



Challenging a benefits decision

If you do not agree with a decision that has been made about your benefit, you may be able to challenge this. There are some decisions that cannot be challenged. You should be told if this is the case.

Mandatory Reconsideration

Once you have received your benefit decision you have one month to request a reconsideration of this decision if you do not agree with it. This can be requested over the phone, but should be followed up in writing. This is called a 'mandatory reconsideration'.

When you request this reconsideration you should say why you think the decision is wrong. If you have evidence to support your reasons you explain this and send this to them as soon as possible.

If the original decision did not include a 'written statement of reasons' you can request one. If one is requested and provided back to you within one month of the original decision, the one month dispute period is extended by 14 days.

If the decision cannot be changed, a telephone call should be made by the decision maker to you to explain this as well as giving you the opportunity to provide any further evidence.

Following the reconsideration, you will be sent two copies of the 'mandatory reconsideration notice' which explains the reasons for changing or not changing the decision.

Appeal the decision

If you do not agree with the decision following the mandatory reconsideration, you are entitled to challenge this decision further. To do this you need to complete an SSCS1 form which can be downloaded from the GOV.UK website.

This form needs to be sent with one of your copies of the mandatory reconsideration notice to the address at the top of the decision letter. This must be done within one month of receiving the mandatory reconsideration notice.

Before appealing a decision you must have gone through the mandatory reconsideration process first.

If you do not provide the required information and documentation to appeal, this will be returned to you and it could be rejected.

Within the SSCS1 there are various questions about how they will handle your appeal. You will need to consider the headings below when completing the SSCS1.

Should I choose to attend a hearing of my appeal or ask for my appeal to be decided on the papers?

It is always best to attend in person if you are able to do so. This provides you with an opportunity to explain your case in your own words. It is also a form of evidence that can be vital to a successful case.

If you ask for a decision on the papers, you will not be required to attend. You will however, need to ensure that all that you would like them to consider is within the paperwork. It is vital that extra or supporting evidence has been sought or provided since the original decision. If this doesn't happen, it is likely that the same decision will be made.

If you are severely disabled and housebound you can request an 'Out-of-centre' hearing. This would mean the tribunal would, hear your appeal at your home or at an alternative location. This is granted in rare occasions only. Any request should be supported by a letter

from your doctor confirming that you would be unable to travel.

What if I need special arrangements to be able to attend the hearing?

If you need things such as a hearing loop or disability access, make them aware of this or any other needs on the SSCS1 form.

If you require an interpreter or signer at the hearing of your appeal, this can be arranged.

Late Appeals

There are times when an appeal cannot be made within the one month limit. Late appeals can be made up to 13 months after the date of the original decision if you were:

- Ill or in hospital
- Coping with bereavement
- Out of the UK
- Unable to send your form, e.g. because of a postal strike

An explanation will be needed as to why it is late. It will then be up to Her Majesty's Courts & Tribunals Service (HMCTS) to decide whether the reasons for the late appeal are accepted.

What happens after I have submitted my appeal?

Once your appeal has been received and checked to ensure it has the correct information, you will be sent a letter confirming its receipt as well as an information pack.

HMCTS will forward a copy of your appeal to DWP and will ask them to provide a 'response' to your appeal.

The DWP will look again at their decision and will consider any new information provided in your appeal or in any supportive evidence provided.

Once a response has been received from DWP, arrangements will be made to hear your appeal.

If you have opted to attend the hearing of your appeal, you will be written to, to tell you the

date, time and venue of the tribunal. You will be given 14 days' notice of the date unless you have told them that you are happy to accept less. The letter will also provide information about reimbursing your travel and other expenses.

If in exceptional circumstances you need to postpone the hearing, you should request this in writing. Do not presume this has been accepted until you have had confirmation.

What preparation do I need to do for the hearing?

- Read through your paperwork. Is there anything that doesn't support your case?
- If you are able, write to the Tribunals Service explaining anything that you feel doesn't support your case and providing further information about the help that you need.
- It is up to you to provide any further evidence that you need to support your case.
- Ask health or other professionals who know you, to write supporting letters and send these with your own letter. Always check them first; if supporting letters aren't helpful or supportive then don't use them.
- Send any further evidence to the Tribunals Service as soon as you can. Copies will be passed to the office who made the decision and it may mean they can change their decision before the tribunal.

The Tribunal

Depending on which benefit the appeal relates to, depends on who will be in attendance.

For benefits such as Disability Living Allowance, Personal Independence Payment and Attendance Allowance there will be a tribunal judge, medical practitioner and a disability expert on the tribunal panel.

For benefits such as industrial injuries benefit or Employment and Support Allowance there will be a tribunal judge and a medical practitioner on the tribunal panel.

For other appeals, there will just be a tribunal judge. The DWP are entitled to send a representative called a 'presenting officer'.

Can I take someone with me to the Tribunal?

If you have an adviser or representative helping you it is important that they attend with you. You can bring a friend or someone to support you if you would like.

Tribunal rooms are not normally very big so if you have several people supporting you they may need to stay in the waiting area.

What will happen at the appeal?

- This is your opportunity to put your side across and to say everything you need to argue your case.
- The tribunal should consider all the facts, evidence, law and case law relevant to your case.
- Both you and the presenting officer can explain the reasons for your positions.
- The panel will want to hear from you. Your representative may be expected to state your case at the beginning of the hearing and can ask questions at the end, usually regarding any points that haven't already been covered.

- You can call witnesses and ask questions of the presenting officer. The tribunal can usually only consider if a decision was correct at the time it was made; if your circumstances have changed since this time you may wish to consider putting in a fresh claim.

When will I get my decision?

Usually you are told of the decision at the hearing and you are given a decision notice confirming this. If the tribunal are not able to give you a decision on the day, the notice should be posted to you.

What if I am unhappy with the tribunal's decision?

- If you are unhappy with the tribunal's decision, you have the right to ask for a full written decision or statement of reasons. You must ask for this in writing, within one month of the initial decision notice and it should be provided within one month.
- In limited circumstances, you may be able to ask for the decision to be set aside (that is, cancelled) and a new hearing arranged.
- You may wish to appeal to the Upper Tribunal.

When can a decision be set aside?

The circumstances of when a set aside can be considered are if:

- A document relating to the proceedings was not sent or not received in time, or
- A hearing had been arranged but you didn't attend and the tribunal accepts the explanation for non-attendance, or
- There has been some other procedural irregularity

If one of the above is satisfied and the tribunal considers it just to do so the decision will be set aside.

An application to set aside must be completed in writing within one month of the decision notice or statement of reasons.

When can I appeal to the Upper Tribunal?

You have to apply for permission to appeal against the decision of the tribunal to the Upper Tribunal. You can only appeal on the ground of an 'error of law'. Examples of an 'error of law' are:

- The tribunal applied the law incorrectly
- The tribunal conducted the proceedings in breach of the proper procedures
- The tribunal failed to make adequate findings of fact or to give adequate reasons for its decision.

If you need further advice on challenging a benefits decision, you can contact Nottinghamshire County Council for more information using the details provided below.

Contact information:

Phone: 0300 500 80 80
Monday to Friday: 8am to 6pm
(Calls cost 3p a minute from a BT landline.
Mobile costs may vary).

Email: enquiries@nottscc.gov.uk
Website: www.nottinghamshire.gov.uk
Minicom: 01623 434993
Phone 0300 500 80 80 if you need the information in a different language or format.