

DLA RECONSIDERATIONS & APPEALS

This fact sheet has been written by parent carers for parent carers



If your child's claim for Disability Living Allowance (DLA) is turned down, or you don't get the result you expected, don't give up. Over 50 per cent of decisions are overturned when you ask another decision maker to look at the claim again, and over 80 per cent of appeals are successful.

You can also ask for a review if you are receiving the benefit at a lower rate and your condition alters and you need more help, or if the decision was correct at the time but circumstances have changed.

Be aware though, the Department for Work & Pensions (DWP) can look at any part of the award again, even a part you are happy with. So it's important to seek advice before asking for a decision to be looked at again.

If you are not happy with the DLA decision

Wait for the Decision Notice. If you have rung the DWP to chase an outcome, and are disappointed, wait for the Decision Notice. This outcome letter will explain what to do next if you do not agree with a decision and the date by which you need to reply. It's important to stick to timescales. You need to alert the DWP that you wish to challenge a decision within a month of the date on the letter.

Contact DWP quickly to find out more. The Decision Notice may help you understand how the DWP has made its conclusions. Equally, it may leave you feeling more perplexed and frustrated. Often a Decision Notice has far too little detail so you will need to find out more. The first thing to do is contact the DWP. You can do this over the phone but it's hard to know just how accurately what you say will be recorded, so we think it's best to follow up your call with a letter.

Ask for a Written Statement of Reasons. When you ring the DWP, you should ask for a Written Statement of Reasons that sets out in more detail how the DWP arrived at their decision. When you do this, you get an extra two weeks on top of the month from the date of the first decision, to tell the DWP that you disagree with some part, or all of the decision.

Request copies of the claim and evidence submitted. If you did not keep a copy of the claim, when you ring, ask for a copy of this and ask that everything you've submitted so far as evidence, as well as any extra reports requested by the DWP, is sent to you.

Do your research. While you are waiting for the DWP to respond, take time to be clear on the rules of entitlement for each rate of both the care and mobility components of DLA. Our companion factsheet *Tips for Claiming DLA* (see below) is a great place to start.

Asking for a Mandatory Reconsideration

It may be that having done your research into how rates are awarded, and seen the DWP's reasoning in the Written Statement, you are now satisfied that your child's DLA award is fair.

If you believe a decision is unfair, however, now is the time to ask for a Mandatory Reconsideration. This is when another decision maker looks at your child's claim and all the evidence again.

Again, stick to timescales. But remember you only need to ring DWP to request a mandatory reconsideration. You can follow up your request in a detailed letter a bit later.





Making your case

Make use of the Written Statement of Reasons; our experience is that many are poorly written and frustrating to read to the point that you might almost imagine they are written about another child. Nevertheless, going through this point by point, can help you structure your response.

Say what it is that you do not agree with and why. It may be that you feel you should be entitled to a different rate of either the mobility or daily living component, or both. Or maybe you disagree with the length of the award.

Check they had all your supporting evidence: if it is hard to be sure whether the first decision maker had access to all the evidence you submitted, be clear to say this and resend it all to them again.

Draw on your existing evidence and send more. Make reference to evidence you have already submitted. If you have any new evidence, make use of that to strengthen your argument and send that in too. When you outline your reason for disagreement it can help to prompt the new decision maker by signposting them with a phrase like 'This is consistent with information in... his EHCP, her ASC assessment, his physiotherapy report, her sleep diary,' as you make each point. Always draw on whatever evidence is most relevant.

If the decisionmaker has misquoted an advice giver or has used a small part of the evidence, for example, a short phrase, out of context, make this clear.

Point out mistakes in the application of the rules of entitlement. If you believe the decision maker has misapplied the rules of entitlement, explain where the misunderstanding or the mistake has been made.

Use special delivery. When you have written your Mandatory Reconsideration request letter and have collated another set of evidence, to be sure it all arrives safely, we advise posting this by Special Delivery.

The DWP has 13 weeks to look at the claim again. But they may take much less time: so let them know if you need more time to gather extra information.

Your right to appeal a DLA decision only arises once a different decision maker has reviewed all the information and you have the outcome in writing. Hopefully, the first decision will be revised in your favour, and you won't need to go to appeal. If it isn't, all is not lost!

Whether or not the decision is changed, you will get a Mandatory Reconsideration Notice. If you are not happy with the decision, you will need this to appeal.

Once you have a Mandatory Reconsideration Notice you now have one calendar month to submit your appeal. See the appeals section below.

Appeals

Appeals are made directly to an independent Tribunal. You will need to fill in an SSCS1 Notice of Appeal. You can download this from the gov.uk website or by ringing the DWP on 0800 121 4600 to get one posted out.

Say clearly what part of the decision you disagree with and why. You may already have stated your reasons in your reconsideration request, so include this again with the form and send in your supporting evidence. Be sure to keep a copy of everything. Send it back within the timescale, ideally by Special Delivery.



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In our experience it can be worth sending DWP a copy of your Appeal submission with a brief letter explaining that you are doing this as a matter of courtesy. This gives DWP another informal opportunity to change their decision.

You will get a pre-hearing questionnaire. It's best to opt for a face to face hearing, as your chances of an outcome in your favour are much greater if you do. You do not need to take someone like a solicitor with you. Experience of DLA appeal tribunals tells us claimants and their supporters are generally best placed to 'tell it how it is'.

If you don't want to attend in person, you can submit an appeal in writing or send a representative to act on your behalf. But if you have a campaigning spirit and find it easy to speak from the heart, it's worth doing it yourself. Our experience is that the Tribunal panel are well prepared, well informed and fair.

If you have any more or new supporting evidence, send it in at least a week before the hearing If you only get a report the day before, take it with you and explain about this - the Tribunal understands that you might have waited a long time for an assessment. In our experience the Tribunal panel will accept evidence on the day.

Remember, the Tribunal will want to know how things were at the time you put in the claim. Appeals can take a year to be heard, so make time to read through your 'bundle' of papers several times. What's important is how things were at the time you made the claim so take the time to refresh your memory. This doesn't mean new evidence won't be taken into account.

Time limits for reviews and appeals are short so always get advice as quickly as possible.

If you are on a very low income, Money Advice Plus or the Citizen's Advice may be able to help you with an appeal. You can look up sources of help at the library or your local authority website.

Ask about

- **Support from Amaze** - Amaze can give you advice on making DLA claims. Alongside our fact sheets, we have more detailed resources to help you write about your own child's specific needs. If you have extra challenges, we may be able to offer you practical support with completing your DLA form. Call Amaze on 01273 772289 or email sendiass@amazesussex.org.uk
- **Support from your health visitor or social worker:** they may be able to help with the form.
- **Citizen's Advice** can give help with benefits claims. Call 08082 787815 (Brighton & Hove) or 03444 111 444 (East Sussex). Or visit www.cabrightonhove.org or www.citizensadviceeastsussex.org.uk
- **DLA Benefits helpline** - call 0800 121 4600 for general help and advice on DLA
- **HARC (Hastings Advice and Representation Centre) Benefits Advice Line** - If you live in Eastbourne, Hailsham, Seaford, Hastings or Rother you can get free advice and support from PIP application to appeal. Call 0333 344 0681 or their general advice line on 01424 428375.
- **Money Advice Plus** can offer advice and support with debt and benefits. Call 0808 196 3699 (Brighton & Hove) or 01323 635999 (East Sussex) or visit www.moneyadviceplus.org.uk
- **SCDA (Sussex Community Development Association) Community Advice Team** - advice on benefits and money for anyone living in East Sussex. Call 01273 516032 or email enquiries.info@sussexcommunity.org.uk
- **Transport help** - You may be able to get a Blue Badge or a disabled parking bay outside your





house. Visit www.brighton-hove.gov.uk/parking-and-travel/parking/blue-badge-scheme-and-disabled-parking or www.eastsussex.gov.uk/social-care/blue-badges. Or you may use the mobility component of your PIP or DLA award to lease a car or scooter via the **Motability** scheme. Call 0300 456 4566 or visit www.motability.co.uk

Further reading and useful links

- **'Tips for Claiming DLA?'** – Download this companion Amaze fact sheet at <https://amazesussex.org.uk/resources/fact-sheets>
- **Disability Living Allowance (DLA) overview** – <https://www.gov.uk/disability-living-allowance-children>
- **Contact** - online advice about DLA - <https://contact.org.uk/help-for-families/information-advice-services/benefits-financial-help/benefits-and-tax-credits/disability-living-allowance/>

