

# **Applying for Disability Benefits**

## **Mencap WISE Student Advice Project**

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# Introduction

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Children and adults with a learning disability may need additional support in order to be able to live full, active and independent lives. To help meet the costs of any support needed, it is possible to claim financial payments from the Department for Work and Pensions. These payments are not means-tested, and so can be claimed by anyone with a disability. The purpose of this toolkit is to assist people who are acting as learning disability advocates (be that parent, carer, volunteer or professional) by explaining the law relating to disability benefits and providing information about how to access the appropriate payments.

The benefits available differ, depending on whether the person claiming is an adult or a child. This toolkit focuses on the main disability-related benefits available: Personal Independence Payment (for people aged 16 and over) and Disability Living Allowance (for child/young people aged under 16). Older claimants, aged over state pension age, may be eligible for Attendance Allowance, and the toolkit also contains information about this benefit.

The toolkit has been prepared as part of the Mencap WISE project, funded by the Welsh Government. Therefore, it focuses on the law and procedure applicable in Wales. However, as disability benefits are not currently a devolved area of government, the information in the toolkit also applies to claimants living in England. The toolkit is divided into the following Parts:

- **Part 1 – Personal Independence Payment**
- **Part 2 – Disability Living Allowance**
- **Part 3 – Attendance Allowance**
- **Part 4 – Appealing to the Tribunal**

If you need to make an appeal to the Tribunal, then there is guide to completing the relevant forms in **Appendix 1 – Completing an appeal form for the Tribunal**.

The toolkit concludes with an **Additional Resources** section, which contains details of organisations providing relevant information and services. Hyperlinks to key online resources are also provided, and wherever a reference appears

underlined in the text there is a hyperlink that will take you to the relevant external resource.

## Part 1 – Personal Independence Payment

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Since 2013, the main disability-related benefit available for young people and adults has been the Personal Independence Payment (PIP). Part 1 of the toolkit provides information about how to apply for PIP. The term **claimant** is used throughout Part 1 to mean the person with a learning disability who you are supporting to apply for PIP. Part 1 is divided into the following sections:

- **What is PIP?**
- **Who can claim PIP?**
- **The PIP eligibility criteria** which includes information about:
  - *The daily living component*
  - *The mobility component*
- **How is PIP awarded?**
- **Making a claim for PIP** which includes information about:
  - *Making a request by telephone*
  - *Making a request by post*
  - *Completing the claim form*
  - *Becoming an appointee*
- **The medical assessment**
- **The PIP decision** which includes information about the meaning of:
  - *Safely*
  - *To an acceptable standard*
  - *Repeatedly*
  - *Within a reasonable time period*
  - *Prompting, assistance, supervision and the use of aids/appliances*
  - *The 50% rule*
  - *The decision letter*
- **Challenging a PIP assessment decision – mandatory reconsideration**
- **Additional help the claimant may be entitled to** which includes information about:
  - *Disability premiums*
  - *Council Tax discount*
  - *Travel support*
- **Terminal illness**
- **Re-assessments**

## What is PIP?

PIP is a benefit designed to help young people and adults with a disability to live full, active and independent lives. PIP is a non-means tested and non-contributory benefit, which means that it is payable to everyone who meets the relevant criteria, regardless of their income or savings. Therefore, it is possible to be paid PIP even if the claimant is working. However, PIP is not usually payable if the claimant is in hospital or in a care home.

PIP is also tax free, and information about the rates at which PIP is paid can be found on the [Government Website - PIP What you'll get](#). The Department for Work and Pensions also provides a video guide to help you decide [Is PIP for you or someone you know?](#)

## Who can claim PIP?

In order to claim PIP, the claimant must normally:

- be aged 16 or over and not yet reached state pension age (currently 65 but due to increase to 66 in October 2020); and
- have lived in Wales (or England or Scotland) for at least 2 of the last 3 years, and be in one of these countries when they apply.

As PIP is designed to support people with long term difficulties, the claimant must also have a health condition or disability where they:

- have had difficulties with daily living or getting around (or both) for 3 months; and
- expect these difficulties to continue for at least 9 months.



### Key Information and Resources:

#### Moving from Disability Living Allowance to PIP

People over 16 can no longer claim Disability Living Allowance.

If you have been receiving Disability Living Allowance and you are invited to submit a renewal claim, it is likely that the re-assessment will be for PIP. However, if you were born on or before 8 April 1948 you will continue to receive Disability Living Allowance as long as you still meet the relevant criteria.

As Disability Living Allowance and PIP are different benefits, they have different eligibility criteria. This means that you are not automatically guaranteed to receive PIP just because you have previously had Disability Living Allowance.

To make sure that you are awarded the correct level of benefit it is very important that you provide as much information as you can when you apply for PIP.

### **The PIP eligibility criteria**

PIP is comprised of two components - *The daily living component* and *The mobility component*. If a claimant qualifies for PIP, they can receive financial support for one or both of these components.

#### *The daily living component*

The daily living component looks at 10 different activities associated with day-to-day care:

1. *Preparing food* - preparing and cooking a simple (one course) meal for one person.
2. *Taking nutrition* - eating and drinking.
3. *Managing therapy or monitoring a health condition* - dealing with medication/therapy, and monitoring changes in health.

4. *Washing and bathing* - including being able to use an unadapted bath or shower.
5. *Managing toilet needs or incontinence* - getting on/off an undapted toilet, evacuating the bladder/bowel and cleaning oneself afterwards.
6. *Dressing and undressing* - including putting on/taking off socks and shoes, and being able to choose appropriate clothing.
7. *Communicating verbally* - expressing and understanding verbal information.
8. *Reading and understanding signs, symbols and words* - reading and understanding written information.
9. *Engaging with other people face to face* - being able to form social relationships.
10. *Making budgeting decisions* - being able to make purchases and manage paying bills.

### *The mobility component*

The mobility component looks at 2 different activities associated with being able to get about outside:

1. *Planning and following journeys* - being able to plan a route and then follow it.
2. *Moving around* - being able to stand and walk on level ground.

### **How is PIP awarded?**

Each of the components can be awarded at two rates: the **standard rate** or the **enhanced rate**. To be awarded PIP at the standard rate, a claimant must be *limited* by their condition. To be awarded PIP at the enhanced rate, a claimant must be *severely limited* by their condition.

Eligibility for PIP is assessed by looking at whether the claimant needs help to complete any of the 10 daily living activities and the 2 mobility activities. Each of the daily living and mobility activities has a set of descriptors, which describe different types of help that may be needed. Each descriptor is allocated points, and the points vary depending on the amount of help required. For example, the *preparing food* activity is divided into the following descriptors/points:

Activity	Descriptors	Points scored
1. Preparing food	a. Can prepare and cook a simple meal unaided.	0
	b. Needs to use an aid or appliance to be able to either prepare or cook a simple meal.	2
	c. Cannot cook a simple meal using a conventional cooker but is able to do so using a microwave.	2
	d. Needs prompting to be able to either prepare or cook a simple meal.	2
	e. Needs supervision or assistance to either prepare or cook a simple meal.	4
	f. Cannot prepare and cook food.	8

The number of points that the claimant scores will be added up. If the claimant scores at least 8 points from the 10 daily living activities and/or the 2 mobility activities, they will be awarded PIP at the standard rate. If the claimant scores 12 points or more then they will be awarded PIP at the enhanced rate. However, it is not possible to combine points from the daily activities and the mobility activities. This means that if a claimant scored 6 points for the daily living activities and 4 points for the mobility activities they would not be awarded PIP at all, even though they had scored a total of 10 points.

### **Making a claim for PIP**

To make a new claim for PIP, the claimant needs to complete a standard form called a 'How your disability affects you' form. You can get a copy of the form by either telephoning or writing to the Department for Work and Pensions.

### ***Making a request by telephone***

The PIP claim line can be contacted on: **0800 917 2222**. It is possible for someone else to call on behalf of the claimant, but the claimant will need to be there when the call is made.

Before you call, you will need to have certain information about the claimant ready:

- contact details (e.g. telephone number);
- date of birth;
- national insurance number;
- bank account or building society account number and sort code;
- doctor or health worker's name and contact details (e.g. their address and telephone number);
- any information about any time spent abroad, in a care home or in hospital (e.g. dates and addresses of these visits).

The Department for Work and Pensions provides a video guide to help you prepare for Claiming PIP.

### *Making a request by post*

You can also request the 'How your disability affects you' form by post. The address to write to is:

Personal Independence Payment New Claims  
Post Handling Site B  
Wolverhampton  
WV99 1AH

### *Completing the claim form*

Once you have received the 'How your disability affects you' form you will usually have **one month** to complete it and send it back. If you do not return the form on time, the claim may be refused. Therefore, if you need more time to complete the form, you should contact the Department for Work and Pensions.

The claim form is a long document, and you will be asked questions about the claimant's health, any treatment that they are receiving and whether they need help with the 10 daily living activities and the 2 mobility activities.



### Key Information and Resources:

#### Completing the 'How your disability affects you' form

The 'How your disability affects you' form is an important document, as it is your chance to explain how your disability or health condition affects you day-to-day.

The form has 15 Questions:

**Question 1** - asks for details of any health professionals who help you (e.g. your GP).

**Question 2** - asks about your health conditions or disabilities.

**Questions 3 to 12** - are about the 10 daily living activities.

**Questions 13 and 14** - are about the 2 mobility activities.

**Question 15** - gives you a chance to provide additional information.

**Declaration** - you will need to sign and date the form to confirm that the information you have provided is correct.

There are lots of online guides available to help you to complete the form, and you might want to look at some of them before you start to fill in your information:

***Citizens Advice*** - provides information on How to claim PIP including a guide to answering each question on the claim form.

***Disability Rights UK*** - produces Personal Independence Payment - a guide to making a claim.

***Mencap*** - produces a Personal Independence Payment guide.

***c-App*** - provides PIP Assessment Support including video information about the PIP application process.

***Turn2Us*** - produces a Benefits guide - What is PIP?

When you have completed the form, post it back to the Department for Work and Pensions at the address given on the form. It is a good idea to keep a copy of the form for your records.

If you have additional information that helps to explain the difficulties that the claimant has (such as prescriptions or care plans), then you can include it with the claim form. The Department for Work and Pensions provides a video guide about Providing information to support your claim. However, keep your original documents and **only send copies** of the information, as things can get lost in the post.

### *Becoming an appointee*

If the claimant has a severe disability, which means that they cannot manage their own affairs, an appointee may be required. Being an appointee is a very significant role, as the appointee makes the claim on behalf of the person with the disability and also receives any benefits awarded to spend in the person's best interests. An appointee can be a family member or friend, or a professional (such as a support worker).

If you think that someone that you are supporting needs to have an appointee, you should contact the Department for Work and Pensions, as the Department is responsible for deciding whether an appointee is required. The Department provides online information about Becoming an appointee for someone claiming benefits.

### **The medical assessment**

Once you have returned your completed claim form, you will normally be sent an appointment for the claimant to attend a medical assessment. The medical assessment will **not** be carried out by the claimant's own doctor, and the appointment letter will include a map and directions to the assessment centre. It is essential that the claimant attends the medical assessment, as if they do not attend the PIP claim will be refused automatically.

If the claimant cannot attend the appointment (e.g. because they have a hospital appointment at the same time), then you must contact the assessment centre to rearrange. If you do not think that the claimant could ever attend an appointment (e.g. because the assessment centre is too far away), then you should ask for a home visit. However, there is no guarantee that a home visit will be authorised.

When you go to the medical assessment you need to take:

- the appointment letter;
- any medical evidence that you did not include with the PIP claim form;
- personal identification - the appointment letter will tell you exactly what you need to bring, but the claimant will usually require two forms of identification (e.g. passport, UK driving licence, birth certificate, tenancy agreement).

A family member, friend or support worker can attend the assessment centre with the claimant, and can sit in on the assessment if the claimant is happy for this to happen.

The assessment will usually last about an hour, and will be carried out by a health professional, who might be a doctor, but is more likely to be a nurse, physiotherapist or paramedic. The purpose of the assessment is for the health professional to write a report, which the Department for Work and Pensions will use to help decide whether the claimant should be awarded PIP.

The health professional will have read the claim form and any additional information that you provided. During the assessment, it is likely that the health professional will:

- ask what health conditions or disabilities the claimant has, and what medication/treatment they receive;
- ask how the claimant's health affects their everyday life;
- ask if the claimant has any difficulties with the 10 daily living activities and the 2 mobility activities;
- carry out a basic physical examination to assess the claimant's range of movement (e.g. asking the claimant to bend down to test their range of movement);
- ask questions to test the claimant's memory and thinking skills (e.g. working out simple change that would be received when buying something in a shop, or remembering three things in the room).

It is usually possible to claim the costs of travelling to/from the medical assessment. You will be able to claim either the costs of public transport, or fuel/parking costs if you travel by car. Keep hold of any tickets and receipts, and ask the receptionist at the assessment centre for a travel expenses claim form. You will not be able to get the money back if you take a taxi, unless the assessment centre has agreed in advance that you can use a taxi.

The Department for Work and Pensions provides a video guide about Attending a PIP assessment.

### **The PIP decision**

A decision-maker at the Department for Work and Pensions will decide whether the claimant is entitled to PIP. The decision-maker will consider:

- the information in the ‘How your disability affects you’ form;
- any additional documents that you have sent to the Department;
- the health professional’s report.

The decision-maker has to decide if the claimant can carry out the 10 daily living activities and the 2 mobility activities:

- safely;
- to an acceptable standard;
- repeatedly; and
- within a reasonable time period.

If the claimant has problems carrying out any of the activities, the decision-maker will assess the type of help that the claimant needs, usually prompting, assistance or supervision, or using an aid/appliance. Points can be awarded even if the claimant is not actually receiving any help (e.g. if the decision-maker decides that the claimant needs promoting, points will be awarded even if the claimant does not actually have anyone available to prompt them.)

The law also says that a claimant can only score points for an activity if their ability to carry out the activity is affected more than 50% of the time.

### ***Safely***

The claimant must be able to carry out the daily living and mobility activities safely. Regulation 4(4) of the Social Security (Personal Independence Payment) Regulations 2013 says that safely means “*in a manner unlikely to cause harm to [the claimant] or to another person, either during or after completion of the activity*”.

When you are filling in the ‘How your disability affects you’ form you should explain any issues that the claimant has which means that they, or another person, could be at risk of harm. For example, if the claimant gets lost when trying to find a place they do not know on their own, then they are unlikely to be able to plan and follow the route of an unfamiliar journey safely.

### ***To an acceptable standard***

The law does not define what “*to an acceptable standard*” means, and so the decision-maker will usually be assessing whether the claimant can carry out the daily living and mobility activities to a standard that most people would achieve.

When you are filling in the ‘How your disability affects you’ form you should explain any issues that the claimant has which mean that they do not carry out the activities to a good enough standard. For example, if the claimant has poor concentration and does not cook food thoroughly, this may mean that they cannot prepare food to an acceptable standard as most people would not serve food that is lukewarm and not completely cooked.

### ***Repeatedly***

The claimant must be able to carry out the daily living and mobility activities repeatedly. Regulation 4(4) of the Social Security (Personal Independence Payment) Regulations 2013 says that repeatedly means “*as often as the activity being assessed is reasonably required to be completed*”.

When you are filling in the ‘How your disability affects you’ form you should explain any issues that the claimant has which mean that they cannot repeat an activity as often as they need to. For example, if the claimant can walk to/from their local shop, which is 250 metres away, but can only do that journey once per

day due to exhaustion, then they are unlikely to be able to walk more than 200 metres repeatedly as most people would not need all day to recover from a relatively short walk.

### *Within a reasonable time period*

The claimant must be able to carry out the daily living and mobility activities within a reasonable time period. Regulation 4(4) of the Social Security (Personal Independence Payment) Regulations 2013 says that reasonable time period means *“no more than twice as long as the maximum period that a person without a physical or mental condition which limits that person’s ability to carry out the activity in question would normally take to complete that activity”*.

When you are filling in the ‘How your disability affects you’ form you should explain any issues that the claimant has which mean that they take a long time to complete an activity. For example, if the claimant has compulsive routines, which mean that they have to wash several times before they are sure that they are clean, then they are unlikely to be able to wash and bathe within a reasonable time period. This is because the routines will mean that they take more than twice as long as someone who does not have to follow the same routines.

### *Prompting, assistance, supervision and the use of aids/appliances*

If the claimant has problems with a daily living or mobility activity, the decision-maker needs to look at whether those problems can be overcome with help. The main types of help are: prompting, assistance, supervision and using an aid or appliance.

Schedule 1 Part 1 of the Social Security (Personal Independence Payment) Regulations 2013 says that:

- prompting means *“reminding, encouraging or explaining by another person”*;
- assistance means *“physical intervention by another person and does not include speech”*;
- supervision means *“the continuous presence of another person for the purpose of ensuring C's safety”*.

When you are filling in the ‘How your disability affects you’ form you should explain any help that the claimant needs. For example, if they need you to explain things to them, they might require *prompting*. If they need physical help to complete an activity, then *assistance* may be relevant. If the person is at risk of causing themselves harm, then they may need *supervision*.

The other main type of help is using an aid or appliance. Regulation 2 of the Social Security (Personal Independence Payment) Regulations 2013 says that an aid or appliance is “*any device which improves, provides or replaces impaired physical or mental function*”. The Upper Tribunal has said that there is no need for an aid to be a specialist device, it just needs to help the claimant to overcome the problems they have with the daily living or mobility activities. For example, in NA v SSWP [2015] UKUT 0572 (AAC) Judge Mark noted that an alarm on a mobile phone, set to go off at regular intervals, is capable of being a device to remind the claimant to take their medication. Therefore, it is important to note any aids or appliances used when you fill in the ‘How your disability affects you’ form.

### ***The 50% rule***

To be awarded points for an activity, the claimant’s ability to carry out the activity must be affected more than 50% of the time. Where the claimant has a learning disability, it is likely that their ability to perform the daily living and mobility activities will be affected all of the time. However, some health conditions and disabilities are variable. Therefore, if the claimant has several different conditions, it may be necessary to think about how they are affected day-to-day to ensure that the correct descriptors/points are awarded.

Regulation 7(1) of the Social Security (Personal Independence Payment) Regulations 2013 sets out how the 50% rule works, and the main points that are likely to apply where the claimant has a learning disability are:

- If only one descriptor for an activity applies to the claimant for over 50% of the time, then the claimant will score the points associated with that descriptor.

- If two or more descriptors for an activity each apply to the claimant for over 50% of the time, then the claimant is awarded the points associated with the higher/highest scoring descriptor.



Key Information and Resources:  
Applying the 50% rule

The 50% rule can be quite complicated to apply, and so an example may help.

*Kera has a learning disability and always has difficulty sorting out her clothes, as she often chooses clothing that is not suitable for the weather and her mother has to tell her which clothes to put on.*

It is likely that Kera would score 2 points for the dressing and undressing activity, as she needs prompting to select appropriate clothing. This help is needed due to Kera's learning disability, which is present all of the time.

*Kera also experiences severe back pain, which flares up on average twice per week. When she is experiencing a flare-up, Kera needs help to dress and undress both her lower and upper body.*

It is unlikely that Kera's back pain would change the points awarded to her, as she is only affected on two days per week, which is not more than 50% of the time.

*Kera's back pain gets worse, and the frequency of her flare-ups increases to four times per week.*

Now both of her conditions affect Kera for more than 50% of the time. This means that she will still require prompting to select appropriate clothing, but she is also likely to need assistance to be able to dress and undress. As needing assistance to dress your upper body scores 4 points, Kera's points for the dressing and undressing activity will increase from 2 to 4.

### ***The decision letter***

The Department for Work and Pensions will send the claimant a decision letter, which will explain the points that were scored in relation to the daily living and mobility activities, and whether the claimant has been awarded PIP. If PIP has been awarded, the letter will tell you how much money the claimant will receive and when it will start being paid. PIP is usually paid every four weeks, directly into the claimant's Bank, Building Society or Post Office account.

The letter will also set out how long the award will last. Usually, PIP is awarded for a set period of time. This might be for a shorter period, usually two or three years, or for a longer period of up to ten years. Longer awards are only made where an improvement in the claimant's condition is unlikely. It is possible for an award to be made on an indefinite basis, if improvement is very unlikely, but this is rare. The letter will also explain that if the claimant's circumstances change you must inform the Department as a re-assessment may be required. This applies if the claimant's condition gets worse or if it gets better.

Be sure to keep the decision letter in a safe place as you may need to refer to it in the future.

### **Challenging a PIP assessment decision – mandatory reconsideration**

If you are unhappy with the outcome of the PIP assessment, then you can ask for the decision to be looked at again. This is called the 'mandatory reconsideration' process. You can ask for a mandatory reconsideration:

- if the claimant has been refused PIP entirely;
- if the claimant disagrees with the level of PIP that has been awarded;
- if the claimant disagrees with the period of time for which PIP has been awarded.

It is important to remember that if you want to challenge a PIP assessment decision, then you must use the mandatory reconsideration process. The key

points to remember about the process are:

- You must ask for a mandatory reconsideration **within one month** of the date of the PIP decision letter. If you miss the one month deadline, you will need to explain why (e.g. that the claimant was ill), and ask the Department for Work and Pensions to extend the one month time limit.
- You can make a mandatory reconsideration request by telephone, letter or by using the government's mandatory reconsideration form.
- You will need to explain why you think the PIP decision is wrong.
- You can provide additional evidence (e.g. medical evidence) that you would like the Department to consider, but should only send evidence that you have not sent before. (Always keep the original documents yourself, and only send copies to the Department.)



#### Key Information and Resources:

##### Applying for mandatory reconsideration

To help you prepare a mandatory reconsideration request, you might want to think about the following:

#### **Key Information:**

Whenever you contact the Department for Work and Pensions you will need to provide:

- the date of the original PIP decision (which will be on your decision letter);
- name and address;
- date of birth;
- National Insurance number.

#### **Making the mandatory reconsideration request:**

You can request a mandatory reconsideration by telephone or in writing. As you will have to explain why you think that the PIP decision is wrong, you might find it easier to apply for the mandatory reconsideration in writing so that you can set out everything that you want to say.

If you make a telephone request, you need to call the number on your PIP decision letter.

If you make a request in writing, you should send your letter to the address on your PIP decision letter. (*Advice Now* has an online [PIP Mandatory Reconsideration Request Letter Tool](#) to help you write your letter.)

Alternatively, you can use the standard [Mandatory Reconsideration Request Form](#) rather than writing a letter.

**Written statement of reasons:**

For some benefits you need to obtain a ‘written statement of reasons’ from the Department for Work and Pensions before you can apply for a mandatory reconsideration. You **do not** need to do this where the benefit is PIP, as your decision letter will already explain the Department’s reasons in full.

When your mandatory reconsideration request is received, it will be allocated to a different decision-maker in the Department for Work and Pensions. The new decision-maker will look at the claim again and may also telephone the claimant to discuss the claim. The decision-maker will then either:

- confirm that the original decision was correct; or
- change the original decision. (It is important to remember that if the claimant has been awarded PIP, the new decision-maker can increase the amount they receive but can also decrease the amount previously awarded.)

It is likely to take approximately 8 weeks before you are told the outcome of the mandatory reconsideration. If mandatory reconsideration results in the amount of benefit awarded being increased, then the increase will be backdated.

Do not be put off if the original decision is not changed during the mandatory reconsideration process, as relatively few decisions are changed at this stage. If you are unhappy with the outcome of the mandatory reconsideration then you can appeal to the First-tier Tribunal (see **Part 4 – Appealing to the Tribunal**).

## **Additional help the claimant may be entitled to**

If the claimant is awarded PIP, they may also be entitled to additional help. To apply for additional help, you will usually need a copy of the decision letter from the Department for Work and Pensions confirming the PIP award.

### ***Disability premiums***

Premiums are extra amounts paid in addition to the basic level of some benefits. If a claimant is awarded PIP, they are exempt from the benefits cap and premiums can be added if the claimant receives any of the following benefits:

- Income Support;
- Jobseeker's Allowance;
- Housing Benefit;
- Employment and Support Allowance (if the claimant gets the PIP daily living component);
- Pension Credit (if the claimant gets the PIP daily living component).

There is usually no disability premium payable if the claimant receives Universal Credit.

If a claimant is working and receives Working Tax Credit, they can claim the Disabled Worker premium.

The decision letter will usually highlight any additional benefits that the claimant might be entitled to claim. You might also want to use a [Benefits Calculator](#) service to check that the claimant is receiving all of the benefits which they are entitled to.

### ***Council Tax discount***

If the claimant is awarded the daily living and/or the mobility component of PIP, they may be able to get a reduction in their council tax. The exact amount will depend on how the award of PIP is made up, and you should contact the local authority to ask about council tax discounts. If you are unsure which local authority area the claimant lives in, you can check using the [Find Your Local Council](#) search engine.

## **Travel support**

You can also apply for support with the costs of travel:

- *Disabled Persons Railcard* - up to a third off most rail fares for the claimant and anyone who has to travel with them (available to everyone who receives PIP).
- *Blue Badge parking scheme* - entitles the claimant's vehicle to park closer to their destination (available with some awards of the PIP mobility component).
- *Vehicle tax discount* - reduced vehicle tax (50% if you receive the standard PIP mobility component; 100% for the enhanced mobility component).
- *Free local bus travel* - some local authorities provide free bus travel for people with disabilities.

If the claimant qualifies for the enhanced rate of the mobility component they will be able to use the Motability Scheme to lease a car, powered wheelchair or scooter. If they join the scheme, part or all of the PIP mobility component will be paid directly to Motability. If the vehicle is more expensive than the amount of the mobility component, then the claimant will have to pay the difference.

## **Terminal illness**

If the claimant has a terminal illness, then the PIP application will be fast-tracked. An illness is regarded as being terminal if the claimant's doctor says that their life expectancy may be less than 6 months.

If the claimant has a terminal illness you should contact the Department for Work and Pensions (see *Making a request by telephone*). You will not need to complete a claim form or attend a medical assessment. However, you will need to get the claimant's doctor to complete a medical report (called a DS1500), which needs to be sent to the Department. The Department will then assess the position, and if PIP is awarded the first payment will normally be made within two weeks.

A terminally ill claimant will automatically be awarded the enhanced daily living component, and may also be awarded the mobility component if they meet the

normal eligibility criteria. If the claimant lives longer than 6 months, the PIP award will continue but the claim may be reviewed after 3 years.

If the claim is refused, then you can request a mandatory reconsideration (see [Challenging a PIP assessment decision – mandatory reconsideration](#)).

Detailed information about the benefits available to terminally ill claimants is available on the Government website - [Benefits if you are living with a terminal illness](#).

## **Re-assessments**

If the claimant is awarded PIP, the decision letter will usually explain that the Department for Work and Pensions will contact the claimant approximately 12 months before the award is due to end in order to see whether they still wish to claim PIP. If the claimant does still wish to claim, the Department will begin a re-assessment process that will usually require a new claim form to be completed and a new medical assessment to be undertaken.

Once the new medical assessment has been completed, a decision-maker will review the claimant's entitlement to PIP and can either renew their award or can change it. If the decision-maker decides to change the award it can be increased or decreased. If the award is decreased, when the claimant's circumstances have not changed, then you should request a mandatory reconsideration and ask the decision-maker to explain what improvement the Department says has happened in order to justify the reduction in the claimant's award.

If the claimant does not accept that there has been a change in their circumstances, you should appeal to the First-tier Tribunal. The Tribunal will then assess whether the Department has adequately justified the change.

## Part 2 – Disability Living Allowance

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Since the introduction of the Personal Independence Payment, new claims for Disability Living Allowance (DLA) can only be made on behalf of children and young people aged under 16. Part 2 of the toolkit provides information about how to apply for DLA, and is divided into the following sections:

- **What is DLA?**
- **Who can claim DLA?**
- **The DLA eligibility criteria** which includes information about:
  - *The care component*
  - *The mobility component*
- **How is DLA awarded?**
- **Making a claim for DLA** which includes information about:
  - *Completing the claim form*
  - *Medical and other evidence*
- **The DLA decision**
- **Challenging a DLA assessment decision – mandatory reconsideration**
- **Additional help you may be entitled to**
- **Special Circumstances**
- **Terminal illness**

### What is DLA?

DLA is a benefit to help with extra costs of looking after a child or young person who has a disability, illness or health condition. DLA is a non-means tested and non-contributory benefit, which means that it is payable to everyone who meets the relevant criteria, regardless of the family's income and savings.

DLA is also tax free, and information about the rates at which DLA is paid can be found on the [Government Website - DLA rates for children](#).

### Who can claim DLA?

In order to claim DLA, the child/young person must:

- be under 16 years of age; and

- have lived in Wales (or England or Scotland) for at least 2 of the last 3 years, and be in one of these countries when the application is made.

There are exceptions where the child is under 3 years old or the person making the claim is living outside of Great Britain, and if this applies to your family you should check the [Government Website - DLA Eligibility](#) to see if you can still claim.

As DLA is designed to support people with long term difficulties, the child/young person must also have a health condition or disability which means that they:

- have had difficulties walking or need more looking after than a child of the same age (or both) for 3 months; and
- expect these difficulties to continue for at least 6 months.

### **The DLA eligibility criteria**

DLA is comprised of two components - *The care component* and *The mobility component*. If a child/young person qualifies for DLA, they can receive financial support for one or both of these components.

#### *The care component*

To qualify for the care component the child/young person must require **help** and/or **supervision**. The **help** must be provided to assist with ‘bodily functions’, such as:

- eating and drinking;
- washing;
- getting dressed;
- going to the toilet;
- speaking;
- seeing; or
- hearing.

**Supervision** means someone else being present and monitoring the child/young person. The supervision must be needed to avoid substantial danger to the child/young person (or to another person).

In addition, the help or supervision provided must be either:

- much greater than the help or supervision that a child/young person of the same age would usually need; or
- be help or supervision that a younger child may need, but that a child/young person of the same age would not usually need.

### *The mobility component*

To qualify for the mobility component the child/young person must require **guidance or supervision** when they are outside, or must have **significant difficulties walking**.

If the child/young person requires **guidance or supervision**, they can only receive the mobility component if they are aged 5 years or over and the guidance or supervision provided is either:

- much greater than the guidance or supervision that a child/young person of the same age would usually need; or
- is guidance or supervision that a younger child may need, but that a child/young person of the same age would not usually need.

If the child/young person has **significant difficulties walking**, they can only receive the mobility component if they are aged 3 years or over.

### **How is DLA awarded?**

Unlike PIP, DLA is not calculated using a points system. Different rates of the care component and the mobility component are payable, depending on the child/young person's needs.

The care component has 3 rates: lowest, middle and highest.



## Key Information and Resources:

### The rates of the care component

There are 3 different rates for the care component:

#### **Lowest rate:**

To qualify for the lowest rate a child/young person must need help with their bodily functions for a significant portion of the day. Usually, this means help for at least an hour a day. However, it does not need to be a single block of time, so help provided 4 times per day, for 15 minutes at a time would qualify.

#### **Middle rate:**

A child/young person can qualify for the middle rate if they meet one of the *daytime conditions* **or** one of the *night-time conditions*.

To meet the *daytime conditions* the child/young person must need either:

- frequent help with their bodily functions throughout the day; or
- continual supervision throughout the day to avoid substantial danger to themselves or others.

Frequent help does not require continual input, but it does require a high degree of input - usually a minimum of several times per day and at intervals spread out throughout the day. Similarly, continual supervision does not mean that the supervision has to be continuous (i.e. constant) and some short breaks are permissible.

To meet the *night-time conditions* the child/young person must need either:

- prolonged or repeated help with their bodily functions at night; or
- another person to be awake at night for a prolonged period or at frequent intervals to watch over them in order to avoid substantial danger to themselves or others.

This means that the night-time conditions can be met where a child/young person requires either a single prolonged period of help/watching over (usually at least 20 minutes) or at least two shorter periods of help/watching over.

**Highest rate:**

A child/young person can qualify for the highest rate if they meet one of the *daytime conditions* **and** one of the *night-time conditions*.

The mobility component has 2 rates: lower and higher.

**Key Information and Resources:**

The rates of the mobility component

There are 2 different rates for the mobility component:

**Lower rate:**

To qualify for the lower rate a child/young person must have:

- a physical or mental disability;
- that means that they need guidance or supervision;
- when walking out of doors in an unfamiliar place.

**Higher rate:**

To qualify for the higher rate a child/young person must have a physical disability that means they are unable, or virtually unable, to walk.

The law does not say what being ‘virtually unable to walk’ means, but usually if a child/young person cannot walk 50 metres without experiencing severe discomfort they would qualify. Also, if a child/young person can walk, but the effort needed to walk could seriously affect their health they will be virtually unable to walk.

## **Making a claim for DLA**

As DLA is only available for children/young people under 16, an adult has to make the claim on their behalf. The claim can be made by the child/young person’s parent or anybody who has looked after them “*as if you are their parent*”. This

means that people such as step-parents, guardians, grandparents, foster-parents and other relatives could apply for DLA on a child/young person's behalf.

To make a new claim for DLA, you need to complete a 'DLA Child' new claim form. You can get a copy of the form by either:

- telephoning the Department for Work and Pensions – Disability Living Allowance helpline: **0800 121 4600**; or
- downloading the form from the [Government website - Disability Living Allowance for children - claim form](#).

### *Completing the claim form*

DLA cannot usually be backdated, and so you should submit the claim form as soon as you can. If you have telephoned to ask for the claim form, you will usually have to complete it and return it to the Department for Work and Pensions within 6 weeks.

The claim form is a long document, and you will be asked questions about the child/young person's health and the difficulties they experience with their mobility and their daytime and night-time care needs.



#### Key Information and Resources: Completing the 'DLA Child' claim form

The 'DLA Child' claim form is a very important document, as it is your chance to explain how the child/young person's disability or health condition affects them day-to-day. The form is very long (it currently has 71 Sections/Questions) and so you might want to think about the following before you start to complete it:

- Read through the whole form and make some notes about what you want to say before you start to write anything on the form.

- Have a look at the ‘Information Booklet’ that comes with the form, as it explains what information the Department for Work and Pensions needs to make its decision. The Booklet also provides examples of how to answer the questions on the claim form.
- It is important that you answer the questions as fully as you can, so don’t rush the form and it is likely to take several sessions before you complete all the questions.
- You can attach extra pages to the claim form if you think there is not enough space to explain the help that the child/young person needs. Remember to put the child/young person’s name and date of birth on any extra pages.
- Question 20 gives you the chance to provide a ‘**Statement from someone who knows the child**’. If the child/young person has a health professional, social worker or other professional supporting them it can be very useful to get that person to provide information about the help that the child/young person needs.

There are lots of online guides available to help you to complete the form, and you might want to look at some of them before you start to fill in your information:

***Citizens Advice*** - provides a guide to How to claim DLA for your child, including information on how to approach answering the questions on the claim form.

***Disability Rights UK*** – produces a guide to Disability Living Allowance.

***Turn2Us*** – produces a Benefits guide - Disability Living Allowance for children.

When you have completed the form, post it back to the Department for Work and Pensions at the address given on the form. It is a good idea to keep a copy of the form for your records.

### *Medical and other evidence*

If you have additional information that helps to explain the difficulties that the child/young person has (such as care plans or school reports), then you can include it with the claim form. However, keep your original documents and **only send copies** of the information, as things can get lost in the post.

Unlike PIP, the child/young person will not normally be asked to attend a medical assessment, although the Department of Work and Pensions might contact any medical professionals who are involved with the child/young person's care to ask for a written report about their condition and treatment.

### *The DLA decision*

A decision-maker at the Department for Work and Pensions will decide whether the child/young person is entitled to DLA. The decision-maker will consider:

- the information in the 'DLA Child' claim form;
- any additional documents that you have sent to the Department;
- any reports that the Department has requested from professionals involved in the child/young person's care.

The decision-maker has to decide what help and support the child/young person reasonably requires to live a normal life. The approach that the decision-maker must take is set out in the case of *Moyna v Secretary of State for Work and Pensions* [2003] UKHL 44. In *Moyna*, the House of Lords said that the decision-maker should take a broad and reasonable approach when considering how the child/young person is affected by their condition. This means that the decision-maker needs to assess how the child/young person is affected on an average day. This is particularly important where the impact of the condition is variable, as the decision-maker needs to assess how the child/young person is most of the time.



### Key Information and Resources:

#### Keeping a diary

Where the child/young person's condition varies it is a good idea to keep a diary showing the help and support that is needed day-to-day. This will help the decision-maker to assess the average level of help and support that the child/young person needs.

The decision-maker will also consider any medication that the child/young person is prescribed and whether any aids or appliances are used. The decision-maker will assume that prescribed medication is being taken, and that relevant aids and appliances are being used unless there is a good reason why this is not happening.

The Department for Work and Pensions will send you a decision letter, and this usually takes about 8 weeks. The letter will explain what help and support the decision-maker believes the child/young person reasonably requires, and whether the level of support entitles them to an award of the care component and/or the mobility component. If the child/young person is entitled to an award, the letter will explain the rate of DLA that has been awarded and also how long the award will last. It is usual for the award to be for a fixed period of time, as the effect that the condition has on the child/young person may change as they get older.

If DLA has been awarded, the letter will tell you how much money you will receive and when it will start being paid. DLA is usually paid every four weeks, directly into the Bank, Building Society or Post Office account of the person making the claim.

The letter will usually also explain that the Department will contact you approximately 12 months before the award is due to end in order to see whether you still wish to claim DLA. If you do still wish to claim, the Department will begin a re-assessment process that will usually require you to complete a new

claim form. If the child/young person's circumstances change before the re-assessment process begins, then you must inform the Department as an earlier re-assessment may be required. This applies if the child/young person's condition gets worse or if it gets better.

Be sure to keep your decision letter in a safe place as you may need to refer to it in the future.

### **Challenging a DLA assessment decision – mandatory reconsideration**

If you are unhappy with the outcome of the DLA assessment, then you can ask for the decision to be looked at again. This is called the 'mandatory reconsideration' process. Mandatory reconsideration for DLA claims follows the same process as for PIP claims (see **Challenging a PIP assessment decision – mandatory reconsideration**).

*Advice Now* has an online [DLA Mandatory Reconsideration Request Letter Tool](#) that you can use if you need help to write a letter asking for a mandatory reconsideration.

Do not be put off if the original decision is not changed during the mandatory reconsideration process, as relatively few decisions are changed at this stage. If you are unhappy with the outcome of your mandatory reconsideration then you can appeal to the First-tier Tribunal (see **Part 4 – Appealing to the Tribunal**).

### **Additional help you may be entitled to**

If a child/young person that you are caring for is awarded DLA, you may also be entitled to additional help.

If you are providing care for the child/young person, you may be eligible for either Carer's Credit (if providing at least 20 hours care per week) or Carer's Allowance (if providing at least 35 hours care per week).

If you (or someone else in the household) are in receipt of other welfare benefits you may be entitled to additional payments. You should contact the office who pays your benefit to see if you can claim additional money.

If the child/young person qualifies for the higher rate of the mobility component, you will be able to use the Motability Scheme to lease a car, powered wheelchair or scooter. If you join the scheme, part or all of the DLA mobility component will be paid directly to Motability. If the vehicle you are leasing is more expensive than the amount of the mobility component, then you will have to pay the difference yourself.

## Special Circumstances

Some health conditions mean that the child/young person should automatically qualify for an award of DLA.

A child/young person with any of the following conditions will receive the **higher rate of the mobility component** and may also qualify for the care component:

- both legs amputated above the ankle (or through the ankle);
- born without legs or feet;
- severely sight impaired with limited visual acuity and visual field;
- deaf and blind and needs someone with them when they are outdoors.

A child/young person who has a severe mental impairment and who qualifies for the highest rate of the care component, will automatically receive the **higher rate of the mobility component**.

A child/young person who receives renal dialysis at home for two or more sessions per week may qualify for the **middle rate of the care component** if they also require the attendance or supervision of another person.

## Terminal illness

If the child/young person has a terminal illness, then the claim will be fast-tracked. An illness is regarded as being terminal if a doctor says that the child/young person's life expectancy may be less than 6 months.

If you are caring for a terminally ill child/young person, you should contact the Department for Work and Pensions (see [Making a claim for DLA](#)). You will not need to complete a claim form, but you will need to get the child/young person's

doctor to complete a medical report (called a DS1500), which needs to be sent to the Department. The Department will then assess the position, and if DLA is awarded the first payment will normally be made within two weeks.

The child/young person will automatically be awarded the highest rate of the care component, and may also be awarded the mobility component if they meet the normal eligibility criteria. You may also be eligible for either Carer's Credit (if providing at least 20 hours care per week) or Carer's Allowance (if providing at least 35 hours care per week). If the child/young person lives longer than 6 months, the DLA award will continue but will be reviewed after 3 years.

If the claim is refused, then you can request a mandatory reconsideration (see [Challenging a DLA assessment decision – mandatory reconsideration](#)).

## Part 3 – Attendance Allowance

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If the person who requires help and support is over state pension age **and** is claiming a disability benefit for the first time, then they must claim Attendance Allowance. Part 3 of the toolkit provides information about how to apply for Attendance Allowance. The term **claimant** is used throughout Part 3 to mean the person with a learning disability who you are supporting to apply for Attendance Allowance. Part 3 is divided into the following sections:

- **What is Attendance Allowance?**
- **Who can claim Attendance Allowance?**
- **The Attendance Allowance eligibility criteria**
- **How is Attendance Allowance awarded?**
- **Making a claim for Attendance Allowance** which includes information about:
  - *Completing the claim form*
  - *Medical and other evidence*
  - *Becoming an appointee*
- **The Attendance Allowance decision**
- **Challenging an Attendance Allowance assessment decision – mandatory reconsideration**
- **Additional help a claimant may be entitled to** which includes information about:
  - *Enhanced or additional benefits*
  - *Council Tax discount*
  - *Travel support*
  - *Support for carers*
- **Special Circumstances**
- **Terminal illness**

### What is Attendance Allowance?

Attendance Allowance is a benefit to help people who are over state pension age and who have additional care needs due to a disability, illness or health condition. Attendance Allowance is a non-means tested and non-contributory benefit, which

means that it is payable to everyone who meets the relevant criteria, regardless of their income or savings.

Attendance Allowance is also tax free, and information about the rates at which Attendance Allowance is paid can be found on the [Government Website: Attendance Allowance - What you'll get.](#)

Attendance Allowance is not payable if the claimant is in hospital, or in a care home where their care is paid for by the local authority. However, it is possible to claim Attendance Allowance if the claimant pays for their care home costs.

### **Who can claim Attendance Allowance?**

In order to claim Attendance Allowance, the claimant must normally:

- be over state pension age (i.e. receiving the state pension); and
- have lived in Wales (or England or Scotland) for at least 2 of the last 3 years, and be living in the United Kingdom when the application is made.

As Attendance Allowance is designed to support people with long term difficulties, the claimant must also have had the health condition or disability for at least 6 months, and it must result in the claimant having difficulties caring for themselves or needing someone to supervise them.



#### **Key Information and Resources:**

**What if I already get Disability Living Allowance or Personal Independence Payment?**

If you are already receiving Disability Living Allowance or Personal Independence Payment, you will continue to receive your benefit when you reach state pension age provided you still meet the eligibility criteria. This means that you will not need to claim Attendance Allowance.

## The Attendance Allowance eligibility criteria

Attendance Allowance is payable if the claimant needs **help** and/or **supervision**.

The **help** must be provided to assist with ‘bodily functions’, such as:

- eating and drinking;
- bathing and washing;
- dressing and undressing;
- going to the toilet;
- getting in and out of a chair;
- getting in and out of bed and sleeping;
- help with medication and treatment;
- speaking;
- seeing; or
- hearing.

Some examples of the help the claimant may need include:

- the claimant has arthritis, which makes movement difficult, and needs somebody to help them with activities such as getting in/out of bed, washing and dressing, and getting in/out of a chair;
- the claimant has a mental health problem and needs prompting to look after themselves and to do things such as taking medication, eating, washing and dressing;
- the claimant has a learning disability and needs help with activities such as interacting with other people and making themselves understood.

**Supervision** means someone else being present and monitoring that the claimant is safe. For example, the claimant may need supervision if they have memory loss, have poor awareness of potential dangers, have serious behavioural problems, lose consciousness or have seizures.

The supervision must be needed to avoid substantial danger to either the claimant or another person. Substantial danger could include things like:

- falls;
- creating dangerous situations (e.g. leaving the cooker on);
- self-harming;
- being violent to another person.

## How is Attendance Allowance awarded?

Unlike PIP and DLA, Attendance Allowance does not have a mobility component. This means that you can only get Attendance Allowance to help with your care needs. There are two rates of Attendance Allowance: **lower** and **higher**.



### Key Information and Resources: The rates of Attendance Allowance

There are 2 different rates of Attendance Allowance:

#### **Lower rate:**

You will qualify for the lower rate if you meet one of the *daytime conditions* **or** one of the *night-time conditions*.

To meet the *daytime conditions*, you must need either:

- frequent help with your bodily functions throughout the day; or
- continual supervision throughout the day to avoid substantial danger to yourself or to others.

Frequent help does not require continual input, but it does require a high degree of input - usually a minimum of several times per day and at intervals spread out throughout the day. Similarly, continual supervision does not mean that the supervision has to be continuous (i.e. constant) and some short breaks are permissible.

To meet the *night-time conditions*, you must need either:

- prolonged or repeated help with your bodily functions at night; or
- another person to be awake at night for a prolonged period or at frequent intervals to watch over you in order to avoid substantial danger to yourself or to others.

This means that the night-time conditions can be met where you require either a single prolonged period of help/watching over (usually at least 20 minutes) or at least two shorter periods of help/watching over.

**Higher rate:**

You will qualify for the higher rate if you meet one of the *daytime conditions* **and** one of the *night-time conditions*.

## Making a claim for Attendance Allowance

To make a new claim for Attendance Allowance, you need to complete an Attendance Allowance claim form. You can get a copy of the form by either:

- telephoning the Department for Work and Pensions – Attendance Allowance helpline: **0800 731 0122**; or
- downloading the form from the Government website - Attendance Allowance claim form.

### Completing the claim form

Attendance Allowance cannot usually be backdated, and so you should submit the claim form as soon as you can. If you have telephoned to ask for the claim form, you will usually have to complete it and return it to the Department for Work and Pensions within 6 weeks.

The claim form is a long document, and you will be asked questions about the claimant's health and the difficulties they experience with their daytime and night-time care needs.



#### Key Information and Resources:

##### Completing the Attendance Allowance claim form

The Attendance Allowance claim form is a very important document, as it is your chance to explain how your disability or health condition affects you day-to-day. The form is very long (it currently has 52

Sections/Questions) and so you might want to think about the following before you start to complete it:

- Read through the whole form and make some notes about what you want to say before you start to write anything on the form.
- Have a look at the ‘Information Booklet’ that comes with the form, as it explains what information the Department for Work and Pensions needs to make its decision.
- It is important that you answer the questions as fully as you can, so don’t rush the form and it is likely to take several sessions before you complete all the questions.
- You can attach extra pages to the claim form if you think there is not enough space to explain the help that you need. Remember to put your name and national insurance number on any extra pages.
- Question 49 gives you the chance to provide a **‘Statement from someone who knows you’**. If you have a health professional, social worker or carer supporting you it can be very useful to get that person to provide information about the help that you need.

There are lots of online guides available to help you to complete the form, and you might want to look at some of them before you start to fill in your information:

**Age UK** - provides an online guide to Attendance Allowance and can also provide telephone/face-to-face support to help you complete the claim form.

**Citizens Advice** - provides a guide on How to claim Attendance Allowance, including information on how to answer the questions on the claim form.

**Disability Rights UK** - produces a guide to Attendance Allowance.

**Independent Age** - provides online support (including video guides) on Attendance Allowance and can also provide telephone support.

**Turn2Us** – produces a Benefits guide - Attendance Allowance.

When you have completed the form, post it back to the Department for Work and Pensions at the address given on the form. It is a good idea to keep a copy of the form for your records.

### *Medical and other evidence*

If you have additional information that helps to explain the difficulties that the claimant has (such as medical reports and care plans), then you can include it with the claim form. However, keep your original documents and **only send copies** of the information, as things can get lost in the post.

The Department for Work and Pensions might contact professionals who are involved with the claimant's care (e.g. doctors or social workers) to ask for a written report about their condition and needs. The Department could also decide to arrange for the claimant to be medically examined. If a medical assessment is arranged, it is essential that the claimant attends, as failure to attend may lead to the claim for Attendance Allowance being refused. The medical assessment process for Attendance Allowance is similar to the PIP process (see [The medical assessment](#)).

### *Becoming an appointee*

If the claimant has a severe disability, which means that they cannot manage their own affairs, an appointee may be required. Being an appointee is a very significant role, as the appointee makes the claim on behalf of the person with the disability and also receives any benefits awarded to spend in the person's best interests. An appointee can be a family member or friend, or a professional (such as a support worker).

If you think that someone that you are supporting needs to have an appointee, you should contact the Department for Work and Pensions, as the Department is responsible for deciding whether an appointee is required. The Department provides online information about [Becoming an appointee for someone claiming benefits](#).

## The Attendance Allowance decision

A decision-maker at the Department for Work and Pensions will decide whether the claimant is entitled to Attendance Allowance. The decision-maker will consider:

- the information in the Attendance Allowance claim form;
- any additional documents that you have sent to the Department;
- any reports that the Department has requested from professionals involved in the claimant's care;
- any medical assessment obtained.

The decision-maker will be assessing the type of help that the claimant reasonably requires. This means that a claimant can still be awarded Attendance Allowance even if they are not actually receiving the help that they need. For example, if the decision-maker decides that a claimant requires continual supervision during the day, they should be awarded the lower rate even if the claimant does not actually have anyone who can provide the supervision required. The approach that the decision-maker must take when deciding if the claimant is entitled to Attendance Allowance is the same as when assessing an application for DLA (see [The DLA decision](#)).

The Department for Work and Pensions will send the claimant a decision letter, and this usually takes about 8 weeks. The letter will explain what help and support the decision-maker believes the claimant reasonably requires, and whether the level of support entitles them to an award of the care component. If the claimant is entitled to an award the letter will explain the rate of Attendance Allowance that has been awarded, and also how long the award will last. The award may be for a fixed period of time or for an indefinite period, depending upon the nature of the claimant's needs.

If Attendance Allowance has been awarded, the letter will explain how much money the claimant will receive and when it will start being paid. Attendance Allowance is usually paid every four weeks, directly into the claimant's Bank, Building Society or Post Office account.

If Attendance Allowance has been awarded for a fixed term, the letter will usually explain that the Department will contact the claimant approximately 12 months before the award is due to end in order to see whether they still wish to claim Attendance Allowance. If the claimant does still wish to claim, the Department will begin a re-assessment process that will usually require the claimant to complete a new claim form. If the claimant's circumstances change before the re-assessment process begins, then they must inform the Department as an earlier re-assessment may be required. This applies whether the claimant's condition gets worse or gets better, or there is some other relevant change (e.g. they are admitted to hospital or move into residential care).

Be sure to keep the decision letter in a safe place as you may need to refer to it in the future.

### **Challenging an Attendance Allowance assessment decision – mandatory reconsideration**

If the claimant is unhappy with the outcome of the Attendance Allowance assessment, they can ask for the decision to be looked at again. This is called the 'mandatory reconsideration' process. Mandatory reconsideration for an Attendance Allowance claim follows the same process as for a PIP claim (see [Challenging a PIP assessment decision – mandatory reconsideration](#)).

Do not be put off if the original decision is not changed during the mandatory reconsideration process, as relatively few decisions are changed at this stage. If you are unhappy with the outcome of the mandatory reconsideration then you can appeal to the First-tier Tribunal (see [Part 4 – Appealing to the Tribunal](#)).

### **Additional help a claimant may be entitled to**

If the claimant is awarded Attendance Allowance, they may also be entitled to additional help. To apply for additional help, the claimant will usually need to provide a copy of the decision letter from the Department for Work and Pensions confirming the Attendance Allowance award.

### *Enhanced or additional benefits*

If the claimant (or someone else in the household) is in receipt of other welfare benefits, they may be entitled to additional payments. The decision letter will usually highlight any additional benefits that the claimant might be entitled to. You should contact the office that pays the claimant's other benefits to see if they can claim additional money. You might also want to use a [Benefits Calculator](#) service to check that the claimant is receiving all of the benefits which they are entitled to.

### *Council Tax discount*

Being awarded Attendance Allowance may also entitle the claimant to a reduction in council tax. You should contact the local authority and ask if the claimant is entitled to a council tax discount. If you are unsure which local authority area the claimant lives in, you can check using the [Find Your Local Council](#) search engine.

### *Travel support*

The claimant will be able to apply for support with the costs of travel:

- [Disabled Persons Railcard](#) - up to a third off most rail fares for the claimant and anyone who has to travel with the claimant.
- [Blue Badge parking scheme](#) - entitles the claimant's vehicle to park closer to their destination (not automatic following an award of Attendance Allowance, but being awarded Attendance Allowance may help the claimant to show that they also meet the requirements for a blue badge).

### *Support for carers*

If you are providing care for the claimant, you may be eligible for either [Carer's Credit](#) (if providing at least 20 hours care per week) or [Carer's Allowance](#) (if providing at least 35 hours care per week).

### *Special Circumstances*

A claimant who receives renal dialysis at home for two or more sessions per week may qualify for the **lower rate** of Attendance Allowance if they also require the attendance or supervision of another person.

## Terminal illness

If the claimant has a terminal illness, then the claim will be fast-tracked. An illness is regarded as being terminal if a doctor says that the claimant's life expectancy may be less than 6 months.

If the claimant has a terminal illness you should contact the Department for Work and Pensions (see [Making a claim for Attendance Allowance](#)). You will not need to complete a claim form, but you will need to get the claimant's doctor to complete a medical report (called a DS1500), which needs to be sent to the Department. The Department will then assess the position, and if Attendance Allowance is awarded the claimant will automatically be awarded the higher rate of Attendance Allowance and the first payment will normally be made within two weeks. If the claimant lives longer than 6 months, the Attendance Allowance award will continue but will be reviewed after 3 years.

If the claim is refused, then you can request a mandatory reconsideration (see [Challenging an Attendance Allowance assessment decision – mandatory reconsideration](#)).

## Part 4 – Appealing to the Tribunal

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If an application for Personal Independence Payment, Disability Living Allowance or Attendance Allowance is refused, or if the claimant is awarded less benefit than you think they are entitled to, it is possible to appeal to the First-tier Tribunal (Social Security and Child Support). To help you navigate the appeals process, Part 4 of the toolkit will focus on:

- **Getting legal advice and other help to make an appeal**
- **Appealing to the First-tier Tribunal** which includes information about:
  - *Time limits*
  - *The appeal form*
  - *What can the Tribunal do?*
  - *Choosing a Tribunal Hearing*
- **Paper Hearings**
- **Oral Hearings** which includes information about:
  - *Before the Tribunal Hearing*
  - *Medical records*
  - *What to take with you on the day*
  - *When you arrive at the Hearing Centre*
  - *In the Tribunal Hearing*
  - *Giving evidence*
  - *The decision*
- **Appealing to the Upper Tribunal**

### Getting legal advice and other help to make an appeal

Major changes were made to the legal aid system in 2013, and it is generally no longer possible to get legal aid to pay for advice from a solicitor about disability benefits. However, other organisations do provide help and support with benefits appeals, including charities, law centres and University law clinics. The **Additional Resources** section has links to organisations that may be able to help you with an appeal.



Key Information and Resources:  
HM Courts & Tribunals Service Guidance

A good source of information if you want to appeal a decision made by the Department for Work and Pensions is the HMCTS guide - [How to appeal a decision by the DWP](#).

## Appealing to the First-tier Tribunal

Before you can appeal, you must have already asked the Department for Work and Pensions to look at the decision again, using the ‘mandatory reconsideration’ process (see [Challenging a PIP assessment decision – mandatory reconsideration](#)). If you disagree with the outcome of the mandatory reconsideration you can appeal to the First-tier Tribunal. The Tribunal is part of HM Courts and Tribunals Service, and so is independent from the Department for Work and Pensions.

### *Time limits*

You normally need to send your appeal to the Tribunal within **one month** of the date on the mandatory reconsideration letter. It is possible for the Tribunal to extend this time period if there is a good reason (e.g. if the claimant has been ill), but there is no guarantee that an extension will be granted and so you should try and make sure that you submit the appeal within one month.

### *The appeal form*

To appeal against a decision about Personal Independence Payment, Disability Living Allowance or Attendance Allowance you need to complete an appeal form called an **SSCS1**. A guide to help you to complete the form is in [Appendix 1 – Completing an appeal form for the Tribunal](#).

For some benefits, it is possible to complete and submit the appeal form online. At the moment, PIP appeals can be submitted online, and you can find information about the online process on the [Government Website - Appeal a benefit decision](#).

If you are going to be representing the claimant during the appeal process, you should also include your details on the appeal form and the Tribunals Service will then send copies of all correspondence to you.

### *What can the Tribunal do?*

Before you appeal to the Tribunal it is important to understand what powers the Tribunal has and what action it can take. When it deals with an appeal, the Tribunal ‘stands in the shoes’ of the decision-maker at the Department for Work and Pensions. What this means is that the Tribunal will review all of the evidence, and then re-make the decision about whether the claimant is entitled to a disability benefit. This has two very important consequences for the way in which the Tribunal works, which you need to be aware of before you submit an appeal:

- 1) Because the Tribunal is effectively deciding whether the decision-maker made a right or wrong decision, the Tribunal will focus on how the claimant was **at the date of the original decision** by the Department for Work and Pensions. The appeal will be dealt with many months after the original decision, and so the claimant will have to try to remember how they were at the date of the original decision. If the main reason why the claimant is appealing is because their condition has become worse since the date of the original decision, then it may be appropriate to make a new application and be re-assessed. It is possible to make a new application at the same time as making an appeal.
- 2) The Tribunal will be looking at the situation afresh and is not bound by any aspect of the decision-maker’s original decision. This means that the Tribunal could award the claimant the same, less or more than the decision-maker. This is important in appeals where the claimant has been awarded benefit, but thinks the rate awarded is too low (e.g. they have been awarded PIP at the standard rate but believe they should have it at the enhanced rate). If a claimant who has an award appeals, they need to appreciate that, whilst the Tribunal can increase the award, it can also take the award away if the Tribunal feels the decision-maker was wrong to make the award. Usually,

the Tribunal will warn the claimant that their existing award could be at risk before dealing with the appeal.

### *Choosing a Tribunal Hearing*

There are two ways in which Tribunals deal with cases: (i) by just reading the papers; and (ii) by having a hearing where witnesses give evidence. The appeal form will ask the claimant to indicate how they want their appeal dealt with. To help you decide which option is best, you can find more information about **Paper Hearings** and **Oral Hearings** below.

### **Paper Hearings**

It is usually better for a claimant to ask for an oral hearing, so that they can explain to the Tribunal how their health condition or disability affects them day-to-day. If the claimant does not want to attend an oral hearing, then it is possible to ask for the appeal to be decided ‘on the papers’. This means that the Tribunal will make its decision by reading the **appeal bundle**, which is a file of papers prepared by the Department for Work and Pensions containing all of the information that the decision-makers used to make the original decision and the mandatory reconsideration. The Tribunal will then send the claimant a copy of its decision in the post.

Sometimes, where a request has been made for a paper hearing, the Tribunal will write to the claimant and suggest that they attend an oral hearing. If you receive a letter like this, you should do your best to encourage the claimant to attend an oral hearing. If the claimant does not feel able to attend an oral hearing, you might want to ask the Tribunal if a telephone hearing would be possible. This would enable the Tribunal to hear from the claimant, but might be less stressful for the claimant than attending an oral hearing.

### **Oral Hearings**

An oral hearing will usually take place at the Tribunal Hearing Centre closest to the claimant’s home. This section provides some suggestions on how to prepare for an oral hearing, and explains what will happen at the hearing.

### *Before the Tribunal Hearing*

Once the appeal form has been received by the Tribunals Service, the claimant will be sent an Enquiry Form which needs to be returned within 14 days. The Enquiry Form will ask the claimant to confirm that they still want to have an oral hearing, and also whether the claimant needs any special arrangements at the oral hearing (e.g. an interpreter).

At the same time, the Department for Work and Pensions will be told to prepare an appeal bundle for the hearing containing all of the information that the decision-makers used to make the original decision and the mandatory reconsideration decision. When it is ready, a copy of the appeal bundle will be sent to the claimant and the Tribunals Service.

The claimant will then receive a letter from the Tribunals Service, which will state the date, time and venue for the hearing. Usually, the Tribunals Service will give at least 14 days' notice of the hearing date. If the claimant cannot attend the arranged date, you should contact the Tribunals Service immediately in order to ask for the hearing to be postponed. Usually, you will need to apply in writing so that the application can be considered by a Judge. A postponement will only be granted if there is a very good reason, and so you should make every effort to attend the original date.

If the claimant is going to have a professional representative at the hearing, such as a support worker or benefits adviser, you need to give them the date of the hearing as soon as you receive it. It is unlikely that the hearing will be postponed because a representative cannot attend.

If the claimant, or anyone else attending the hearing, would find it difficult to get to the venue (e.g. because they are unable to use public transport) then you should contact the Tribunals Service (0300 123 1142) and discuss your concerns. In some situations, a taxi can be arranged to take the claimant to the hearing and back home again.

Remember that the Tribunal hearing will focus on how the claimant was at the date of the original decision, not how they are at the date of the hearing. Therefore, the

claimant might want to spend some time thinking about whether their condition has changed since the date of the original decision. If it has changed, it might be helpful to make some notes about how things are different as this will help the claimant to explain their condition to the Tribunal at the hearing.

### *Medical records*

Some claimants want the Tribunal to see their medical records, as they believe that this will help the Tribunal to better understand their difficulties. The Tribunal used to have the power to obtain a claimant's medical records, but the situation changed when legislation relating to the General Data Protection Regulation was introduced.

Now a claimant is entitled to ask their General Practitioner to provide them with a copy of their medical records, usually without charge. Therefore, if a claimant wants the Tribunal to have access to their medical records, they will need to obtain the records and provide them to the Tribunals Service **well before** the oral hearing. It is rarely necessary to provide the claimant's entire medical records, and usually the records from one year before the benefits claim to the current date will be sufficient. If the claimant has been referred for any secondary care (e.g. appointments with a hospital consultant), it is important to ask for copies of the secondary care letters/reports as well as the GP's notes.

### *What to take with you on the day*

Bring all relevant papers to the hearing, including the appeal bundle and any additional documents you want the Tribunal to see. Usually, you should send any additional documents to the Tribunals Service in advance of the hearing. If you take lots of further evidence with you on the day, there may not be time for the Tribunal to read it and then have the hearing, and this may lead to the appeal being adjourned.

### *When you arrive at the Hearing Centre*

You should arrive at the Hearing Centre approximately 15 to 20 minutes before the scheduled start time. Therefore, it is important to check beforehand that you know where you are going.

You will need to pass through a security check, and then sign in at the reception desk. You be asked to wait for the tribunal clerk. The clerk will briefly explain the procedure to you, and will usually ask if you want to hand in any more evidence. The clerk will also be able to tell you whether your appeal is likely to begin on time or whether there are any delays (e.g. if a previous hearing has overrun). If you want to claim expenses for attending the hearing, the clerk will be able to tell you what can be claimed and provide you with the relevant form.

When the Tribunal is ready to begin the hearing, the clerk will take you to the hearing room. Tribunal hearings are public, but it is very rare for members of the public to attend. The clerk will tell you if there is going to be anyone in the room other than the members of the Tribunal, and a claimant can always ask for their appeal to take place in private.

### *In the Tribunal Hearing*

Most Hearing Centres are located in office blocks, and the hearing rooms are like large meeting rooms. Sometimes the Hearing Centre is also a court building, and so the hearing room will be more formal and could be a court room.

The Tribunal members will already be in the hearing room. For Personal Independence Payment, Disability Living Allowance and Attendance Allowance Appeals, the Tribunal will consist of three people:

- **Tribunal Judge** - the Judge will be a qualified lawyer (usually a solicitor or barrister) and will chair the Tribunal.
- **Medical Member** - the Medical Member will usually be a doctor, and will provide the Tribunal will specialist advice regarding the claimant's medical conditions.
- **Disability Member** - the Disability Member will be someone with experience of disability, which could come from their professional training (e.g. a disability social worker) or from personal experience as a disabled person.

For some appeals, a **Presenting Officer** will also be present. Presenting Officers work for the Department for Work and Pensions, and will attend hearings to

explain to the Tribunal why the Department made the decisions that it did.

Usually, the clerk will stay in the hearing room for the start of the appeal to check whether the Tribunal members require any additional administrative assistance.

Even if it takes place in a court room, a Tribunal hearing is much less formal than a court hearing. For example, the Judge will not be wearing a wig and gown.

Usually, the Tribunal members will sit on one side of a large table and the claimant (and anyone attending the hearing with them) will sit on the other side.

Appeal hearings typically last around 40 to 50 minutes. The Tribunal members will have read the appeal bundle before the hearing and so will have an overview of the claimant's situation and what the appeal is about. There is no set procedure for an oral hearing, but it is likely that the hearing will include the following stages:

- The Judge will introduce everyone and explain the Tribunal's role. In particular, the Judge is likely to stress that the Tribunal members are independent and do not work for the Department for Work and Pensions.
- Once the Judge has finished, the Medical Member will ask questions to get a clear picture of the main medical conditions the claimant has and how they affect the claimant day-to-day. The Medical Member will usually also ask questions about the claimant's walking and general mobility, and how they manage their medication.
- The Disability Member will then ask questions about the help that the claimant needs with their daily care.
- The Judge will be writing a note of all of the answers given, and may also ask questions of their own.
- The Tribunal will want to hear from the claimant first, to understand how things are for the claimant. However, anyone else who is supporting the claimant at the hearing will be given a chance to tell the Tribunal anything that they think the Tribunal needs to know.
- If the claimant has a professional representative, they will be given an opportunity to put any questions that they have to the claimant once the Tribunal has finished its questioning.

- If a Presenting Officer attends the hearing, they will also be given an opportunity to put any questions that they have to the claimant.
- At the end of the hearing the claimant will be given a final opportunity to add anything else that they want to say.

### *Giving evidence*

Although a Tribunal hearing is a formal process, and may seem daunting, it is not the same as going to court. Everyone will speak in everyday English and will try to avoid legal jargon. Whilst the Tribunal members will ask questions, witnesses do not usually have to take an oath before giving evidence.

It is important that the Tribunal gets an accurate picture of how things are for the claimant, and the following suggestions may help to keep the evidence clear and focused:

- Remember that the Tribunal must look at how the claimant was at the date of the original decision **not** how they are at the date of the hearing. If things haven't changed between the decision and the hearing, then claimants are usually able to explain their situation. However, claimants often want to tell the Tribunal that their situation has become worse since the decision. Whilst this is understandable, it makes it very difficult for the Tribunal to get the information needed to make a decision. Therefore, it is important that the claimant focuses on how they were at the date of the decision.
- If any questions are unclear you should ask for them to be rephrased rather than trying to answer them.
- Do not worry if the Tribunal does not ask questions about everything that you have put in your appeal form, as the Tribunal will focus on the key issues in dispute.
- The Tribunal will usually have to ask some personal questions, but they will try to do this in a sensitive and understanding manner.
- If there are big differences in the evidence (e.g. between the information in the claim form and what the health professional says in the medical assessment), then the Tribunal is likely to ask detailed questions to try and resolve the difference. This does not mean that the Tribunal does not

believe what the claimant has said, but they need to understand any inconsistencies in the evidence.

- If the claimant feels stressed at any point, then you can ask for a short break.

### *The decision*

Once the Tribunal has heard all of the evidence, everyone other than the Tribunal members will be asked to leave the room. The Tribunal members will then have a private discussion to ensure that they have obtained all of the evidence that they need to make a decision.

If the Tribunal needs to ask more questions everyone will come back into the hearing room, and the hearing will resume.

If the Tribunal has all of the information that it needs, then it will either:

- call the claimant back into the hearing room and explain the decision; or
- let the claimant go home and send the decision in the post.

Sometimes claimants assume that if they are told that the decision will be sent in the post, this means they have lost their appeal and that the Tribunal does not want to give them ‘bad news’ face-to-face. This is not the case. Tribunals usually have to deal with several appeals each morning and afternoon. Therefore, it is not unusual for decisions to be sent in the post as otherwise hearings can run very late.

If the Tribunal does give the decision on the day, the claimant will also be sent a written decision notice in the post. The Department for Work and Pensions will also be sent a copy of the decision, and if the claimant has won their appeal the Department will make the changes to the claimant’s benefit and arrange to pay any ‘back money’ due.

### **Appealing to the Upper Tribunal**

If the appeal to the First-tier Tribunal is unsuccessful, it is possible to apply for permission to appeal to the Upper Tribunal. Before you can do this, you need to obtain a **Statement of Reasons** from the Tribunals Service. The Statement of Reasons will be written by the Tribunal Judge, and will explain why the Tribunal

reached its decision. Information about how to get a Statement of Reasons will be in the letter that is sent to the claimant with the Tribunal's decision.

Appeals to the Upper Tribunal can only be made on specific grounds, and you cannot appeal to the Upper Tribunal simply because you disagree with the First-tier Tribunal's decision. General information about the process is available on the Government Website: Appeal to the Upper Tribunal.

Even if a claimant successfully appeals to the Upper Tribunal, the Upper Tribunal will usually set aside the First-tier Tribunal's decision and ask a new Tribunal to re-hear the appeal. Therefore, if the claimant was partly successful in their appeal (e.g. they have been awarded the daily living component of PIP but not the mobility component), the Upper Tribunal will usually set aside the whole award and ask a new Tribunal to start again from scratch. Whilst the new First-tier Tribunal might decide to award the claimant more, it could also decide to award the claimant nothing and so the claimant could lose the award they received from the previous Tribunal.

As making an appeal to the Upper Tribunal is complex, legal aid is still available. Therefore, before appealing to the Upper Tribunal it would be sensible for the claimant to seek legal advice. The Law Society has a Find a Solicitor search engine that will enable you to locate a local solicitor who specialises in welfare benefits claims.



### Key Information and Resources:

#### Tips for representing yourself at a Tribunal Hearing

**1. Take your time** - When asked questions about your condition, take your time answering. If you do not understand the question, then ask for it to be repeated or re-phrased. If you begin to feel stressed or upset, then ask for a break.

**2. Answer the questions as clearly and honestly as you can** - It can be hard to talk about your medical problems and the help that you need. It is a good idea to plan what you would like to say to the Tribunal beforehand. You can practice what you want to say by writing it down and then speaking it out loud at home. Always remember that you must focus on how you were at the date of the original decision. You could also write down the main points that you want to raise and give them to the Tribunal as a written submission.

**3. Give specific examples** - If the Tribunal asks you to describe things such as your '*typical day*' it can be hard to explain, as the way you feel may change day-to-day. You could try explaining what you can do on a good day and what you do on a bad day, and how often the bad days occur.

**4. Take a family member or friend with you for support** - You can take somebody to the Tribunal with you. They can just attend to provide you with support, or they can help you at the hearing (e.g. by reminding you of things that you may forget). If the person knows how your conditions affect you, then the Tribunal may ask them to provide evidence to help the Tribunal to reach its decision.

## Appendix 1 – Completing an appeal form for the Tribunal

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To appeal against a decision about Personal Independence Payment, Disability Living Allowance or Attendance Allowance you need to complete an appeal form. In Wales, England and Scotland, you need to use SSCS1 (Notice of Appeal). (In Northern Ireland Form NOA1(SS) is used.) Remember that you cannot appeal to the Tribunal unless you have been through the mandatory reconsideration process (see [Challenging a PIP assessment decision – mandatory reconsideration](#)).

The appeal form is usually completed by hand and posted to HM Courts and Tribunals Service. If you are appealing a Personal Independence Payment decision, you can also submit your appeal online using the [Government Website - Appeal a benefits decision](#).

As the main way that people complete the SSCS1 is still by hand, this guide takes you through the requirements of each Section of the form to help you understand the information that is needed.

### Getting started

Before you start to complete the form, you will probably find it useful to:

- make some notes about why you disagree with the Department for Work and Pensions' decision;
- have a copy of the mandatory reconsideration letter as you will need information from that letter;
- if you have a representative (e.g. a Citizens Advice caseworker) make sure you have their contact details.

Use **black ink** and **BLOCK CAPITALS** to fill the form in.

## Section 1 – About the decision you are appealing against

This is about your mandatory reconsideration letter.

### Section 1 ABOUT THE DECISION YOU ARE APPEALING AGAINST

This section is about your **mandatory reconsideration notice**. This is the letter sent to you by DWP explaining that they have looked at your decision again.

Does your **mandatory reconsideration notice** tell you that you have the right to appeal against the decision?

☐ Yes ☐ No

If No, please ensure you have read the section 'Can I Appeal?' in the booklet SSCS1A 'How to appeal against a decision made by the Department for Work and Pensions' before continuing with this form.

Please tick this box to confirm that you have attached a copy of the **mandatory reconsideration notice** with your appeal form.

☐

Please write here the **name of the benefit** you are appealing about. The name of the benefit will be shown on the letter giving you the decision.

**Remember to include a copy of your mandatory reconsideration notice with your appeal form. If you do not do so, we will be unable to register your appeal until this is provided.**

In this Section you need to:

- Tick the 'Yes' box to indicate that you have the right to appeal (*if you have been refused Personal Independence Payment, Disability Living Allowance or Attendance Allowance, or you have been awarded less benefit than you think you are entitled to, then you will have the right to appeal*).
- Tick the box to show that you are sending a copy of the mandatory reconsideration letter with the appeal (*if you have lost your mandatory reconsideration letter, you need to contact the Department for Work and Pensions to request a copy*).
- Write the name of the benefit you are appealing about in the box (*either Personal Independence Payment, Disability Living Allowance or Attendance Allowance*).

## Section 2 – About you

This is about the personal details of the person making the appeal.

**Section 2 ABOUT YOU**

Fill in this section if the decision you are appealing against is about **your** benefit or the benefit of a person **you** have been appointed by DWP or a court to take care of. If you are appointed by DWP or a court to take charge of another person's benefit, you should also record **their** details in Section 3.

☐ Mr   ☐ Mrs   ☐ Miss   ☐ Ms   ☐ Other (please specify)

First name(s)

Address

Postcode

Daytime phone number


Mobile phone number

Surname

Date of birth (DD/MM/YYYY)

National Insurance number\*  
letters numbers letter

\* If you are appealing on behalf of a child or other person and you have provided their National Insurance number in Section 3, you do not need to provide your own National Insurance number.

Now go to Section 3 

If you are supporting someone with a learning disability to make an appeal, they are the claimant. Therefore, it is the personal details of the person with a learning disability that should be included in this Section.

If you have been made an appointee (see *Becoming an appointee*) then your personal details go in this Section, and the personal details of the person with a learning disability go in Section 3.


If the appeal is about Disability Living Allowance for a child, the details of the parent or other person making the claim go in this Section, and the child/young person's details go in Section 3.

## Section 3 – About a child or other person you are appealing for

You only need to complete this section if you are an appointee or if the appeal is about Disability Living Allowance for a child.

### Section 3 ABOUT A CHILD OR OTHER PERSON YOU ARE APPEALING FOR

This section is for people who are making an appeal on behalf of someone they have a legal responsibility for. This might be a parent acting for a child or a person who has been appointed by DWP or a court to look after the affairs of another adult.

Are you appealing on behalf of a child or other person whose affairs you have been appointed to take care of? ☐ Yes If Yes, please tell us about the person below ☐ No If No, please go to Section 4 

☐ Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other (please specify)

First name(s)

Surname

Address (if the person's address is different from your own)

Date of birth (DD/MM/YYYY)

National Insurance number

letters	numbers	letter
<input type="text"/>	<input type="text"/>	<input type="text"/>

Postcode

Now go to Section 4 

If you are an appointee, the personal details of the person with a learning disability that you are supporting go in this Section.

If the appeal is about Disability Living Allowance for a child, the child/young person's details go in this Section.

## Section 4 – About your representative


This is about the contact details for someone who has agreed to formally help you with the appeal (e.g. a Citizens Advice caseworker or a local authority benefits adviser).

### Section 4 ABOUT YOUR REPRESENTATIVE (If you have one)

This section is about your representative (if you have one).

By representative we mean someone acting on your behalf in a formal capacity. This might be an organisation like the Citizens Advice Bureau or a welfare rights service or it may be a friend or advisor who knows about social security matters. If you name a representative here and give your signature at Section 8, this will authorise us to deal with your representative about your appeal. If you are unsure about this, please read the section 'About Your Representative' in the guidance booklet SSCS1A.

Do you have a representative?

- ☐ Yes If Yes, please tell us about the person below  
☐ No If No, please go to Section 5 

Name of organisation or of person representing

Phone number

Address

Postcode

If you are being represented by an organisation and you know the name of the person acting on your behalf, please tell us below

☐ Mr ☐ Mrs ☐ Miss ☐ Ms ☐ Other (please specify)

First name

Surname

If you have arranged to have a representative, you need to include their contact details here. Before you complete this Section, it is important to check that the person you are going to nominate has agreed to act as your representative, as HM Courts and Tribunals Service will send information about your appeal to the person whose details you put in this Section.

## Section 5 – About your appeal

This is where you set out details about why you are appealing.

**Section 5 ABOUT YOUR APPEAL**

**Grounds for appeal**  
In this section we need to know why you are appealing. Please write down in your own words the reasons why you disagree with DWP's decision. You do not have to use BLOCK CAPITALS in this section if your handwriting is clear. If you do not complete this section this will delay dealing with your appeal and the appeal form may be returned to you. For more information on grounds for appeal please refer to the 'About Your Appeal' section of the guidance booklet SSCS1A.

(If necessary, continue on a separate sheet)

**Is your appeal in time?**  
According to the law, your appeal **must be received by the tribunal** no later than **one calendar month** after the date the **mandatory reconsideration notice** was sent to you. If your appeal is received after this date, it is a late appeal and the tribunal will need to know why it is late.

Is your appeal late?

☐ Yes If Yes, you must give reasons below why your appeal is late

☐ No If No, please go to Section 6 |||||➡

If your appeal is late, you must give an explanation why. The tribunal will consider your reasons and can extend the time limit for you. If you do not give reasons why your appeal is late your appeal form may be sent back to you. Please tell us below why your appeal is late. You do not need to use BLOCK CAPITALS.

The Department for Work and Pensions has the right to object to a late appeal. The tribunal will consider any objection they make and we will let you know the outcome.

Now go to Section 6 |||||➡

This Section asks you about two things:

1. the Grounds for Appeal; and
2. Is your appeal in time?

The **Grounds for Appeal** is where you explain why you do not agree with the decision that you are appealing against. To help you write your Grounds you may find it useful to think about the following:

- Your reasons do not have to be lengthy or written in legal language, but you need to say more than just, “I disagree”.

- You should explain why you think the decision is incorrect. One way to do this is to go through the mandatory reconsideration letter and list all the things you disagree with and why.
- It can be useful if you say what level of benefit you think you should have been awarded.
- If you cannot fit everything into the Grounds for Appeal box, then you can use a continuation sheet (remember to put the claimant's name and national insurance number on any extra pages).
- You can attach extra evidence that you feel may support the appeal (e.g. a GP's letter).

Some people write detailed letters, setting out everything they want to say when they ask for their mandatory reconsideration. If you have set out all the points that you want to make previously, you can enclose a copy of your letter requesting mandatory reconsideration and just write something like “*See attached letter requesting mandatory reconsideration*” in the Grounds for Appeal box.


The **Is your appeal in time?** question is checking whether the appeal has been submitted within the time limit. If you are submitting the appeal within one month of the date of the mandatory reconsideration letter, you can just tick the ‘Yes’ box. If your appeal is not within one month, you need to tick ‘No’ and then explain why it has not been possible to appeal within a month (e.g. if the claimant has been in hospital).


## Section 6 – About your choice of hearing

This is about whether you want a paper hearing or an oral hearing.

### Section 6 ABOUT YOUR CHOICE OF HEARING

Appeals are considered by an independent panel. We will make arrangements for your appeal to be heard by the panel and you or your representative will be expected to attend the hearing. If, however, you do not wish to attend a hearing you can ask for your appeal to be decided on the papers. Please tell us below how you would like us to deal with your appeal.

I want to attend a hearing of my appeal ☐ If you have ticked this box, please go to Section 7 

I want my appeal decided on the papers ☐ If you have ticked this box, please go to Section 8 

If you change your mind about this, you must tell us as soon as possible as it may be too late to change this once the hearing has been arranged. For more information, please refer to the 'About Your Choice of Hearing' section in the guidance booklet SSC51A.

The Tribunal deals with appeals in two ways: (i) by just reading the papers; and (ii) by having an oral hearing where witnesses give evidence. The Tribunal usually finds it helpful to hear from claimants face-to-face, but some claimants find the thought of an oral hearing to be very daunting. To help you decide which option is best, and you can find more information about **Paper Hearings** and **Oral Hearings** in Part 4 of the toolkit.

## Section 7 – The hearing (Your needs and requirements)

You only need to answer these questions if you have decided that you would like an oral hearing for your appeal.

**Section 7 THE HEARING — YOUR NEEDS AND REQUIREMENTS**

You only need to answer these questions if you told us in Section 6 that you wanted to attend a hearing. If you have asked for your appeal to be decided on the papers, please skip this section and go straight to Section 8.

In this section we need to ask you a number of questions to help us arrange a suitable hearing for you. We will try to accommodate your needs and availability, but it may not always be possible to do this. Please answer questions 1 to 4 to give us the information we require. If you do not answer some of the questions we will have to contact you again and this may delay your appeal. You do not have to answer these questions using BLOCK CAPITALS.

**Question 1 – Your availability**

Tribunal hearings are held Monday to Friday from 10am to 5pm and in our larger hearing centres also on Saturday. To allow you to attend your hearing, we will try to arrange a time and date in line with your availability. It is important that you tell us here if there are any days of the week or times of the day when you **cannot** attend a tribunal or any dates when you are unavailable because of things like booked holidays and hospital appointments. You should consider your availability for the six months ahead.

Are you available to attend a hearing at any time? ☐ Yes ☐ No If No, please tell us when you cannot attend in the box below

**Question 2 – Your needs**

Please tell us here about any special needs you may have which we need to take into account when arranging your hearing. This might be things such as hearing loops or disability access.

Do you have any special needs? ☐ Yes If Yes, please tell us about this in the box below ☐ No

**Question 3 – Your signer or interpreter and language requirements**

Do you require an interpreter or signer to assist you at the hearing? ☐ Yes If Yes, please tell us the language and dialect required below ☐ No

Language or type of sign language interpreter  Dialect

We will arrange for a professional interpreter to be present at the hearing. Please refer to the section 'Completing form SSCS1' in the guidance booklet SSCS1A for more information about interpreters.

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**Question 4 – Your notice of hearing**

We will usually give you at least 14 days' notice of the date of the hearing. If you agree, we can also give you less than 14 days' notice. This may allow the hearing to be arranged more quickly if, for example, another hearing is cancelled and yours can replace it at short notice.

Do you agree to receiving less than 14 days' notice of a hearing? ☐ Yes ☐ No

Now go to Section 8 ➡

This Section is about the arrangements for the appeal hearing:

- **Question 1** is about whether there are any dates and times to avoid when arranging the oral hearing. If you have any important appointments to attend (e.g. medical assessments), you should include the dates here. Similarly, if your medical condition makes it difficult for you to attend at certain times explain why (e.g. “my condition means that I need a lot of support to get ready in the morning, and so a hearing in the afternoon would be better”).

- **Question 2** is about whether you need any special help to be able to participate in the oral hearing (e.g. use of an intermediary to help understand the process).
- **Question 3** is about whether the claimant needs an interpreter to enable them to understand the hearing.
- **Question 4** is about short notice hearings. Usually, you will be sent at least 14 days' notice of an oral hearing. Sometimes the Tribunal will have extra hearing slots, which become available at short notice (e.g. because another appeal has to be postponed). If you are happy for your appeal to be given a short notice slot, if one is available, then tick the 'Yes' box. However, only do this if you are really sure that you would be able to deal with the appeal taking place quickly (e.g. at 24 hours' notice).

## Section 8 – Your signature

### Section 8 YOUR SIGNATURE

You must sign your appeal form for it to be valid. If you have named a representative in Section 4, your signature will also give HMCTS your authority to deal with them when they contact us on your behalf.

Signature

Date (DD/MM/YYYY)

Name

If you are a representative signing this form on behalf of the person who is appealing, you must send their signed authority for you to act on their behalf with this form.

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The appeal form has to be signed and dated. If the form is not signed and dated HM Courts and Tribunals Service will return it to you and the appeal will be delayed.

The form must be signed and dated by the person whose details are in Section 2, which means:

- If the claimant's details are in Section 2, they must sign and date Section 8.
- If Section 2 has been completed by an appointee, or by a person claiming Disability Living Allowance on behalf of a child, then that person must sign and date Section 8.

## What to do now

This Section includes a checklist to make sure that all the main parts of the appeal form have been completed, and you need to tick the four boxes to confirm that:

- You are sending a copy of the mandatory reconsideration letter with the appeal.
- You have completed the Grounds for Appeal.
- You have picked either a paper hearing or an oral hearing.
- The correct person has signed and dated the form.

The appeal form, a copy of the mandatory reconsideration letter and any additional evidence then need to be sent to:

<p>If you live in <b>England or Wales</b> send your appeal to:</p> <p>HMCTS SSCS Appeals Centre PO Box 1203 BRADFORD BD1 9WP</p>	<p>If you live in <b>Scotland</b> send your appeal to:</p> <p>HMCTS SSCS Appeals Centre PO Box 27080 GLASGOW G2 9HQ</p>
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It is a good idea to keep a copy of everything you send, as things can get lost in the post. If you are including extra evidence, then only send a copy of these documents and keep the originals yourself.

## Additional Resources

The following websites contain useful information (*Ctrl + click to follow each link*):

Organisation	Website
<b>Advicenow</b> <i>(Website with advice for dealing with a range of legal problems, including welfare benefits claims. Provides an online tool to help you write a mandatory reconsideration request letter.)</i>	<b>Home Page:</b> <a href="https://www.advicenow.org.uk/">https://www.advicenow.org.uk/</a>  <b>Letter tool:</b> DLA - <a href="https://www.advicenow.org.uk/dla-tool">https://www.advicenow.org.uk/dla-tool</a> PIP - <a href="https://www.advicenow.org.uk/pip-tool">https://www.advicenow.org.uk/pip-tool</a>
<b>Age UK</b> <i>(Provides a range of advice and support for older people, which includes information on a range of benefits including Attendance Allowance.)</i>	<b>Home Page:</b> <a href="https://www.ageuk.org.uk/">https://www.ageuk.org.uk/</a>  <b>Benefits Advice:</b> <a href="https://www.ageuk.org.uk/information-advice/money-legal/benefits-entitlements/">https://www.ageuk.org.uk/information-advice/money-legal/benefits-entitlements/</a>
<b>C-App</b> <i>(Free online tool to help you prepare for your PIP medical assessment. The tool allows you to practise answering the sort of questions you will be asked in the assessment.)</i>	<b>Home Page:</b> <a href="http://www.pip-assessment.support/#main-menu">http://www.pip-assessment.support/#main-menu</a>
<b>Citizens Advice</b> <i>(Provides information and online resources on the full range of welfare benefits and tax credits.)</i>	<b>Home Page:</b> <a href="https://www.citizensadvice.org.uk/benefits/">https://www.citizensadvice.org.uk/benefits/</a>
<b>Disability Rights UK</b> <i>(This website has a number of free factsheets you can download. It offers information about benefits, tax credits, social care and other disability-related issues for claimants and advisers.)</i>	<b>Home Page:</b> <a href="https://www.disabilityrightsuk.org/about-us">https://www.disabilityrightsuk.org/about-us</a>
<b>Independent Age</b> <i>(Provides a range of advice and support for older people, which includes information on a range of benefits including Attendance Allowance.)</i>	<b>Home Page:</b> <a href="https://www.independentage.org/">https://www.independentage.org/</a>  <b>Benefits Advice:</b> <a href="https://www.independentage.org/information/money/benefits">https://www.independentage.org/information/money/benefits</a>

<b>Law Centres</b> <i>(Law Centres are staffed by solicitors and barristers who can provide free legal advice and representation on civil law cases including welfare benefits.)</i>	<b>Home Page:</b> <a href="https://www.lawcentres.org.uk/">https://www.lawcentres.org.uk/</a>
<b>Law Works</b> <i>(Charity which supports solicitors and other lawyers to provide free legal advice, and includes a directory of law clinics - some of which provide support with benefits appeals)</i>	<b>Home Page:</b> <a href="http://www.lawworks.org.uk/">http://www.lawworks.org.uk/</a>  <b>Advice Clinic search:</b> <a href="https://www.lawworks.org.uk/legal-advice-individuals/find-legal-advice-clinic-near-you">https://www.lawworks.org.uk/legal-advice-individuals/find-legal-advice-clinic-near-you</a>
<b>Motability</b> <i>(Charity which provides subsidised leasing for cars, mobility scooters and powered wheelchairs.)</i>	<b>Home Page:</b> <a href="https://www.motability.co.uk/">https://www.motability.co.uk/</a>
<b>Scope</b> <i>(Advice and support for disabled people, which includes a telephone helpline.)</i>	<b>Home Page:</b> <a href="https://www.scope.org.uk/">https://www.scope.org.uk/</a>  <b>Helpline:</b> 0808 800 3333
<b>Sense</b> <i>(Advice and support for disabled people to access health and social care support, including a range of welfare benefits advice.)</i>	<b>Home Page:</b> <a href="https://www.sense.org.uk/">https://www.sense.org.uk/</a>  <b>Welfare Benefits support:</b> <a href="https://www.sense.org.uk/get-support/information-and-advice/welfare-benefits/">https://www.sense.org.uk/get-support/information-and-advice/welfare-benefits/</a>
<b>uTurn2us</b> <i>(Provides a free online benefits calculator and grants search tool to help you find out what financial help you are entitled to.)</i>	<b>Home Page:</b> <a href="https://www.turn2us.org.uk/Get-Support">https://www.turn2us.org.uk/Get-Support</a>
<b>Welfare Rights Units</b> <i>(These give free advice and support on benefits. Some can also help with completing claim forms and appealing benefits decisions. Contact your local council to find out if they have a Welfare Rights Unit.)</i>	To find your local council visit: <a href="https://www.gov.uk/find-local-council">https://www.gov.uk/find-local-council</a>

**Westminster Government**

*(On Gov.uk website there is information on how to make a claim for disability benefits, including eligibility criteria, payment rates and step-by-step guidance on mandatory reconsideration.)*

**PIP:** <https://www.gov.uk/pip>

**DLA:** <https://www.gov.uk/disability-living-allowance-children>

**Attendance Allowance:** <https://www.gov.uk/attendance-allowance>

For More Information you can contact Mencap WISE on:

**0808 8000 300** (Monday to Friday, 9 a.m. – 5 p.m.)

Or

e-mail: [information.wales@mencap.org.uk](mailto:information.wales@mencap.org.uk)



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