

Benefit Disputes and Appeals

Information Guide 15: For Residents and Advisers

10th April 2024

www.wolverhampton.gov.uk

1. Introduction

A decision made by:

- the Department for Work and Pension
- HM Revenue and Customs
- a Local Authority

on a person's benefit entitlement may normally be altered / disputed by way of a supersession, mandatory reconsideration and / or appeal.

Put simply, a **Supersession** is what a person should ask for if they are seeking to get a decision made on their benefit entitlement altered because their circumstances have changed since the decision was made.



Whereas a **Mandatory Reconsideration** is normally what a person need ask for if they want the decision made on their benefit entitlement to be looked at again because they do not agree with it.

Finally, if a person is dissatisfied with a decision made on their benefit entitlement, then they can ask for an **Appeal** whereby the matter would be looked at and decided upon by a First-tier Tribunal.

Department for Work and Pension (DWP): Universal Credit, Pension Credit, Disability Living Allowance, Personal Independence Payment, Attendance Allowance, Carer's Allowance, New Style JSA, New Style ESA, Income-based JSA, Income-related ESA and Income Support

HM Revenue and Customs (HMRC): Child Tax Credit, Working Tax Credit, Child Benefit and Guardian's Allowance

Local Authority (LA): Housing Benefit and Council Tax Support



In most situations, before being able to **Appeal** against a decision there must be a **Mandatory Reconsideration** of that decision.

Therefore, if a person asks for a **Supersession** of a benefits decision and they are not happy with the outcome then they may be required to ask for a **Mandatory Reconsideration** before they can **Appeal** against the decision in question.

In principle, once a benefit decision is made it cannot be disturbed / altered by means other than **Supersession, Mandatory Reconsideration** or **Appeal**. Look at it as though once a decision is made it is placed in a black box which is then locked. It can, in effect, only be changed by a relevant change of circumstance relevant to that benefit, a person asking for the decision to be looked at again or upon a ruling by a First-tier Tribunal.

These rules apply when either a claimant or DWP/LA/HMRC wishes to revise a decision favourably or adversely. The only real exception to this principle is in the case of Personal Independence Payment whereby the rules allow the DWP to look at a decision again (i.e. take it out of the black box) for 'any reason' and at 'anytime' providing it has first obtained a new medical report by a Healthcare Professional on the person's daily living / mobility needs. But even in these situations the key for unlocking the box (i.e. the grounds for a **Supersession**) is the actual obtaining of the fresh medical report.

It is, therefore, clear that a benefit decision cannot be altered to a person's favour or detriment whenever either the DWP or the person involved would like it to be.

2. Supersession

A **Supersession** is what a person should ask for if they are seeking to get a decision made on their benefit entitlement altered - perhaps to increase or reduce the amount of benefit paid - because their circumstances have changed since the decision in question was made.

There is no actual time limit for requesting a **Supersession**. However, a **Supersession** will normally only take effect from the date it is requested.

Example One: Emily is getting Attendance Allowance at the lower rate due to her day-time care needs. She has now developed night-time care needs. This now means that she should be getting Attendance Allowance at the higher rate. Emily will need to ask for a **Supersession** to get the original decision made on her Attendance Allowance award superseded by a new decision - one which reflect her current level of entitlement.



If, however, a person is slow to report a change of circumstance which would result in them getting more benefit then the DWP can go back up to 12 months and pay any arrears of benefit owing from this date providing there is a good reason for the person's failure to report the change sooner than they actually did. If a person was slow in reporting a change of circumstance which resulted in them getting less benefit (not more benefit) then the DWP would not carry out a **Revision** (not a **Supersession**) and the effects of the **Revision** would take effect from the actual date of the change in circumstances and enable the DWP to seek to recover any overpaid benefit from the date the actual change in circumstances took place.



A **Supersession** can be requested in writing or over the phone. If a person is not happy with the outcome of a **Supersession**, then they may challenge the decision by way of asking for **Mandatory Reconsideration** and after this by lodging an **Appeal** against the decision.

3. Mandatory Reconsideration

A **Mandatory Reconsideration** is what a person would ask for if they wanted to ask the DWP/LA/HMRC to look at a benefit decision again because they think it is wrong and they wish to dispute/challenge it.

The normal time limit for requesting a **Mandatory Reconsideration** is one month (see below and also Time Limit on page 4) from the date of the decision letter/decision notice.

In DWP/HMRC cases the one-month time limit can be extended by 14 days if a person asks for a written explanation (which was not already included in the decision letter or given at a later date) of the decision which they are seeking to dispute/ challenge. If the DWP/HMRC do not respond to a request for written reasons within 1 month then the person will be given a further 14 days from the date the written explanation is provided. In the case of LA decisions when calculating the one-month time limit the period between when a written statement of reasons requested has been made and the date upon when the reasons are provided is disregarded.

The time limit for asking for a **Mandatory Reconsideration** can be further extended by 12 months if a person was late in making the request and they have a 'good reason' (some 'special circumstance') for the delay. In demonstrating 'good reason' a person must explain why it was not practical for them to have asked for the **Mandatory Reconsideration** sooner.

Also, the longer the delay the 'the more compelling' should be the good reason. Up until recently if the DWP did not think that there had been sufficient 'good reason' then no **Appeal** could be made against the original decision. This is because the DWP will have refused to carry out the necessary **Mandatory Reconsideration** and, as stated, the rules provide that a person may not lodge an **Appeal** against a decision unless there has first been a **Mandatory Reconsideration**.

However, in test case [\[2018\] AACR 5](#) (unreported *R(CJ) and SG v SSWP (ESA)* - [2017] UKUT 324 (AAC)) the Upper Tribunal held that this practice was wrong because it effectively meant that the DWP became the gatekeepers to an **Appeal** in such situations. The Upper Tribunal ruled that if a person's **Mandatory Reconsideration** was late and the DWP refused to conduct a **Mandatory Reconsideration** because it considered that the person did not have a 'good reason' then the person should still have a right to **Appeal**. In such cases the person should submit an **Appeal** explaining that the DWP have refused to undertake **Mandatory Reconsideration**. It will be for the First-tier Tribunal to decide whether the person had 'good reason' and to ultimately determine the dispute in question.

A **Mandatory Reconsideration** will normally take effect from the date of the claim/the date on which the decision in question was made with arrears of any unpaid benefit being payable from this date.



A **Mandatory Reconsideration** can be requested in writing or over the phone. If a person is not happy with the outcome of a **Mandatory Reconsideration**, then they may challenge the decision by way of **Appeal**.

Example Two: Sandra's claim for Personal Independence Payment has been refused by the DWP. Sandra thinks the decision is wrong. Sandra thinks that due to the difficulties she has with her personal care and mobility she should qualify. Sandra can ask for a **Mandatory Reconsideration**. This will result in the DWP looking at the original decision again taking into account both the information that was originally available and any new information which has since been submitted.

Example Three: Habib has claimed Universal Credit. The DWP held that he had 'limited capability for work' but not 'limited capability for work-related activity'. This meant that they he would be expected to engage in 'work-focused interviews' and 'work-related activity' (LCWRA). It also meant that he would not be paid the 'limited capability for work-related activity element' worth up to £390.06 per week. Habib thinks this decision is wrong. He thinks that given his poor health he should have been assessed as having LCWRA. Habib can ask for a **Mandatory Reconsideration** of the decision made by the DWP on this matter. This will result in the DWP looking at the original decision again taking into account both the information that was originally available and any new information which has since been submitted.

This can happen in the case of Personal Independence Payment where, for example, the DWP refuse to award either the 'daily living component' or the 'mobility component' but then following an appeal revise the original decision and award the 'daily living component' but not the 'mobility component'. In such a case, if the person wanted to pursue entitlement to the 'mobility component' then they would have to submit a fresh appeal.



It could also happen in the case of an overpayment where the DWP/LA/HMRC undertake to reduce (but not remove altogether) the amount of an alleged recoverable overpayment after an appeal has been lodged. Do seek further information and advice as necessary.



Time Limit: Note that in some situations it is possible to ask for a **Mandatory Reconsideration** at any time. For example, in cases involving a sanction decision or a case involving an 'official error' (i.e. one where the DWP have clearly applied the law wrongly or ignored specific evidence). Further, the DWP/LA/HMRC may decide to carry out a **Mandatory Reconsideration** after an **Appeal** has actually been lodged if it is considered that the decision was indeed flawed. The law allows this as a means of saving the cost and resources of the appeal going ahead. In these cases, the DWP/LA/HMRC's new decision would replace the decision that was the subject of the appeal. However, do note that should the DWP/LA/HMRC only partially revise the decision in question in the person's favour then any appeal against the original decision would lapse and the person would need to make a fresh appeal against the new decision if they remain dissatisfied with the outcome.

4. Appeal

If a person is not happy with a decision, they can **Appeal** to an independent First-tier Tribunal. However, as explained in 3. Mandatory Reconsideration, before being able to **Appeal** against a decision there must normally have been a **Mandatory Reconsideration** undertaken on it.

The idea of this is that it gives the DWP another chance to correct any defect at this point, dispensing with the need to actually go to **Appeal**.

Moreover, please be aware that in [R \(Connor\) v SSWP \[2020\] EWHC 1999 \(Admin\)](#) the High Court ruled that in the case of Employment and Support Allowance and the Work Capability Assessment that if a person would qualify for a payment of ESA 'pending appeal' the person could make an application for an **Appeal** without having needing to go through the **Mandatory Reconsideration** process.

An **Appeal** must be made in writing using a SSCS1 appeal form or it must be made online. See 5. SSCS1 Appeal Form and Online Appeals on page 5.



The time limit for requesting an **Appeal** is one month starting from the date of the **Mandatory Reconsideration** - the date on the decision letter/Mandatory Reconsideration Notice. This time limit may be extended by 14 days where a person has requested (within one month of the date of the decision letter/notice) a written explanation of the decision.

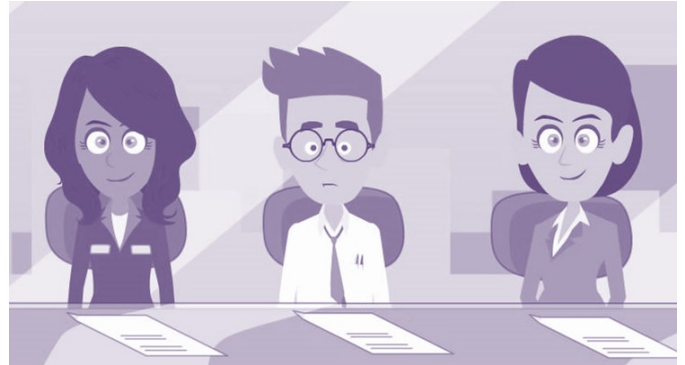


The time limit for an **Appeal** can be extended by 12 months (so the overall time limit becomes 13 months from the date of the decision plus 14 days where written reasons for the decision have been requested) by a First-Tier Tribunal Judge providing the appellant asks for a late **Appeal** and the DWP/LA/HMRC do not object.

Should the DWP/LA/HMRC object then a First-Tier Tribunal Judge can nonetheless extend the time limit providing they consider that it would be 'fair and just' to do so.

Normally an **Appeal** would be heard by a Judge (a qualified lawyer) sitting alone. However, if the **Appeal** is connected to whether the person should be treated as though they have 'limited capability for work' and/or 'limited capability for work-related activity' for Universal Credit/Employment and Support Allowance then the **Appeal** would be heard by a tribunal made up of a Judge and a doctor.

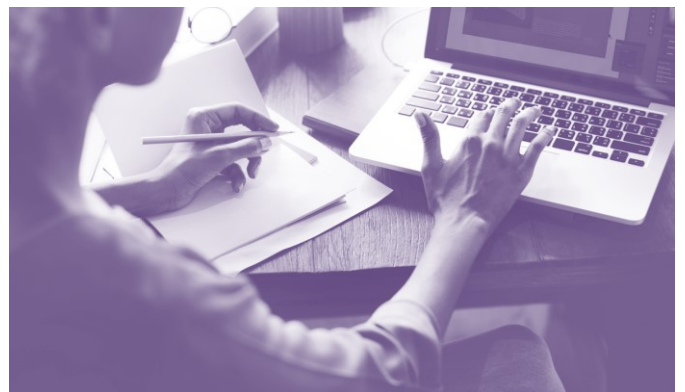
If the **Appeal** is connected to Personal Independence Payment, Disability Living Allowance or Attendance Allowance then it would be heard by a tribunal of three - a Judge, a doctor and a disabled member. The disabled member would be someone who is disabled or someone who has experience of working with people with disabilities.



5. SSCS1 Appeal Form and Online Appeals

An **Appeal** can be made online or by completing and submitting an SSCS1 appeal form.

People can lodge an **Appeal** online in the case of most benefit decisions including decisions pertaining to **Personal Independence Payment (PIP)** and **Universal Credit (UC)**. See this [LINK](#). The online form follows the design of the SSCS1 appeal form (see below) and the information that needs to be provided is much the same.



The online form starts by asking the person to select (from a drop-down list) the benefit involved in their **Appeal**, and for the appellant's postcode.

The form goes on to seek information essentially confirming that a **Mandatory Reconsideration** has been carried out which is necessary in DWP/HMRC cases. At this point it would be helpful to have a copy of the Mandatory Reconsideration Notice at hand. This is because, whilst when appealing online, you do not need to submit a copy of the Mandatory Reconsideration Notice the appellant must provide details of the date of the notice and in the case of a PIP **Appeal** the 'Personal Independence Payment number' on the notice and in the case of an ESA **Appeal** details of the DWP office which is shown on the notice.

From this point it asks the appellant if they want to be kept informed about important events concerning their **Appeal** by text messages, details of their representative (if they have one) and the reasons why they are appealing. Thereafter, the online form asks about the dates that a person might be unable to attend their **Appeal** (if they elect to attend) and what support the person would need were they to be attending the **Appeal** hearing e.g. an interpreter/disabled access.

The SSCS1 appeal form (see this [LINK](#)) is a Her Majesty's Courts and Tribunal Service (HMCTS) form designed for use by people who wish to make an **Appeal** against a decision relating to their benefit entitlement. The form is fairly straightforward to complete.



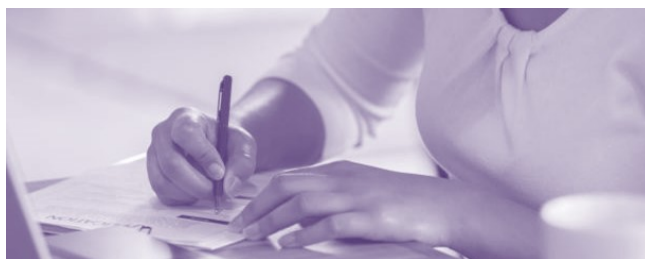
The part of the SSCS1 appeal form that people often find hardest to complete is the part which asks for their 'grounds for appeal'. Put simply a person's 'grounds for appeal' are the reasons why they disputing/appealing the decision.

Depending on the nature of **Appeal** some examples of what could be entered here are:

- "I believe that due to my disability and the way it impacts on me I am entitled to Personal Independence Payment. My disability causes me problems with things like cooking and dressing. It also causes me problems with getting about."

- "I think the DWP were wrong to refuse me Employment and Support Allowance. I have been in poor health now for some years. I do not think that the DWP have fully considered how my ill-health impacts on me when assessing my entitlement to this benefit."

- "I do not think that I should have been sanctioned. I accept I did not attend my Work-focused Interview. However, I had a good reason for this. I did not attend because..."



When submitting the SSCS1 appeal form the appellant will need to attach a copy of the Mandatory Reconsideration Notice from the DWP/HMRC as proof that a **Mandatory Reconsideration** has taken place. If the appellant does not have this, do not delay. Send off the SSCS1 appeal form.

The person can always send in a copy of the Mandatory Reconsideration Notice at a later date. If the Mandatory Reconsideration Notice has been mislaid, then a copy should be obtained from the DWP/HMRC.

If there is no Mandatory Reconsideration Notice because the DWP/HMRC have refused to undertake a **Mandatory Reconsideration** or because the **Appeal** concerns the Work Capability Assessment, then the person should explain this on the SSCS1 appeal form.

Once completed, the SSCS1 appeal form should be returned to HMCTS Benefit Appeals PO Box 12626 Harlow CM20 9QF. It is advisable, if possible, to send important documentation like the SSCS1 form by recorded delivery so it can be tracked. It may also prove helpful to keep a photocopy of the completed SSCS1 for reference.

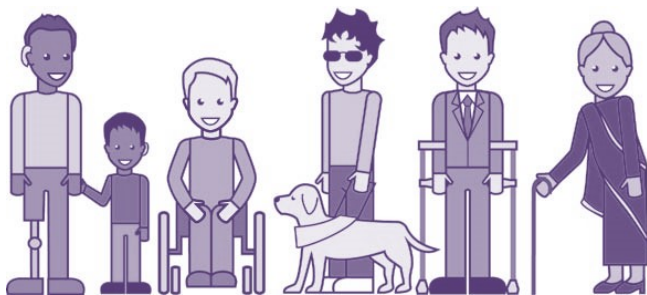
Please do not forget that in DWP/HMRC cases before a person can make an **Appeal** they must first have been through the **Mandatory Reconsideration** stage.

Tax Credits and Child Benefit Note: In **Appeals** concerning Child Tax Credit, Working Tax Credit or Child Benefit cases then a **SSCS5 appeal form** (not a SSCS1 appeal form) will need to be completed. See this [LINK](#) to obtain a copy of the form.

Whilst an **Appeal** can be made against most types of decisions made by the DWP/LA/HMRC there are some decisions against which an **Appeal** may not be made. In these cases, a person may still ask for a **Mandatory Reconsideration**. Do seek further information and advice where necessary.

6. Important

The outcome of a **Supersession, Mandatory Reconsideration** or **Appeal** is not always certain. Please be aware that in the case of Personal Independence Payment, Attendance Allowance and Disability Living Allowance a person could end up getting less money than they started with. Whilst this is rare, it can happen if new information or evidence comes to light during the process that leads the DWP or First-tier Tribunal believing that the person's disability and difficulties are less than were first thought. If there is an award in payment then it is best to be sure of the grounds for the **Supersession, Mandatory Reconsideration** or **Appeal** before embarking on any action which seeks an increased award.



Also, do not forget that anyone of 'working age' who requests a **Supersession** of their Disability Living Allowance will be assessed for Personal Independence Payment not Disability Living Allowance.

7. Housing Benefit

The provisions of **Supersession, Mandatory Reconsideration** and **Appeal** explained herein apply similarly to decisions made on Housing Benefit entitlements.



One key difference, as highlighted, is that you do not need to ask for a **Mandatory Reconsideration** before making an **Appeal** application. Also, the **Appeal** should not be made directly to the HMCTS. Any Housing Benefit **Appeal** should instead be sent directly to the local council - the Housing Benefit office who made the decision.

8. Council Tax Support

A person can ask for a **Supersession** of their award if their circumstances have changed in order to ensure that they are not being overpaid or underpaid in consequence.



A person may ask for a **Mandatory Reconsideration** if they want the council to look at their award again because they think there is something wrong with the way their entitlement has been calculated. A decision on Council Tax Support may also be challenged by way of an **Appeal** which would be decided by a 'Valuation Tribunal'. The time limit for an **Appeal** is one month. A late **Appeal** request may be allowed if there is good reason why it was not made in time.

9. Tax Credits

Child Tax Credit and Working Tax Credit are administered by HM Revenue and Customs (HMRC).

Since 6th April 2014, as with DWP benefits, a person must first request a **Mandatory Reconsideration** of a decision which they dispute before they can **Appeal**. A **Mandatory Reconsideration** can be made in writing or requested on the telephone.

The time limit for a **Mandatory Reconsideration** in the case of tax credit decisions is 30 days (not one month).

A late **Mandatory Reconsideration** can be accepted if there is some good reason ('special circumstance') which meant that it was not practicable for the request to have been made in time.



Any late **Mandatory Reconsideration** request must be made within 13 months of the date of the decision which is the subject of dispute.

As in the case with most HMRC decisions, there must be a **Mandatory Reconsideration** before an **Appeal** can be made.

The idea of insisting that a **Mandatory Reconsideration** has been conducted first is that it gives the HMRC another chance to correct any defect at this point, possibly dispensing with the need to go to **Appeal**.

If a revision does not deliver the desired outcome, then an **Appeal** may be requested. The time limit for an **Appeal** is one month but can be extended in the same way as the time limit may in the case of appeals against decisions of the DWP.

See above. Any **Appeal** must now be lodged directly with HMCTS - Harlow office (see bottom of page 6 for full address).

In relation to overpayments, whilst **Appeals** can be made about whether or not a person has been overpaid, a person cannot **Appeal** against the decision to recover any overpayment.



Do see HMRC leaflet COP26 which deals with matters of Child Tax Credit and/or Working Tax Credit overpayments and recoverability.



Some tax credit decisions can be revised even though the 13-month time limit has passed. This can be done where there has been an 'official error' providing it is done within 5 years.

If someone is challenging an 'in year' decision on their tax credit entitlement, then it is important to realise that if the dispute is not fully resolved by 31st July, their final award decision for that year will also need to be challenged. Challenging 'in year' decisions can be complex. Do seek further advice and information as necessary.



10. Information Guides and Fact Sheets

The Welfare Rights Service produces the following Information Guides and Fact Sheets on Social Security benefits and welfare reform.

Benefits Information Guides:

1. Universal Credit
2. Universal Credit - Claims and Payments
3. Universal Credit - The Claimant Commitment
4. Universal Credit - Sanctions and Hardship Payments
5. Universal Credit and Vulnerable People - Claims and Payments
6. Universal Credit - Manage Migration
7. Universal Credit and The Work Capability Assessment - Toolkit
8. Personal Independence Payment
9. Personal Independence Payment - Toolkit
10. Form Filling: PIP2
11. Form Filling: ESA50 / UC50
12. DWP Social Fund
13. The Spare Room Subsidy
14. The Benefit Cap
15. Disputes and Appeals
16. Going to Appeal: First-tier Tribunals

Benefits Fact Sheets:

1. Benefits and Work
2. Benefits and Disabled Children

3. Benefits and Young People
4. Benefits and Older People
5. Benefits and People from Abroad
6. Private Tenants and Universal Credit
7. Volunteering and Benefits

The information in our guides and fact sheets is designed to provide details of the different benefits that may be available to people in a variety of situations including when they are in work, unable to work due to ill-health, unemployed or retired. It also seeks to inform people of the steps that may be taken should they wish to dispute a decision made surrounding their benefit entitlement.

A copy of the Information Guides and Fact Sheets may, together with other topical benefit information, be obtained from our [Social Security Benefits](#) page on the City of Wolverhampton Council website.

Please also watch out for our periodical **Benefits Bulletins** which provide news on the latest developments surrounding benefits and welfare reform. These are also available on the website.

☎ Telephone: (01902) 555351

✉ Email: WRS@wolverhampton.gov.uk

Note: The details provided in this and our other Information Guides and Fact Sheets is meant to provide an overview on important and topical issues relating to Social Security benefits and welfare reform. The details should not be treated as an authoritative statement of the law. The details may be subject to change by new regulation and/or case law. Do seek further information and advice as necessary.

Welfare Rights Service
Specialist Support Team
City of Wolverhampton Council