



PLP GUIDE SERIES

Making a social security appeal



The Public Law Project (PLP) is a national legal charity which aims to improve access to public law remedies for those whose access to justice is restricted by poverty or some other form of disadvantage.

Within this broad remit PLP has adopted three main objectives:

- increasing the accountability of public decision-makers;
- enhancing the quality of public decision-making;
- improving access to justice.

Uniquely for an organisation of its kind, PLP undertakes research, policy initiatives, casework and training across the range of public law remedies.

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1. Introduction to Tribunals in social security cases

This guide is intended for individuals who are attending the First-Tier Tribunal for an appeal against a decision taken about a benefit. There is also a short section on appeals in the Upper Tribunal.

This guide may be updated from time to time. It is not to be construed as legal advice. This guide is also best read with or alongside Upper Tribunal Judge Edward Jacobs' guide to ['The Basics of Tribunal Representation'](#).

This guide is not intended to replace the advice and expertise of a suitably qualified and experienced representative that you may have. The intention is to provide some broad guidance, in plain language, about appeals in social security cases. A glossary of terms is at the end.



2. Decisions and reconsiderations

Your decision letter should have a date on it, and there should be a section explaining what your options are if you are not happy with the decision. You will have one calendar month to request a mandatory reconsideration (MR) of the decision if you want the decision changed. You can do this over the phone, but it is better to put the request in writing – you may want to rely on your letter if the case gets to a Tribunal, for example.

Mandatory reconsiderations are essentially internal reviews of decisions. The intended purpose of them is to reduce the need for Tribunals to hear appeals, for example by providing decision-makers with a chance to correct mistakes or consider further evidence that may be relevant.

When requesting reconsideration, you should send in a copy (keep the originals and at least one other copy) of any further evidence you want the decision-maker to see, such as medical letters, school reports etc. You must remember to put a date on your MR request letter, and it is sensible to ask for proof of posting from the Post Office when you send it. If you are claiming Universal Credit and have an online account, you should be able to make your MR request there.

There is no time-limit on how long the DWP or HMRC have to respond to a request for a reconsideration. Waiting periods of four weeks or more are regrettably common. Seek advice if you are worried about how you will manage if there is a delay. It is recommended that you follow up with the relevant public body if you have not heard from them four weeks after your request was made. Keep a record of any phone calls or letters you send.

A word of warning: in the majority of cases, the reconsideration will uphold the original decision without changing it. Try not to be discouraged if this happens. Statistics from the Ministry of Justice show that a high proportion of appeals brought to the First-Tier Tribunal are successful. This means it is often worth lodging an appeal, although it is recommended that you seek advice before doing so if possible.

Please note that you don't need to ask for mandatory reconsideration if you're appealing a decision about Housing Benefit - you'll need to appeal to the local council that made the decision. The council will then review your appeal and, if the decision is not changed, will forward it to the Tribunal for you.



3. Lodging an appeal with the First-Tier Tribunal

When your mandatory reconsideration letter comes back to you, make sure you note the date of the letter. You will have one calendar month to lodge an appeal with the Tribunal.

Depending on which department made the decision, you will need to use a specific form, which can be found online [here](#). The forms themselves are fairly simple and explain which documents and information you need to include, but you should seek advice if you are not sure what to do.

You can include extra pages if you run out of space in the boxes in the form, for example if you need more space to explain the reasons you are appealing and why you think the decision and reconsideration were wrong. You can also include further evidence (e.g. medical documents).

When you complete your appeal form, you can choose whether you want an oral hearing or for your case to be decided on the papers. It is normally better for your chances of winning to request an oral hearing, particularly for appeals about disability benefits.

You can also request an interpreter to attend the hearing if you need one. The Tribunal will book one for you. Family members or friends will not be permitted to translate for you. If applicable, make sure to include the dialect that you are most comfortable with.

If more than one month has passed since the date of your mandatory reconsideration letter, you can still lodge your appeal, although you will have to explain why your appeal is being sent late. Make sure you give reasons. There is a separate box on the appeal form for doing this.

There is also a page on the form where you can tell the Tribunal about your needs on the day, such as whether you will need assistance with using stairs or a disabled accessible toilet. You may also wish to use this section to alert court staff to any medical conditions that you think they should be aware of.

It is also important that you indicate on the form any dates that you know about that you are not available to attend a Tribunal hearing. You may also wish to indicate any preferred times of the day for your hearing, for example if you have caring responsibilities, or if the nature of your condition or medication means you are more likely to manage better at certain times.



4. The Tribunal and the Procedure Rules

Depending on the subject of your appeal, the Tribunal panel will be made up of the following people:

For DLA, AA and PIP appeals, there will be three people on the panel – a judge, medical member (usually a doctor) and a lay disability member.

For ESA and Universal Credit (LCW/LCWRA), and Industrial Injuries Disability Benefit, there will be two people on the panel – one judge, and one medical member.

All other appeals are heard by a judge sitting alone, including appeals about right to reside, habitual residence and eligibility, Jobseeker's Allowance (including sanctions), and tax credits cases.

The Tribunal's procedure is governed by Rules. They are designed to allow the Tribunal to manage cases fairly and justly. They give the Tribunal a very wide range of case management powers to do this, including (but not limited to):

- Deciding on adjournments and postponements;
- Hearing issues on a preliminary basis, if necessary, such as legal questions;
- Make directions about documents and other evidence, for example making an order for a document to be put before the Tribunal;
- Make directions about the hearing bundles; and
- Extend or shorten the time for complying with rules or directions.



5. What to expect before your appeal

After lodging the appeal form, you should receive a letter from the Tribunal acknowledging receipt of your form. This normally comes after a few days. This letter will have your appeal reference number on it. It will also have the address of your Tribunal's administrative centre and the phone number to call if you need to ask a question about your case.

You should expect to receive your appeal papers about a month after this acknowledgement letter. When you receive them, they should have numbered pages, and include a copy of your appeal form, the original decision letter, and the mandatory reconsideration letter.

When you receive your appeal papers, make sure everything you want the Tribunal to see is in the bundle, such as medical documents. If something is missing, it is better to send everything you want seen as soon as you can. Send copies rather than originals to the address shown at the top of any letters from HMCTS. Include a cover letter with your name, appeal reference

number, National Insurance Number and address shown clearly. If you can, it is better to send all of your further documents in one go, as this will make it easier for HMCTS to organise them for the judge.

The next step will be that the Tribunal will arrange a hearing for you, if you have asked your appeal to be heard orally. Unless you have indicated on your appeal form that you are happy to have an appeal at short notice, you should otherwise have at least two weeks' notice before your appeal date. HMCTS will write to you with the date, time and venue.

When you have received your notice, have a think about how you will get to the venue. For example, if you need to book a taxi because you have difficulty using public transport, try to do this as far in advance as possible. Speak to the Tribunal if you need help with this as they may be able to cover your fare in advance. Otherwise, make sure you keep your receipts from any taxis used or tickets bought. If you need help with travelling expenses, you can fill out a claim form at the venue to ask HMCTS to reimburse you.



6. Evidence

It is usually a good idea to include further evidence when you make your claim, when requesting a reconsideration, and when lodging your appeal. The kind of evidence you need will depend on what benefit you are claiming and what is in the decision letters.

For example, if you are appealing against a decision taken on your ESA or PIP claim, you might want to organise some medical evidence, such as GP records, appointment letters, medical reports, supporting letters from medical professionals, or a record of your prescriptions.

Other kinds of appeals will require different types of evidence. For example, if you are an EEA national and you need to establish your work history, it may be useful to have your CV, payslips from previous jobs, and/or bank statements.

If the kind of evidence you need is likely to be held by the DWP or HMRC, you may want to consider making a subject access request. This is the procedure by which you can ask a department for a copy, or sometimes a summary, of information held about you. It requires completing a short form with some details about the information you are requesting. It can take a few weeks for your information to arrive, so if you need to make a subject access request, try and take this step as early as possible.



7. ‘Paper hearings’

If you decided when lodging your appeal that you would prefer not to attend a hearing, you can request your appeal to be decided on the papers. The Tribunal will make its decision in your absence, and will then notify you of its decision.

If you want your case decided on the papers it is advisable to send all of your evidence with the appeal form. If more evidence is to follow, or if you are waiting for something to be sent to you, include a cover letter stating when you intend to send your evidence.

You will still get sent the decision-maker’s response, and you can send evidence and arguments in reply to that. You must provide your reply within one month of the date you were sent the response from the decision-maker.

Note that even if you have asked for one, you won’t always have a paper hearing if requested. If the other side have requested an oral hearing, or if the Tribunal decides that the appeal can only be dealt with fairly and justly by having an oral hearing, then an oral hearing will be arranged.



8. What to expect on the day of your hearing

Make sure you have all of the papers in the appeal, including the appeal bundle and any additional documents you want the Tribunal to see that haven't already been sent in, such as further evidence or written submissions. If you have brought lots of further evidence, be aware that the Tribunal may need time to read it, and may decide to postpone or adjourn your hearing in order to allow the other side to respond or comment.

Try to aim to arrive 15 to 20 minutes before the scheduled start time. You will need to sign in at the reception desk. You will then be asked to wait and will be greeted by a clerk, who will remind you about the procedure of the hearing and ask you if you want to hand in any more evidence.

Most hearings last between 30 and 45 minutes. The hearings are intended to be relatively informal compared to other types of appeal. It will usually take the form of the judge and the other panel members asking you questions. If there are particular legal issues that need to be discussed, these are sometimes dealt with at the beginning. You will also be given an opportunity to make additional statements or representations.

The Tribunal will remind you that they are independent from the original decision-maker and that they are impartial. Their task is to take an inquisitorial, fact-finding approach, although some appeals may involve more legal arguments and discussion.

Occasionally, the department that made the decision in your case may send a presenting officer to the hearing to represent the department, ask you questions, and make representations.

The Tribunal may decide your appeal immediately after the hearing, or they may tell you that they will send their decision in the post.



9. Appeals to the Upper Tribunal

When you receive your decision, if you are unhappy with the outcome, you have one month to request a document called a ‘statement of reasons’. This is a longer version of the decision that the Tribunal made with more detailed reasoning. You can also request a ‘record of proceedings’, which is a copy of the judge’s notes made during the hearing.

Once you have received the statement of reasons, you have one month to apply for permission to appeal on an error of law. You should seek advice about taking this step. This could include an appeal based on the way that the Tribunal has interpreted the relevant law, or about the process and procedure of your hearing.



Resources and suggestions for further help

- [Public Law Project](#)
- [Citizens Advice Bureau](#)
- [Free Representation Unit \(FRU\)](#)
- [Turn2Us](#)
- [Law Centre Network](#)
- [Trussell Trust](#) – for information about food banks
- [The Pavement](#) – for information about local services and charities (for rough sleepers)
- [Child Poverty Action Group \(CPAG\)](#) for advisers in welfare benefits, text books
- [Shelter](#)
- [Z2K](#) – London based advice service
- [AIRE Centre](#) – for right to reside/habitual residence cases

Lasa webtools:

- www.wcainfo.net
- www.pipinfo.net
- <https://universalcreditinfo.net>
- advice.local.uk
- revenuebenefits.org.uk



Glossary

Attendance Allowance – AA – a non-means-tested benefit for people with disabilities who have attention or supervision needs, and who are aged 65 or over when they claim.

Adjournment – where the Tribunal effectively pauses your appeal without having made a final decision. An example of when an adjournment might be necessary could be when further evidence is needed.

Disability Living Allowance – DLA – a non-means tested benefit for people with disabilities who need help getting around, and/or with supervision or attention needs.

Employment and Support Allowance – ESA – a means-tested, out-of-work benefit, essentially what you can claim if you are unable to work because of illness, injury or disability.

First-Tier Tribunal – part of the court structure of the UK. The Tribunal has different ‘chambers’ to deal with different kinds of cases. Benefits are dealt with by the Social Entitlement Chamber. Appeals from the First-Tier Tribunal are dealt with by the Upper Tribunal.

Industrial Injuries Disablement Benefit – IIDB – a non-means-tested benefit, which you can claim if you are disabled as a result of an accident at work or a disease caused by your job.

Mandatory reconsideration – internal reviews of decisions carried out by the DWP and HMRC. You must have received your mandatory reconsideration notice before you can appeal to the First-Tier Tribunal.

Personal Independence Payment – PIP – a non-means-tested benefit for adults with disabilities who have difficulty getting around and/or with daily living activities.

Public body – there are many public bodies of various kinds who take decisions every day which affect the lives of thousands of individuals. They include government ministers and departments, local authorities, the prison service, NHS Trusts, coroners’ courts and many more.

Universal Credit – UC – a means-tested benefit for people on a low income who are in or out of work. UC is being introduced gradually and replaces other benefits in areas where it has been rolled out.

Upper Tribunal – UT – part of the court structure of the UK. Decisions from the Upper Tribunal are binding on the First-Tier Tribunal. Benefits cases are dealt with by the Administrative Appeals Chamber. Appeals from the Upper Tribunal are dealt with by the Court of Appeal.



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