

Citizens Advice St Helens

**Mandatory Reconsideration
Self-Help Pack**



Introduction

This pack has been designed to help you through the various stages of the Mandatory Reconsideration – from when you receive the initial decision to the options available to you after you receive the decision.

There are five sections:

1. The Initial Stages of the Mandatory Reconsideration
2. Receiving the decision letter
3. Requesting a Mandatory Reconsideration
4. How the decision is reconsidered
5. What happens when the decision is received

At the end of the pack there is information and examples on how to write a Mandatory Reconsideration.

Please note: This pack is aimed at Personal Independence Payment (PIP) but the process is the same for Employment and Support Allowance (ESA).

We hope you find this a useful resource in relation to your Mandatory Reconsideration, however, if there are any parts of it you do not understand, or you have any questions, please do not hesitate to contact us at:

Citizens Advice St Helens
Welfare Benefits Team
2nd floor Millennium Centre
Corporation Street
St Helens
WA10 1HJ

Tel: 01744 737866

SECTION 1 - THE INITIAL STAGES OF THE MANDATORY RECONSIDERATION

How does the system work?

Normally, people will make a claim for benefit on the appropriate form or online. Once this has been submitted, a decision is made by an officer called the decision maker. If you are unhappy about a benefit decision you are entitled to challenge that decision. This is called a Mandatory Reconsideration.

What is a Mandatory Reconsideration?

Mandatory reconsiderations provide you with the opportunity to discuss the disputed decision and provide any additional information to a DWP decision maker. This can be done by telephoning the appropriate DWP helpline or in writing to the address on the letter. If you decide to make the request over the telephone it is recommended that you note the date, time and with whom you spoke to ensure you can provide proof. It may therefore be best to do so in writing.

Providing information and evidence is key to getting your decision changed, therefore this is your chance to do so.

There is no time limit for the decision maker to make their decision therefore you may need to seek advice on which benefits you can claim during this period by contacting us. If the decision maker does not change the decision in your favour with the information you have provided, they may attempt to contact you by telephone to notify you and subsequently discuss this with you.

The decision maker will then send their decision to you in writing to formally notify you of the outcome of your mandatory reconsideration.

Who can challenge a decision?

This will usually be the person against a decision made on their own claim.

It can also be made by the following people:

- are the parent or guardian of a child who has made a claim
- have been appointed by the DWP to act for a person unable to deal with their claim, for example because of poor mental or physical health
- claimed PIP, DLA or Attendance Allowance for a person who is terminally ill
- been given permission by DWP to act for a claimant who has now died
- are not the benefit claimant but the DWP have decided that an overpayment, an advance or a hardship payment should be recovered from them

SECTION 2 – RECEIVING THE DECISION LETTER

Contents of the letter

You will receive your decision letter, and this will explain why your claim has been refused (or allowed in part).

After reading this and you decide that you do not agree with what it says you can challenge this. This is called a mandatory reconsideration.

You have one calendar month from the date on the decision letter to ask the DWP to reconsider their decision.

The one calendar month time limit can be extended if there are good reasons why it is after the time limit. For example, you were in hospital, close family bereavement, or there was a postal strike,

Requesting written reasons

Not all benefit decisions come with a full explanation of the decision. However, you can request a written explanation (known as a written statement of reasons) of the decision on your claim. You must do so within one calendar month of the date of the decision and not one month from the date you received it.

The statement of reasons should be sent out to you within 14 days of your request being received. Alternatively, if the date on the written statement of reasons is more than one month later than the date on the original decision letter, then your time limit is extended to fourteen days after the date on the written statement of reasons.

It will not normally include copies of medical reports and other evidence used, but you can request a copy. It is not necessary to request reasons however you may find it helpful when challenging the decision to know the basis on which it was made.

SECTION 3 – REQUESTING A MANDATORY RECONSIDERATION

Contact the DWP

You will now need to contact the DWP and ask them to reconsider your benefit decision

Their contact details should be on your decision letter. We recommend that you ask for the reconsideration in writing, but you can make the request by telephone.

If you are to make a written request, you can either send in a letter or complete this form

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/683380/if-you-disagree-with-a-decision-made-by-dwp.PDF

What to include in your request

You should include:

- your full name, address and national insurance number
- the date of the decision and a summary of the decision
- a focused explanation of why you think the decision is wrong – if you are asking for a reconsideration of a benefit which is to do with your health (such as Employment and Support Allowance (ESA), Disability Living Allowance (DLA), Attendance Allowance, Personal Independence Payment (PIP) or in some cases Universal Credit), then try and show how you meet the assessment criteria of the benefit
- if you are asking for a reconsideration of a benefit that involved a medical assessment - request to be sent the medical assessment report. – you will need to check to see if you feel this contains inconsistencies or errors that you can challenge
- any evidence that backs up your claim that you meet the criteria of the benefit – for example, supporting evidence could be: a diary that you have kept over a week or so which sets out the issues you face in regard to your health and disability; a care and support plan from social services; a statement of educational needs; a letter from your consultant, GP, occupational therapist or social worker, outlining how your condition affects you in terms of meeting the criteria of the benefit - unfortunately some GPs may charge for this service, so if you are living on a low income then make this clear to them as it may increase the chances of any fee being waived - evidence can also include a written statement from someone that knows you well, such as a family member or friend, and who knows how you are impacted day to day by your disability or illness

Keep a copy

Keep a copy of the letter and of all paperwork that you send. If possible, send it recorded delivery, as this way you can show that the request was received within the

strict one-month time limit if you need to. If the cost of sending it recorded delivery is too much then you should at least get proof of postage, which is free.

If you make your request by telephone make a note of the date and time of the call and the name of the person you spoke to.

Do not risk missing the strict one calendar month time limit because you are waiting on supporting evidence: it can be submitted at a later date.

SECTION 4 – HOW THE DECISION IS RECONSIDERED

Who looks at the decision?

A decision maker from the DWP will reconsider the decision. This will not be the person who made the original decision

How is the decision reconsidered?

The DWP should acknowledge your request for reconsideration in writing. At this stage, the decision maker from the DWP may phone you to ask questions about your claim and the decision. It might be helpful for you to have a copy of your letter (or telephone notes) and other paperwork to hand so you can clearly explain why you think the decision is wrong. If you have any more evidence to submit then let them know during the call and they should tell you where to send it. If the decision maker does not receive the supporting evidence within one month of the phone call, then they will reconsider the decision without it.

How long will it take to for the decision to be reconsidered?

There is no time limit on how long the DWP can take to reconsider the decision.

If this results in you receiving no income you may have to claim alternative benefits. We recommend you seek advice immediately to see what options you have.

SECTION 5 - WHAT HAPPENS WHEN THE DECISION IS RECEIVED

How will the reconsidered decision be received?

The decision maker will write to you to let you know what they have decided.

What will be received?

Once that process is complete you will be sent two copies of a 'Mandatory Reconsideration Notice', a written notice and this contains the reconsidered decision. Keep both copies safe, as you will need them if you decide to appeal later down the line.

The decision is changed in your favour

If the DWP have changed their minds in your favour as a result of your request, they will 'back-date' the benefits you should have got to the date of the original decision.

The decision is not reconsidered to award benefit

You have several options should the decision not be reconsidered in your favour

- You can accept the decision if you feel the decision maker has given a full explanation as to why you do not qualify for an award of benefit and agree with what they say.
- Submit a new claim for benefit – we would recommend you seek advice before doing this.
- If you disagree with the reconsidered decision, then you can appeal to the Tribunal Service.

Should you require any help with this then please contact us

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Alternatively, you can download a copy of our Tribunal Self Help Pack at:

<http://sthelenscab.org.uk/wp-content/uploads/2020/04/Tribunal-Self-Help-Pack.pdf>

Examples of written Mandatory Reconsideration requests

PIP reconsideration request letter – a list of the descriptors can be found here https://www.citizensadvice.org.uk/Global/Migrated_Documents/adviceguide/pip-9-table-of-activities-descriptors-and-points.pdf

Dear Sir/Madam

Re: Mandatory reconsideration not to award PIP
NINo: [Insert: National Insurance Number]

I would like to request reconsideration of your decision of [insert: date of decision, i.e. date given on the decision letter] that I [am not eligible for PIP/ not eligible for the Mobility component/ the Daily Living component/ should be awarded Standard Rate Mobility/ Standard Rate Daily Living (delete as appropriate)].

If this applies: I was not happy with the assessment that I attended on [insert: date of assessment] because [please note the specific areas of disagreement, point by point].

If this applies: There was no attempt to establish the reliability with which any task could be accomplished, or the number of days a week it could be attempted.

I believe that the following points should have been awarded:
List each of the points that you think should apply to you, and then give an explanation of why it applies. In the example below you can see an illustration of this.

This is sample of two particular descriptor points and the kind of information you might provide. It is not a suggestion of exactly what to write, which should be about you.

1(e) *Needs supervision or assistance to either prepare or cook a simple meal = 4 points.* I am unable to peel and chop vegetables, and I need supervision or assistance. I do not cook by myself for safety reasons.

12(d) Can stand and then move using an aid or appliance more than 20 metres but no more than 50 metres = 10 points. I cannot stand and move this distance more than once or twice in a day, and then I have to rest for the following couple of days; my back and legs cause me a lot of pain, plus my back will give way.

Please note: that you need to score at least 8 points to get Standard rate, and at least 12 points to get Enhanced rate. You can add points within the Mobility component tasks, and within the Daily Living component tasks – but you can't add Mobility points to Daily Living tasks to achieve the necessary score.

If these points are awarded, it is clear that I should be [entitled to PIP/ and receive the Enhanced/ Standard rate of Mobility/ Daily Living component (select options and delete as appropriate)].

If this applies: I will be seeking further evidence in support and will forward it to you as soon as I can.

I look forward to hearing from you.

Yours faithfully

ESA Reconsideration request letter – a list of the descriptors can be found here <https://www.citizensadvice.org.uk/benefits/sick-or-disabled-people-and-carers/employment-and-support-allowance/help-with-your-esa-claim/fill-in-form/>

Dear Sir/Madam

Re: [Insert: Your Name]

NINo: [Insert: National Insurance Number] Re: ESA

I would like to request reconsideration of your decision of [insert: date of decision, i.e. date given on the decision letter] that I am [not eligible for ESA/that I should be placed in the Work Related Activity Group].

If this applies: I was not happy with the assessment that I attended on [insert: date of assessment] because [please note the specific areas of disagreement, point by point].

If this applies: There was no attempt to establish the reliability with which any task could be accomplished, or on the number of days a week it could be attempted.

I believe that the following points should have been awarded:

[List each of the points that you think should apply to you, and then give an explanation of why it applies. In the example below you can see an illustration of this.]

This is sample of a particular descriptor point and the kind of information you might provide. It is not a suggestion of exactly what to write, which should be about you.

Activity 3. Reaching - I believe I am eligible for points under activity 3(b) because I cannot raise either of my arms to the top of my head, as if to put on a hat. The severe arthritis that I suffer means that I am unable to lift either of my arms above shoulder height.

Activity 16. Coping with social engagement - I believe I am eligible for points under activity 16(c) because engagement in social contact with someone unfamiliar to me is not possible for the majority of the time due to my difficulty in relating to others or significant distress. I suffer from severe anxiety. This means that I routinely avoid social situations because I become worried about how other people see me and what they think about me. In order to help me overcome these feelings my brother has to encourage me to speak to others. This is what I'm like most of the time.

[Please note that you usually need to score a total of 15 points to get ESA].

If these points are awarded, it is clear that I should now be [entitled to ESA/placed in the Support Group rather than the Work-Related Activity Group].

[Include the following paragraph if you think it applies]

Regulation 29

I believe that being found fit for work would present a significant risk to my health because [explain your reasons].

[Include the following paragraph if you think it applies]

I think I am eligible to be placed in the Support Group because [list any of the Support Group activities that you think applies to you]:

[Include the following paragraph if you think it applies]

Regulation 35

I believe that being placed in the Work Related Activity group would present a significant risk to my health/ present a significant risk to the health of others [delete as appropriate] because [explain your reasons].

If this applies: I will be seeking further evidence in support and will forward it to you as soon as I can.

I look forward to hearing from you.

Yours aithfully