

What to do if you disagree with a Personal Independence Payment (PIP), Disability Living Allowance (DLA) or Attendance Allowance (AA) decision

This factsheet gives you advice about what to do if you want to challenge a PIP, DLA or AA decision, the stages involved, how to provide information to support your challenge and the appeal hearing.

PIP, DLA and AA are all known as 'disability benefits' and have different criteria and only one can be claimed for each entitled person. PIP and DLA have a care and a mobility component, each paid at two or three levels. AA is only for care needs paid at two levels and does not have a mobility component. For more information on these and other benefits, see our website: www.newcastle.gov.uk/welfarerights.

Before you challenge, think!

Challenging a decision not to award any PIP, DLA or AA at all is not a risk because you have no award to lose.

But what if you were awarded PIP, DLA or AA and you felt you are entitled to a higher amount? Before challenging that type of decision, you should be aware that there is a risk that your level of PIP, DLA or AA could be reduced or removed altogether as a result of the challenge. That is because the entire decision that you are challenging may be looked at again, not just that part of the decision which you feel is incorrect. And just because the DWP think your existing award of PIP, DLA or AA is correct does not mean that an appeal tribunal would agree with them. Therefore, you are advised to weigh this up carefully before proceeding with challenging such a decision.

The two stages in challenging a PIP, DLA or AA decision

Stage 1. 'Mandatory reconsideration' (review)

If you are unhappy with a decision about your PIP, DLA or AA, you **must** first ask the Department for Work and Pensions (DWP) to reconsider their decision called a 'mandatory reconsideration'. This compulsory stage applies to most benefits apart from Housing Benefit.

You can ask for a mandatory reconsideration by phone, but it is better to make the request in writing to confirm it was made. You can write your own request but you can also download a form from the gov.uk website, which you can type into and print off to send: www.gov.uk/mandatory-reconsideration.

Your mandatory reconsideration request has to arrive at the DWP within one month of the date of the decision – which is found on the decision letter. An extension of this time can be requested in limited circumstances. Your request need only say you disagree with the decision for example:

“I believe you have underestimated the degree of my disability and consequently underestimated the extent of my problems and/or the difficulties I have regarding the criteria. I do not believe that the decision maker has fully considered my medical condition and any medical evidence in relation to the assessment criteria.” This can be sent in and you will get a decision.

However, if you wish, you can also ask for “a copy of the medical assessment and all other medical information that was used.” And that “they do not take any further action until you have had the chance to respond to that evidence.” This gives you the chance to compare it and maybe get more supporting evidence. You can provide supporting information at this and each stage (see ‘supporting information’ below). Then you send in any points you want to make and the further evidence. After that you will get a decision.

If the DWP ring you to explain their decision, make sure they still send you the decision.

Stage 2. ‘Direct Lodgement’ (appeal)

If you are unhappy with this mandatory reconsideration decision, you can then appeal directly to the HM Courts and Tribunals Service (the Tribunals Service) on the form SSCS1. It has to arrive at the Tribunals Service within one month of the date of the decision. Send it by first class post and allow at least two days for it to get there. A late appeal can be made outside this time limit and up to 12 months, but you must show good reasons for lateness. The last page of the form tells you where to send it. You should ask for a “proof of posting” from the Post Office. You can get the form SSCS1 from the DWP, an advice agency or [gov.uk website](http://gov.uk), where you can either print it off to complete by hand or complete it online then print it off to send. If you live in England or Wales, you can [appeal a Personal Independence Payment \(PIP\) decision online](#)

Some points on completing the SSCS1:

- You must enclose with it the DWP mandatory reconsideration decision letter.
- In section 4 ‘About your representative (if you have one)’. Do not assume that an organisation will represent you just because it has helped you in the past. You must check with them. If they do agree to represent you, you must keep them informed of any changes or letters you receive.

- In section 5, the 'Grounds for appeal' box, we suggest you write something like:

“I wish to appeal against the decision on my Personal Independence Payment (or Disability Living Allowance). I do not believe that the decision maker has fully considered my medical condition and any medical evidence in relation to the assessment criteria. I request a copy of the medical assessment or any other medical information be sent to me.”

It can be worded differently for a child.

- Section 6. Tribunals prefer claimants to attend and statistically you have a better chance of success if you do.
- Section 7. If a representative has agreed to come with you to the tribunal, check what dates they cannot make. Also see next pages.
- Again, you may want to include supporting evidence from, for example, a professional who knows you. See 'supporting information ...' below. If your appeal contains further or new evidence, the DWP should look again at its decision. If the DWP does not change its decision, the appeal process will continue. See "What happens after you appeal?" below.

What happens after you appeal?

The Tribunal Service will confirm they have received your appeal. The Department for Work and Pensions (DWP) office should write a response.

If the DWP partly or fully decides in your favour, your appeal ends and if unhappy with that new decision, you will have to make a new appeal. Otherwise, the appeal continues, and you will be sent a bulky set of appeal papers which includes the DWP's reasons for its decision and a response to your appeal. You may wait several months before you receive these appeal papers.

The Tribunals Service will send you an 'enquiry form'. You must complete and return it within 14 days – in the provided pre-paid envelope. It is important that you understand the following before you complete it:

- You have a better chance of winning your appeal if you attend the tribunal hearing.
- The guidance on completing the SSCS1 'about your representative' above also applies here. You should not assume that they can attend a hearing at less than 14 days' notice even if you can. You should also ask your representative for any dates within the next six months when they are unavailable to represent you and you should include those dates with any that you cannot attend a tribunal, giving the reasons. For example, hospital appointments, holidays.
- You can ask for a domiciliary hearing. See below

Supporting information

You are entitled to see your medical record and medications free. The NHS encourage this to be done online: <https://www.nhs.uk/using-the-nhs/about-the-nhs/how-to-access-your-health-records/>. In addition, you can ask your GP to provide a letter confirming your medical conditions and medication and whether he/she can confirm any of the difficulties you say you have with getting about and looking after yourself. You could also ask for a letter from anyone else helping you, such as a support worker, CPN, hospital doctor, physiotherapist, health visitor. It may be helpful for you to show them the assessment criteria and explain which parts of it you satisfy. For example, PIP involves scoring points for being unable to carry out certain listed activities. The section 'Further information and advice' below shows you where to find these criteria. Such evidence is very helpful. Your own evidence (for example what you wrote in your claim form or what you tell the tribunal in your own words) is best backed up with evidence, but it can be sufficient for the tribunal to allow your appeal, provided it is believable and not exaggerated.

Keep a diary of your care or mobility needs that relate to the PIP, DLA or AA criteria. It can be very helpful for you to and the tribunal to understand your needs and their frequency. Explain any help that you need whether you get it or not.

The tribunal can only consider your needs at the date of the decision which you are appealing and not after, so it won't help to say it's got worse. You will find that date on the front page of the appeal papers where it states, "date of decision." Therefore, you should ask for any supporting evidence to relate to your situation at that time, not later.

Some GPs and others may charge you for a letter. If you cannot afford this, you can ask the Tribunals Service to obtain your medical records. If the Tribunal agrees, it would pay the fee not you. Your request to the Tribunal should contain the following instruction: "I consent to the Tribunal obtaining my medical records for a period which it thinks is necessary to decide my appeal, but no earlier".

There are many organisations that provide advice and guidance on completing PIP, DLA and AA claim forms and the criteria. Some of them relate to specific conditions. See further information and advice below.

Where does the tribunal take place?

For people who live in Newcastle, the tribunal hearing is normally held at: Manor View House, Kings Manor, Newcastle, NE1 6PA.

Phone: 0300 123 1142. Email: sscsa-newcastle@hmcts.gsi.gov.uk

More details can be found by typing in your postcode at:

www.gov.uk/courts-tribunals/first-tier-tribunal-social-security-and-child-support

If you are too ill to travel to the tribunal venue, the Tribunals Service can arrange for your appeal to be held at your home. This is known as a **domiciliary hearing**. You should obtain a letter from your doctor confirming that you are too ill to travel. However, domiciliary hearings are granted only in exceptional circumstances, so your request may be refused even if you have a doctor's letter.

At the tribunal hearing

You may have a representative with you, but you can also have a companion. When you arrive at the tribunal, you will be shown where to go and register your arrival.

For PIP, DLA and AA appeals the tribunal panel consists of three members comprising a judge (usually a solicitor), a doctor and a lay person who has experience of disability needs. The judge will chair the proceedings, will introduce everyone and will also write notes. Make sure you do not speak too fast! PIP, DLA or AA tribunals cannot carry out a medical examination. But note that tribunals can however, observe how you entered the room, how long you comfortably sit - which may contradict what you say about your difficulties.

Try not to be intimidated by the tribunal. They are supposed to be friendly, informal and should enable you to explain yourself properly. However, they also need to make a proper and careful decision, weighing up all the evidence and information. You should be prepared to be assertive and make sure you get your points across. Short and simple answers are the best. If you are asked a question, but you do not think it covers the situation, be prepared to add some information to give a fuller picture of your needs.

Sometimes, the DWP may send a Presenting Officer whose job it is to explain to the tribunal why the decision was made rather than to defend the decision. The tribunal is not a contest between you and the DWP but a discussion about your difficulties and how you satisfy the PIP, DLA or AA test.

You are expected to co-operate with the tribunal and answer their questions honestly. Even if you have a strong case, if the tribunal feels you are exaggerating, you may risk not being believed. On the other hand, you should not minimise your needs and explain if you have good and bad days. Again, the evidence you may have from your doctor or your diary mentioned above – can help. Be careful not to verbally contradict what you have already said in writing, for example in the claim form. If you are aware of inconsistencies or you feel the information you previously supplied does not do justice to your needs, then explain why.

The tribunal members will not confine their questions to what is in the papers. They may ask you other questions about your hobbies, how you look after your children, how you get to the shops, how you got to the tribunal and so on. They are not trying to catch you out. They just want to get an idea of how you manage and your needs and whether they satisfy the criteria. But again, just be prepared to answer honestly and consistently.

As stated above, the tribunal can only consider your PIP, DLA or AA needs at the date of the decision which you are appealing and not after. Nevertheless, they may ask whether you are better, worse or about the same compared to the date of the decision you are appealing. If for example, your condition is about the same now as it was then, you can simply answer the tribunal's questions based upon how you are now, because there has been no change in your difficulties. That is often helpful to the tribunal.

If you say you are a lot worse now than the at the date of the decision, that may - in the minds of the tribunal - minimise your needs at that time.

At the end of the tribunal hearing

After the tribunal has considered the appeal, you will usually be given a short decision. Otherwise it will be sent to you by post.

If the tribunal allows your appeal and you are happy with its decision, then you need do nothing. The Tribunal will send a copy of its decision to the DWP who should, within a few weeks, put into place the tribunal's decision, including payment of any arrears.

What if you are unhappy with the tribunal's decision?

If you disagree with the tribunal decision, you should read the information sheet that came with the tribunal's decision. That tells you how to challenge the decision. The first step is to write to the Tribunal Service (same address as above) requesting the tribunal for a '**statement of reasons**' for its decision within a month of the tribunal decision.

Once you receive the tribunal's reasons, you have a month to ask the tribunal for '**permission to appeal to the Upper Tribunal**'. A tribunal decision can only usually be challenged 'on a point of law'. This can include many reasons, such as not understanding or correctly applying the law, breaching the rules of natural justice or not giving adequate reasons for its decision. Remember to quote your national insurance number in your letter.

The Tribunals Service will normally write to you within a few weeks and may refuse your request for permission to appeal. A refusal at this stage is not unusual. You then need to appeal directly to the Upper Tribunal using form UT1 available from the Tribunal Service or www.gov.uk/government/collections/administrative-appeals-chamber-upper-tribunal-forms

Your reasons for appealing will be the same as before, i.e. error in law. Your completed UT1 form should be received by the Upper Tribunal within one month of the date of the letter that refused you permission to appeal. If the Upper Tribunal decides the tribunal made an error in law, it can make the correct decision or send it back to another tribunal to reconsider the appeal from fresh usually with some guidance.

Further information and advice

More guidance on challenging benefit decisions from:

Citizens Advice

http://www.adviceguide.org.uk/england/benefits_e/benefits_benefits_introduction_ew/benefits_problems_with_benefits_and_tax_credits_e.htm

Disability Rights UK

<https://www.disabilityrightsuk.org/appeals-and-mandatory-reconsideration>

The Government and the Tribunal Service

<https://www.gov.uk/government/publications/social-entitlement-chamber-tribunal-procedure-rules>

<https://www.gov.uk/appeal-benefit-decision>

DWP contact details:

- PIP claim: Phone 0800 917 2222. Textphone 0800 917 7777
- PIP enquiries on an existing award: Phone 0800 121 4433. Textphone 0800 121 4493
- DLA: Phone: Phone 0800 121 4600. Textphone 0800 121 4523
- Attendance Allowance: Phone 0800 731 0122. Textphone 0800 731 0317

Information on PIP, DLA and AA:

DWP Guidance – including the assessment criteria:

The Personal Independence Payment PIP toolkit

<https://www.gov.uk/government/publications/the-personal-independence-payment-toolkit-for-partners/the-personal-independence-payment-pip-toolkit-for-partners>

Disability Rights UK guidance including the assessment criteria:

Guide to PIP: <http://www.disabilityrightsuk.org/personal-independence-payment-pip>

Guide to DLA: <http://www.disabilityrightsuk.org/disability-living-allowance-dla>

Guide to AA: <https://www.disabilityrightsuk.org/attendance-allowance-aa>

Organisations that support particular groups and conditions:

There are many organisations that represent groups and conditions that provide specific guidance on how the PIP, DLA or AA criteria relate to their group. For example www.epilepsy.org.uk and www.autism.org.uk and so on. There are too many to list here, but the easiest way to find this information is to do a search within that organisation's website or do a search via an internet search engine, using for example, the terms 'Personal Independence Payment mental health.'

Newcastle City Council website information on:

- PIP, DLA, AA and all other benefits
- Your nearest advice service and phone advice lines
- Information for professionals such as consultancy lines, training, regular bulletins www.newcastle.gov.uk/welfarerights

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