need to ask for a mandatory reconsideration it will say so on your decision letter from the DWP. Use our <a href="#">WCA MR tool</a> to ask for a reconsideration.   |
| <b>Preliminary view/decision</b>                  | 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. |
| <b>Representative</b>                             | This is an expert in benefits who might help you prepare for the hearing, gather evidence for the appeal, write to the tribunal and may be able to will come with you to help you state your case.  |
| <b>Social Security and Child Support Tribunal</b> | This is the name for the panel of experts who do not work for the DWP who will hear your appeal to see if the DWP made the right decision.  |
| <b>SSCS1</b>                                      | This is the paper form you use to ask for an appeal. You can also do it online. See <a href="#">page 21</a> for advice on how to fill it in.  |
| <b>Submit your appeal</b>                         | This is a new system HM Courts and Tribunal Service that allows you to lodge your appeal online.  |
| <b>Supersession</b>                               | This means having your claim looked at again because your illness or disability has worsened since the date of the decision.  |

**What does it mean?**

(continued)

|   |   |
|---|---|
| <p><b>Support group</b></p>               | <p>This is the group you are put in if you claim ESA and the DWP or the tribunal agree that you get 15 points on any one indicator (except in activities 8, 10 and 15 – ‘Finding your way and being safe’, ‘Consciousness during waking moments’, and ‘Getting about’) or if there would be a ‘substantial risk’ (see <a href="#">page 6</a>) to yourself or others if you were not put in this group. It is the ESA equivalent of limited capability for work and work-related activity in Universal Credit. If you are in this group you get extra money to support your higher needs, and you don’t need to do ‘work-related activity’ to continue receiving the benefit. If you are entitled to new style ESA (because you have paid enough NI contributions) you can also receive it as long as you meet the requirements for the benefit, rather than a year.</p> |
| <p><b>Tribunal Judge</b></p>              | <p>This is the legally qualified member of the panel who will make a decision on your case. He or she will usually welcome you to the hearing. If the members of the panel do not agree what should happen on your case, the Judge gets the deciding vote. He or she will be wearing ordinary clothes and will not have a judge’s wig on.</p>   |
| <p><b>Upper Tribunal</b></p>              | <p>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. See <a href="#">page 36</a>.</p>  |
| <p><b>Work Capability Assessment</b></p>  | <p>This is the process by which the DWP assess whether you have limited capability to work or limited capability for work-related activity, and are therefore entitled to Employment Support Allowance or the limited capability for work element of Universal Credit. It consists of a form and a face-to-face (or telephone) assessment.</p>  |
| <p><b>Work-related activity group</b></p> | <p>This is the group that you are put in if you claim ESA and the DWP accept that your condition limits your ability to work now, but that there are things you can do to improve this. It is the equivalent of the limited capability for work group in Universal Credit. You have to get 15 points on the Work Capability Assessment (or if there would be a ‘substantial risk’ (see <a href="#">page 6</a>) to yourself or others if you were not put in this group) to be put in this group and you have to do work-related activity to continue receiving the benefit.</p>   |
| <p><b>Work-related activity</b></p>       | <p>These are activities that the DWP believe will help you prepare for a job in the future. If you are in either the limited capability for work (LCW) group on Universal Credit or the Work-related activity group on ESA you need to do the work-related activity you have agreed with the DWP to continue receiving the benefit. Work-related activity may include meeting with your job coach at the Jobcentre, going to occasional training courses, or joining a support group.</p>   |

What does it mean?



# Further help

## 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 at [Appeal a benefit decision](#).

## Speak to the DWP

### ESA Enquiry Line

Telephone: **0800 169 0310**

Textphone: **0800 169 0314**

Monday to Friday, 8am to 6pm

### Universal Credit

Telephone: **0800 328 5644**

Textphone: **0800 328 1344**

Monday to Friday, 8am to 6pm

## Find further information about appeals

### GOV.UK

Benefit appeals come under the section known as the Social Security and Child Support Tribunal. You can find details about how to claim expenses, appeal venues and how to get to them, as well as other information about the appeal process on [GOV.UK](#). Remember our guidance about whether to appeal, how to appeal, and how to put your case well will be more helpful than theirs as we are independent.

## Find an adviser

See [page 13](#) for help to find an adviser or representative.

## Find further information and support

### Citizens Advice

[Citizens Advice](#) have some helpful information about ESA, how claims are assessed, and how to appeal.

### WCAinfo

[WCAinfo](#) is really helpful if you are trying to find out a bit more about what a particular descriptor or regulation means. It's by LASA and aimed very much at advisers, so it gets a bit complicated, but the introductory information is useful for lots of people.

### You're able

[You're able](#) is an online community of and for disabled people with some really useful and supportive forums. Run by the Disabled Living Foundation.

## Find further information about how to complain about your assessment

You can write a short complaint letter detailing the errors in your assessment (and any other problems) to the [Health Assessment Advisory Service](#). Up-to-date details of postal and email addresses for complaints can be found on their contact us page.

You may also like to send a copy to your MP – it may help them to understand the scale of the problems faced by disabled people accessing benefits.

Further help

# How to write useful evidence for a Work Capability Assessment appeal

**Show this page to the people you are asking to write evidence for you**

**Remember to mark the descriptors you meet on [page 44-48](#). Remember that you can only score points for one descriptor (either a, b, c or d) in each of the activities so choose the descriptor that you meet that gives you the most points.**

**We have written this page for medical staff, social workers, support workers, and other professionals who might be able to tell the tribunal 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.

**1 Consider if your patient/client could reasonably be expected to manage finding a job, going to work, or doing all the things they need to do in order to claim Jobseeker's Allowance (or the Universal Credit version of it).** Your client can be entitled to these benefits if the panel recognise they face a substantial risk from being found fit to work even if they don't meet enough of the descriptors below. For example, if they sometimes have seizures, violent outbursts, frequent falls, suicidal thoughts, delusions, or need supervision to stay safe, it would arguably be dangerous for them to be forced to travel and work without supervision. Or if they would be unable to look for jobs, and go to meetings and training on time and without fail (perhaps because of depression or confusion) there is a substantial risk that their benefit payments would stop and they would be unable to feed or care for themselves. If the stress of looking for a job or going to work might make them relapse, that can be counted too.

If you can see that any of this applies to your service user please write in your evidence that 'Looking for work or working poses a substantial risk to the health and well-being of [name of patient/client] because of...'

**2 Consider if your patient/client could reasonably be expected to manage going to the meetings and training sessions they need to in order to continue getting the benefit if they are put in the 'work-related activity group' (in ESA) or 'limited capability for work' group (in Universal Credit).** If you are concerned that they will not manage it, include a sentence along the lines of 'Being obliged to do work-related activity also poses a substantial risk to their health and well-being because of....'

(continued)

**3 Confirm which of the descriptors below they meet.** Your patient/client has marked which descriptors they think they meet below. Please confirm all those that you can in your evidence. For example, if they cannot walk into your consulting room without discomfort, or if they are slow and it takes them twice as long as somebody else, please say that.

If you cannot confirm the descriptor your patient has marked but can confirm another in that activity, please include that. If you cannot confirm any from that activity, please just leave it out as your patient may have evidence from someone else who knows more about their problems with this. If you don't understand why your patient meets the descriptor they have indicated, please ask them.

If your patient/client could do the activity described but not for a reasonable, continuous period, or sometimes, but not on most days, it counts as being unable to do it. For example, if they can stand and walk for 50 meters, but they can only do it a few times in a day, it hurts them, or they wouldn't be able to do it the next day, the law sees this as not being able to walk for 50 metres.

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

**4 If you are a medical professional, please also confirm any diagnosis or treatment.**

How to  
write useful  
evidence  
for a Work  
Capability  
Assessment  
appeal

## Physical disabilities

### Activity 1: Moving around without the help of another person – including using a walking stick, manual wheelchair or other aid you could use.

#### Descriptors:

- |  |           |                          |
|--|-----------|--------------------------|
| (a) Cannot move more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion, or cannot repeatedly move 50 metres within a reasonable timescale because of significant discomfort or exhaustion | 15 Points | <input type="checkbox"/> |
| (b) Cannot go up or down two steps without the help of another person, even with the support of a handrail   | 9 Points  | <input type="checkbox"/> |
| (c) Cannot move more than 100 metres on level ground without stopping in order to avoid significant discomfort or exhaustion, or cannot do it repeatedly within a reasonable timescale because of significant discomfort or exhaustion         | 9 Points  | <input type="checkbox"/> |
| (d) Cannot move more than 200 metres on level ground without stopping in order to avoid significant discomfort or exhaustion, or cannot do it repeatedly within a reasonable timescale because of significant discomfort or exhaustion         | 6 Points  | <input type="checkbox"/> |

### Activity 2: Standing and sitting

#### Descriptors:

- |   |           |                          |
|---|-----------|--------------------------|
| (a) Cannot move between one seated position and another seated position located next to one another without receiving physical help from another person   | 15 Points | <input type="checkbox"/> |
| (b) Cannot, for the majority of the time, remain at a work station, either:<br>(i) standing without help from another person (even if free to move around); or<br>(ii) sitting (even in an adjustable chair) for more than 30 minutes, before needing to move away in order to avoid significant discomfort or exhaustion | 9 Points  | <input type="checkbox"/> |
| (c) Cannot, for the majority of the time, remain at a work station, either:<br>(i) standing unassisted by another person (even if free to move around); or<br>(ii) sitting (even in an adjustable chair) for more than an hour before needing to move away in order to avoid significant discomfort or exhaustion         | 6 Points  | <input type="checkbox"/> |

### Activity 3: Reaching

#### Descriptors:

- |  |           |                          |
|--|-----------|--------------------------|
| (a) Cannot raise either arm as if to put something in the top pocket of a coat or jacket | 15 Points | <input type="checkbox"/> |
| (b) Cannot raise either arm to top of head as if to put on a hat                         | 9 Points  | <input type="checkbox"/> |
| (c) Cannot raise either arm above head height as if to reach for something               | 6 Points  | <input type="checkbox"/> |

### Activity 4: Picking up and moving or things using your upper body and arms

#### Descriptors:

- |   |           |                          |
|---|-----------|--------------------------|
| (a) Cannot pick up and move a 0.5 litre carton full of liquid               | 15 Points | <input type="checkbox"/> |
| (b) Cannot pick up and move a one litre carton full of liquid               | 9 Points  | <input type="checkbox"/> |
| (c) Cannot transfer a light but bulky object such as an empty cardboard box | 6 Points  | <input type="checkbox"/> |

## Activity 5: Manual dexterity

### Descriptors:

- |  |           |                          |
|--|-----------|--------------------------|
| (a) Cannot press a button or turn the pages of a book with either hand | 15 Points | <input type="checkbox"/> |
| (b) Cannot pick up a £1 coin with either hand                          | 15 Points | <input type="checkbox"/> |
| (c) Cannot use a pen or pencil to make a meaningful mark               | 9 Points  | <input type="checkbox"/> |
| (d) Cannot use a suitable keyboard or mouse                            | 9 Points  | <input type="checkbox"/> |

## Activity 6: Making yourself understood through speaking, writing, typing, or other means, without help from someone else

### Descriptors:

- |  |           |                          |
|--|-----------|--------------------------|
| (a) Cannot convey a simple message, such as the presence of a hazard   | 15 Points | <input type="checkbox"/> |
| (b) Has significant difficulty conveying a simple message to strangers | 15 Points | <input type="checkbox"/> |
| (c) Has some difficulty conveying a simple message to strangers        | 6 Points  | <input type="checkbox"/> |

## Activity 7: Understanding communication by either verbal means (such as hearing or lip reading) and non-verbal means (such as reading large print), using anything to help that you could use (glasses, hearing aid etc), without help from someone else

*(For the descriptors below, you only have to show that you have difficulty or are unable to understand a spoken or written message, and not both).*

### Descriptors:

- |   |           |                          |
|---|-----------|--------------------------|
| (a) Cannot understand a simple message due to sensory impairment, such as the location of a fire escape | 15 Points | <input type="checkbox"/> |
| (b) Has significant difficulty understanding a simple message from a stranger due to sensory impairment | 15 Points | <input type="checkbox"/> |
| (c) Has some difficulty understanding a simple message from a stranger due to sensory impairment        | 6 Points  | <input type="checkbox"/> |

## Activity 8: Finding your way and being safe, using a guide dog or other aid if normally used

### Descriptors:

- |  |           |                          |
|--|-----------|--------------------------|
| (a) Unable to find your way around familiar places, without the help of another person, due to sensory impairment                                | 15 Points | <input type="checkbox"/> |
| (b) Cannot safely cross the road (or complete another potentially dangerous task), without the help of another person, due to sensory impairment | 15 Points | <input type="checkbox"/> |
| (c) Unable to find your way around unfamiliar places, without the help of another person, due to sensory impairment                              | 9 points  | <input type="checkbox"/> |

How to write useful evidence for a Work Capability Assessment appeal

## Activity 9: Extensive incontinence (other than bed-wetting) despite using any aids normally used

### Descriptors:

- (a) At least once a month experiences loss of control leading to incontinence, or substantial leakage of the contents of a collecting device, so that you need to wash and change your clothes **15 Points**
- (b) At risk of incontinence, bad enough for you to need to wash and change your clothes, if you are not able to reach a toilet quickly **6 Points**

## Activity 10: Consciousness during waking moments

### Descriptors:

- (a) At least once a week, has an involuntary episode of lost or altered consciousness that causes significant reduction in awareness or concentration **15 Points**
- (b) At least once a month, has an involuntary episode of lost or altered consciousness that causes significant reduction in awareness or concentration **6 Points**

## Mental, cognitive and intellectual function

### Activity 11: Learning tasks

#### Descriptors:

- (a) Cannot learn how to complete a simple task, such as setting an alarm clock **15 Points**
- (b) Cannot learn anything beyond a simple task, such as setting an alarm clock **9 Points**
- (c) Cannot learn anything beyond a moderately complex task, such as the steps involved in operating a washing machine **6 Points**

### Activity 12: Awareness of everyday hazards (such as boiling water or sharp objects)

#### Descriptors:

- (a) Reduced awareness of everyday hazards so that there is a significant risk that they will hurt themselves or others, or damage property or possessions, so that they need supervision most of the time to stay safe **15 Points**
- (b) Reduced awareness of everyday hazards so that there is a significant risk that they will hurt themselves or others, or damage property or possessions, so that they need frequent supervision to stay safe **9 Points**
- (c) Reduced awareness of everyday hazards so that there is a significant risk that they will hurt themselves or others, or damage to property or possessions, so that they occasionally need supervision to stay safe **6 Points**

How to write useful evidence for a Work Capability Assessment appeal

### Activity 13: Initiating and completing personal action (which means planning, organisation, problem solving, prioritising or switching tasks without needing prompting from somebody else)

#### Descriptors:

- 
- |   |           |                          |
|---|-----------|--------------------------|
| (a) Cannot, due to impaired mental function, reliably initiate or complete at least 2 sequential personal actions                   | 15 Points | <input type="checkbox"/> |
| (b) Cannot, due to impaired mental function, reliably initiate or complete at least 2 personal actions for the majority of the time | 9 Points  | <input type="checkbox"/> |
| (c) Frequently cannot, due to impaired mental function, reliably initiate or complete at least 2 personal actions                   | 6 Points  | <input type="checkbox"/> |
- 

### Activity 14: Coping with change

#### Descriptors:

- 
- |  |           |                          |
|--|-----------|--------------------------|
| (a) Cannot cope with any change to the extent that day to day life cannot be managed   | 15 Points | <input type="checkbox"/> |
| (b) Cannot cope with minor planned change (such as a pre-arranged change to the routine time scheduled for a lunch break), to the extent that overall day to day life is made significantly more difficult | 9 Points  | <input type="checkbox"/> |
| (c) Cannot cope with minor unplanned change (such as the timing of an appointment on the day it is due to occur), to the extent that overall, day to day life is made significantly more difficult         | 6 Points  | <input type="checkbox"/> |
- 

### Activity 15: Getting about

#### Descriptors:

- 
- |  |           |                          |
|--|-----------|--------------------------|
| (a) Cannot get to any specified place with which the claimant is familiar              | 15 Points | <input type="checkbox"/> |
| (b) Is unable to go to a familiar place without being accompanied by another person    | 9 Points  | <input type="checkbox"/> |
| (c) Is unable to go to an unfamiliar place without being accompanied by another person | 6 Points  | <input type="checkbox"/> |
- 

### Activity 16: Coping with social engagement due to cognitive impairment or mental disorder

*(This is about your ability to interact with people in face-to-face social situations. It must be more than shyness or reticence.)*

#### Descriptors:

- 
- |  |           |                          |
|--|-----------|--------------------------|
| (a) Engagement in social contact is always impossible due to difficulty relating to others or significant distress experienced by the individual   | 15 points | <input type="checkbox"/> |
| (b) Engagement in social contact with someone unfamiliar is impossible due to difficulty relating to others or significant distress experienced by the individual                                | 9 Points  | <input type="checkbox"/> |
| (c) Engagement in social contact with someone unfamiliar is not possible for the majority of the time due to difficulty relating to others or significant distress experienced by the individual | 6 Points  | <input type="checkbox"/> |
- 

How to write useful evidence for a Work Capability Assessment appeal

## Activity 17: Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder

### Descriptors:

- 
- |  |           |                          |
|--|-----------|--------------------------|
| (a) Has, on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace | 15 Points | <input type="checkbox"/> |
| (b) Frequently has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace         | 15 Points | <input type="checkbox"/> |
| (c) Occasionally has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace       | 9 Points  | <input type="checkbox"/> |
- 

## Activity 18: Conveying food or drink to the mouth

If any of the below descriptors apply, you should automatically be put in the support group (ESA) or Limited capability for work-related activity group (Universal Credit).

### Descriptors:

- 
- |   |                          |
|---|--------------------------|
| (a) Cannot get food or drink to own mouth without physical help from someone else   | <input type="checkbox"/> |
| (b) Cannot get food or drink to own mouth without repeatedly stopping, experiencing breathlessness or severe discomfort;  | <input type="checkbox"/> |
| (c) Cannot get food or drink to own mouth without needing somebody with you to regularly prompt or remind you   | <input type="checkbox"/> |
| (d) Fails to get food or drink to own mouth without receiving either physical help from somebody else or needing somebody with you to regularly prompt or remind you, because of a severe disorder of mood or behaviour | <input type="checkbox"/> |
- 

## Activity 19: Chewing or swallowing food or drink

If any of the below descriptors apply, you should automatically be put in the support group (ESA) or Limited capability for work-related activity group (Universal Credit).

### Descriptors:

- 
- |   |                          |
|---|--------------------------|
| (a) Cannot chew or swallow food or drink  | <input type="checkbox"/> |
| (b) Cannot chew or swallow food or drink without repeatedly stopping, experiencing breathlessness or severe discomfort  | <input type="checkbox"/> |
| (c) Cannot chew or swallow food or drink without needing somebody with you to repeatedly and regularly prompt or remind you   | <input type="checkbox"/> |
| (d) Fails to chew or swallow food or drink or fails to do so without needing somebody with you to regularly prompt or remind you, because of a severe disorder of mood or behaviour | <input type="checkbox"/> |
-



# How to write a statement for your appeal hearing

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

On the right is the statement Mikaela sent to the panel looking at her appeal. We have included it to show you what sorts of details about your condition you should include in your statement.

## Mikaela's Statement

- Explain why you are writing.

I am writing to explain my reason for appealing the decision to refuse me an award of the limited capability for work component of Universal Credit.

- Tell them what you think you should be entitled to.

I am appealing the decision as I believe that I should have been placed in the limited capability for work-related activity group.

- Explain the main symptoms or difficulties you have because of your illness or disability.

I have severe epilepsy and depression. I get little or no warning of seizures and have frequently been hurt when they occur. Immediately after a seizure I am confused and disorientated and have acted irrationally and hurt people. I feel terrible and 'foggy' for about four days afterwards.

- Remember to explain how they affect you.

Because of my depression and because of the lethargy caused by seizures, I often can't face getting up, so I stay in bed – sometimes all day, because I know I won't get hurt if I have a seizure there.

- If you feel better on some days than on others, explain what help you need on both. If you can, say how frequently you have better days and bad days.

I have 3-6 seizures a month on average. Immediately after a seizure I feel very disorientated and confused, and I can be panicky and aggressive. I also feel very lethargic and I can't think straight for about 4 days afterwards. I feel depressed every day.

How to write a statement for your appeal hearing

- Explain what descriptors you meet and why you should get those points. Try to be as clear as you can on how your difficulties meet the descriptors, and that this is despite any medication you take.

I meet descriptor 10a (At least once a week, has an involuntary episode of lost or altered consciousness that causes significant reduction in awareness or concentration). This is because, on average, I have more than one involuntary episode of lost consciousness (a seizure) a week, in spite of the medication I take. During a seizure I fall to the floor, and when I come to, I'm very confused and foggy and have very significantly reduced awareness or concentration.

I also meet the requirements for 12a (Reduced awareness of everyday hazards so that there is a significant risk that they will hurt themselves or others, or damage property or possessions, so that they need supervision most of the time to stay safe). Following a seizure, I have reduced awareness of everyday hazards so that there is a significant risk that I will hurt myself or others, so that I need supervision most of the time to stay safe. I have done unsafe things in the past as I come to – I have panicked and ran into the road, and I sometimes act aggressively and violently towards others. I once punched a woman who came to try to help me. I believe I meet the requirements for descriptor 17c (Occasionally has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace) for the same reason.

- Remember to say everything – even things that you find embarrassing. It will be a lot easier to write it down than to say it in the hearing. Going into a lot of detail may seem unnecessary, but it will help the panel understand your condition.

Working, looking for work, and doing work-related activity poses a substantial risk that either myself or someone else would be put in danger. If I were to travel to either work or work-related activity unsupervised and I had a seizure then not only might I get badly hurt, I might hurt others in my confusion afterwards.

- If you think you might meet the 'substantial risk' rule (see [page 6](#)), it is always best to mention it, even if you don't have any evidence that specifically backs it up.

My ability to go to meetings, interviews and training on time and without fail is severely compromised by the frequency of my seizures. It is highly unlikely that I would manage it every time and I would then be left without benefit and unable to feed or care for myself.

The stress that this would cause is also likely to make my epilepsy and depression worse.

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

The letter from my social worker, Steve Scott, confirms the frequency of my seizures and that the confusion and sometimes aggression and fear I experience afterwards.

- If you weren't able to get evidence from your GP or other doctor because you couldn't afford the charge or because they don't provide evidence, explain this.

I was unable to afford the fee for specific evidence from my GP, but you can see that the frequency of seizures is confirmed in my patient summary record.

- If you disagree with anything in the papers from the DWP, you need to tell them what was wrong and why this isn't right. Did the doctor ask you the right questions and listen to your answers?

The report from the assessor said I had seizures every 3 to 6 months, rather than 3 to 6 times every month. She didn't ask me many questions and didn't listen when I explained that I get no warning of my seizures or how out of it I am when they happen and how I need help to stay safe and keep others unharmed. She also doesn't seem to have recorded anything about the fact that I have hurt people without understanding what is going on because I am so confused, although we did discuss it.

- It is fine to say that the assessor didn't listen to you, didn't understand, or failed to write something in the report. But it is probably best to avoid the temptation to vent your frustration about the assessment or the assessor here.

In the report, the assessor wrote that I am OK again the next day. This isn't correct. I feel confused and foggy for the next 3 or 4 days usually.

- If there was something in the report that isn't true, just say it is not correct – rather than call the assessor a liar.
- If you have made a complaint about the report, you can say so. Don't worry if you haven't – it isn't necessary.

I made a complaint about the report soon after I received a copy.

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

**How to write a statement for your appeal hearing**

The information in this guide applies to England, Wales and Scotland. It will also be useful for people in Northern Ireland. 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

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