What to do if you disagree with a decision on your Disability Living Allowance (DLA)

This factsheet tells you what you can do if you want to challenge a DLA decision. It gives you advice about the stages involved, how to provide information and the appeal hearing.

New appeal rules have been introduced for some DWP benefits, like DLA, on decisions made on or after 28 October 2013. This factsheet firstly explains these new rules, followed by the earlier appeal rules. After that, there is general advice such as getting supporting information and the tribunal hearings.

An important note about challenging decisions that award you some DLA

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

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

New rules for challenging DLA decisions made on or after 28 October 2013

There are two stages:

Stage 1. Mandatory Reconsideration (review)
If you are unhappy with a decision about your DLA that was made on or after 28 October 2013, you first have to ask the DWP to reconsider their decision. This is called a ‘mandatory reconsideration’. Your request has to arrive within one month of the date of the decision. Extension of this time limit may only be possible in limited circumstances. The DWP should ring you to discuss your request. You can provide further information at this and each stage. See ‘supporting information’ below. You will then receive a ‘mandatory reconsideration notice’ letter, including how to appeal.
Stage 2. Direct Lodgement (appeal)
If you are unhappy with this ‘reconsideration’ decision, you can then appeal direct to the Tribunals Service (HMCTS) on form SSCS1. They are independent of the DWP. Your appeal has to arrive at the tribunal service within one month of the date of the decision. Extension of this time limit may only be possible in limited circumstances. Send it by First Class post and allow at least two days for it to get there. You should ask for a "proof of posting" from the Post Office. You can get the form ‘SSCS1’ form from the DWP, an advice agency or the tribunal service website www.justice.gov.uk/forms/hmcts/sscs.

Some points on completing the SSCS1:

- You must enclose with it the DWP mandatory reconsideration letter.
- Section 4 ‘Representative’. Do not assume that an organisation will represent you just because it has helped you in the past. You must check with them. If they do agree to, you must keep them informed of any changes or letters you receive.
- Section 5 ‘Grounds for appeal’. We suggest you say:
  “I wish to appeal because I feel that your decision under-estimates the difficulties that I have looking after myself and/or getting about. I have already provided some details in my DLA claim form. I would like an independent tribunal to look again at your decision. I request a copy of any medical assessment.”
- Section 6. If you choose to attend a hearing, you will be sent a date.
- If your appeal contains further or new evidence the DWP should look again at its decision.

If the DWP does not change its decision, the appeal process will continue. See “What happens after I appeal?” below

More details on these new challenging rules:

Rules for challenging DLA decisions made before 28 October 2013

The following rules apply if you wish to make a challenge against a decision on your DLA that was made before 28 October 2013.

Revision

A revision (sometimes called a “reconsideration”) is where (if you choose to) you can ask the office that made the decision to look at it again. You can make this request
over the phone or in writing. The address and telephone number of the office that made the decision will be on the decision letter. You will need to tell them why you feel the decision is wrong.

If you make the request by phone you should keep a note of the time and date of the call and the name of the person you speak to. If you make the request in writing you should keep a copy of your letter and also obtain proof that you posted it. The Post Office will provide you with “proof of posting” free of charge if you take your letter to the Post Office counter.

Please ensure that your revision request is received within one month of the date of the decision letter that you wish to challenge. A revision request outside that time is possible in limited circumstances.

If you are not happy with the revision decision, you can appeal it.

**Appeal**

An appeal is where you ask the Tribunals Service (HMCTS) to change the decision, whether it be the original decision or the revision decision. An appeal must be in writing. The standard appeal form is called a GL24. It is available from Jobcentres, or you can phone the number on your decision letter to ask for a GL24. You can also download one from this website: [www.dwp.gov.uk/docs/gl24dwp.pdf](http://www.dwp.gov.uk/docs/gl24dwp.pdf)

The time limit for making an appeal is very strict. The office that sent you the decision must receive your appeal within one month of the date on the decision letter. If the date on the decision letter is 8 January then the deadline for the appeal is before 8 February. Send it by First Class post and allow at least two days for it to get there. You should ask for a “proof of posting” from the Post Office.

Where you have requested a revision or an explanation for the decision it is sometimes possible to extend the one month time limit for appealing. However, you are strongly advised to make sure your appeal is received within one month even if, at that point, you are still waiting to hear about a revision request you may have also made or you are still waiting to receive an explanation for the decision.

**How do I complete the appeal form (GL24)?**

You must include the following information in your appeal form:

- The name of the benefit you are appealing, “DLA”

- The date of the decision you are appealing, is the date of the decision letter.

- Whether you have a representative. Do not assume that an organisation will represent you just because it has helped you in the past. You must check that your proposed representative agrees to represent you in this DLA appeal.
The reason(s) why you think the decision is wrong. It is enough to write:
“I wish to appeal because I feel that your decision under-estimates the difficulties that I have looking after myself and/or getting about. I have already provided some details in my DLA claim form. I would like an independent tribunal to look again at your decision”

There is no need to repeat your DLA claim form answers in your appeal form. If you cannot remember what you wrote in your DLA claim form you can request a copy of it from the office that sent you the decision. However, you should ensure your appeal is received within one month of the date of the decision you are appealing even if, at that point, you are still waiting to receive a copy of your DLA claim form. As long as your appeal is made in time, you can always send additional information in later.

Advice about appeals on decisions made *before and after 28 October 2013*

What happens after I appeal?

The Department for Work and Pensions (DWP) office that you sent your appeal to should write to you to confirm that it has received your appeal.

If the DWP does not change its decision, it will send you a bulky set of appeal papers which will include its response to your appeal. You may wait several months before you receive the appeal papers.

You will also be sent an ‘enquiry form’ which you should complete and return within 14 days in the supplied pre-paid envelope. It is important that you understand the following before you complete it:

- you have a far better chance of winning your appeal if you can attend in person at a tribunal hearing.

- you should not assume that an organisation such as the Welfare Rights Service will represent you, even if they have represented you in the past. You should not list them as your representatives on the form unless you have checked with them first and they agree to represent you.

- if you have a representative you should not assume that they can attend a hearing at less than 14 days’ notice even if you can. You should also ask your representative for any dates within the next six months when they are unavailable to represent you and you should include those dates on the form together with any dates within the next six months when you are not available to attend a tribunal, e.g. hospital appointments, holidays.

- You can ask for a domiciliary hearing. See below
Supporting information

You can ask your GP to provide a letter confirming your medical conditions and medication and whether he/she can confirm any of the difficulties you say you have with getting about and looking after yourself. You could also ask for a letter from anyone else helping you, such as a support worker, CPN, hospital doctor, physiotherapist, health visitor. Such evidence is very helpful. Your own evidence (for example what you wrote in your claim form or what you tell the tribunal in your own words) can be sufficient for the tribunal to allow your appeal, provided it is believable and not exaggerated.

The tribunal can only consider your daily living and mobility needs at the date of the DLA decision which you are appealing and not after. Therefore, you should ask that any supporting evidence relates to your situation at that time, not later.

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

Where does the tribunal take place?

Normally the tribunal hearing is held at Manor View Manorview House, Kings Manor Newcastle upon Tyne NE1 6PA. Phone 0300 123 1142

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

At the tribunal hearing

The tribunal panel consists of three members comprising a lawyer, a doctor and a lay person who has experience of disability needs. Sometimes, the DWP may send a Presenting Officer whose job it is to explain to the tribunal why the decision was made rather than to defend the decision. The tribunal is not a contest between you and the DWP. Instead, the tribunal is a discussion about your difficulties, including any help you need, in which you are expected to fully co-operate with the tribunal and answer their questions honestly. The tribunal is skilled at spotting when someone is exaggerating their problems. Consequently, there is a risk that you could lose an appeal, even if you have a strong case, if the tribunal feels you are exaggerating.

The tribunal can only consider your daily living and mobility needs at the date of the DLA decision which you are appealing and not after. You will find that date on the front page of the appeal papers where it states “date of decision:” The tribunal is not interested in whether your difficulties have increased or decreased after that date. Nevertheless, they may ask you whether, at present, you are better, worse or about
the same compared to the date of the decision you are appealing. If you are better or worse, the tribunal cannot take that into account, but it would have to remind you when you answer their questions to cast your mind back to how you were at the date of the decision. If, however, your condition is about the same now as it was then, you can simply answer the tribunal’s questions based upon how you are now, i.e. because there has been no change in your difficulties. That is often helpful to the tribunal.

And think carefully before you say you are “a lot” worse now compared to the date of the decision you are appealing! If, for example, you have said in your DLA claim form that you have lots of difficulties, it would be hard for you to be a lot worse than that. Of course, you must be honest with the tribunal but, obviously, if you tell the tribunal you are a lot worse now it is perfectly reasonable for the tribunal to assume that you must have been a lot better at the date of the decision. And it’s only the date of the decision which the tribunal is interested in! You could harm your chances of winning by stating that you are a lot worse now without considering whether you really are that worse overall.

**After the tribunal hearing**

You will often receive the tribunal’s decision at the end of the hearing. Otherwise it will be sent to you by post.

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

If you disagree with the tribunal decision, you should read the information sheet that came with the tribunal’s decision. That tells you how to challenge the decision. You can also get one from the Tribunal Service. The first step is to write to the Tribunal Service (same address as above) requesting the tribunal’s reasons for its decision. Your letter should include your name and your national insurance number. Your request for reasons must be received within one month of the date that you were sent the tribunal decision.

If you disagree with the tribunal’s reasons, you can request leave to appeal by writing to the Tribunal Service. A tribunal decision can only usually be challenged ‘on a point of law’. This can include many reasons, such as not understanding the tribunal’s reasons for its decision. Your letter therefore could include: “I would like to appeal because the tribunal has not adequately explained in its reasons why it dismissed my appeal”. You should include other reasons why you believe the tribunal got the law wrong. Remember to quote your national insurance number in your letter. Your request must be received by the Tribunal Service within one month of the date that you were sent the reasons. The Tribunal Service will normally write to you within a few weeks and probably refuse your request for permission to appeal. You should not be disheartened by this because a refusal at this stage is normal. Its letter should enclose a form called a UT1 together with notes on how to complete it. To continue with your appeal you must complete the UT1 and send it to the Upper Tribunal whose address can be found at the end of the UT1 form. Your reasons for
appealing will be the same as before, such as the tribunal did not adequately explain why it dismissed your appeal. Your completed UT1 form should be received by the Upper Tribunal within one month of the date of the letter that refused you permission to appeal. The Upper Tribunal can overturn the result of your tribunal if it agrees with you or if it finds some other error of law in the tribunal's decision.

### Personal Independence Payment

Personal Independence Payment is replacing DLA. New claims cannot be made for DLA. It would be a claim for PIP instead. At some stage in Newcastle, existing DLA claimants will be told they have to claim PIP.

**Find out more about PIP:**
- [www.newcastle.gov.uk/welfarerights](http://www.newcastle.gov.uk/welfarerights)
- [www.gov.uk/pip](http://www.gov.uk/pip)

### Need more advice?

**DWP DLA contact details:**

Disability benefits helpline
- [dcpu.customer-services@dwp.gsi.gov.uk](mailto:dcpu.customer-services@dwp.gsi.gov.uk) (if you’re 16 or over)
- [midlands-dbc-customer-services@dwp.gsi.gov.uk](mailto:midlands-dbc-customer-services@dwp.gsi.gov.uk) (if you’re under 16)

Telephone: 08457 123 456
Textphone: 08457 224 433
Monday to Friday, 8am to 6pm


**Disability Rights UK:**
- [http://www.disabilityrightsuk.org](http://www.disabilityrightsuk.org)

**Find your nearest advice service in Newcastle and more about DLA:**
- [www.newcastle.gov.uk/welfarerights](http://www.newcastle.gov.uk/welfarerights)