



# disability nottinghamshire

## Personal Independence Payment (PIP) Appeal Guide

### 1. INTRODUCTION

This guide is intended for use by claimants for benefits whose applications have been refused or have not been awarded at the rate which they consider to be warranted by their circumstances, and who are either considering lodging an appeal, or have already done so.

It is designed for use by claimants who intend to pursue their application for appeal on their own.

The purpose of this guide is to assist you to appeal and to help you to understand the steps involved in pursuing an appeal to an oral hearing with an Appeal Tribunal. The guide will help you to understand how the Tribunal will consider your application and the steps which you will need to take in order to convince an Appeal Tribunal that your claim is justified.

Appeal Tribunals cover appeals in respect of many types of benefit/allowances.

Remember, once a decision has been made to refuse an award which you think is not the right one for your situation, **it is up to you to prove that you are entitled to the benefit or allowance.**

### 2. WHAT TO DO AFTER YOU GET THE INITIAL DECISION.

Before you appeal to the Tribunal, you need to ask the Department for Work and Pensions (DWP) to look at the decision again. This is called 'mandatory reconsideration'.

Mandatory reconsideration gives you the chance to let DWP know if anything's changed, and gives DWP the chance to explain their decision.

Contact DWP by telephone or in writing, and make it clear why you're asking for mandatory reconsideration. The telephone number and address will be on your decision letter.

You'll receive a 'mandatory reconsideration notice' as a response.

### **3. SUBMITTING AN APPEAL**

Whilst you can lodge an appeal by writing a letter, it is better to complete the HM Courts and Tribunals Service form SSCS1. We have enclosed a copy of this form with this appeal pack if we have given you a printed copy. If you have downloaded this guide you can follow the links below.

You should enter your grounds of appeal in section 5. Try to link your grounds of appeal to your illness and the criteria for an award of PIP i.e.

I wish to appeal because due the arthritis affecting my hands, wrists and knees, I experience difficulty with walking and using my hands due to stiffness and pain.

I experience difficulty with the following daily living activities

1 – Preparing food – I cannot grip and because of this I am unable to chop or peel vegetables, lift pans or serving spoons

2 – Taking nutrition – I am unable to eat without using large handled cutlery and I need someone to cut food up for me

4 – Washing and bathing - due to difficulty with my grip I need assistance washing my whole body

5 – Toileting – I am unable to grip toilet paper so I need assistance to wipe myself

6 – Dressing and undressing – due to lack of grip, I struggle to dress and need assistance

I experience difficulty with the following mobility activity

2 – Moving around – Due to the arthritis in my knees, I am unable to walk further than 10 metres without stopping.

Your SSCS1 should be received by the Tribunals Service within one month of the date of the mandatory reconsideration. If it is likely to be longer than one month since the date of the mandatory reconsideration, you should explain why it is late at the end of section 5.

You can choose an appeal that is decided after you attend a Tribunal or you can opt for a hearing on the papers. You indicate your choice for this in Section 6. It is better to opt to attend a hearing as a Tribunal is able to observe you and ask you questions. Whilst hearing on the papers is often quicker, these appeals are less likely to be successful.

You can download an electronic version of this form that you are able to complete on a computer by following this link

<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/sscs1-eng.pdf>

Notes to accompany the form are available here

<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/sscs1a-eng.pdf>

You should send you're completed and signed SSCS1 with your mandatory reconsideration notice to the address that is printed on the final page of SSCS1.

#### **4. EVIDENCE**

The submission of additional evidence is an important element of proving your entitlement to the benefit /allowance you are claiming. You should ensure that all potential sources of additional evidence to support your claim are written to for example your GP, Consultant, Physiotherapist or other medical professional with whom you have contact and who may be aware of your medical condition and how it affects you on a day to day basis.

Any additional evidence which you may get should be considered carefully to establish whether the information provided by the writer is supportive of your case. The decision of whether or not to submit it is yours.

A Tribunal can only make a decision on the basis of the evidence placed before it. It does have the ability to request the provision of additional medical evidence, but rarely does this. It is important, therefore, that the evidence you gather should be as comprehensive and relevant as possible.

Some of the written evidence which the Tribunal will consider is as follows:

- Your original application form
- The report of any healthcare professional appointed by the DWP who has seen you.
- Reports requested by the DWP from any other medical source i.e. a G.P, Consultant or Specialist you may have seen recently.
- Reports from other professionals, medical or otherwise, who may be familiar with how your medical condition affects you.

In addition to the above, the Tribunal will also take into account oral evidence which you will give in response to a series of questions from Tribunal members.

Evidence before a Tribunal often conflicts, for example, you express that you cannot walk very far without stopping. But the healthcare professional says you can walk more than 200 metres. It is a function of the Tribunal to decide which evidence to follow.

The Tribunal is an independent body but it has to work strictly within the rules which govern the benefit or allowance it is considering. It has to consider your situation at the date the benefit department made their decision. It cannot take into account any deterioration or improvement of your condition since that date. This, therefore, means that all of your answers to questions must relate to your difficulties with walking and/or your daily living activities as they were at the date of decision and not as they are now.

You should remember that the Tribunal is not a Court of Law but is there to look at the facts of your case, so your oral evidence needs to be as detailed as you can make it. You need to be very specific about the how your medical problems affect you.

## **5. THE TRIBUNAL**

You will in due course receive a letter from the Tribunal Service which tells you the date and time of your hearing.

If you live within the Nottinghamshire area, you most likely will have to go to either Nottingham or Chesterfield. You will be sent a map of its location.

When you get to the Tribunal building you will be directed into the waiting room. A clerk will come and take your details and ask if you have any additional evidence to submit. If you have any last minute evidence, you should bring five copies and give four to the clerk for the Tribunal. The clerk will also ask if you have any travelling expenses. You may claim public transport fares incurred or car expenses will be paid for the mileage you have done to get to the Tribunal.

Taxi fares will only be paid if they have been previously authorised. To request authorisation, you need to phone the Tribunal Service office prior to the date of your hearing.

You will then be directed into the Tribunal room.

## **6. THE HEARING**

There are three persons on the appeal panel for a PIP appeal. A Judge who is legally qualified, a doctor and a lay person. .

The function of the Judge is to ensure that all of the legal requirements relating to the Tribunal and the benefit are complied with.

The function of the doctor is to advise on medical matters concerning your claim. A medical examination will not be carried out but a Tribunal can take into account observations of you at the Tribunal.

The lay or carer member will be someone who has experience of disability themselves, as a carer or professionally.

You will be advised that the panel is an independent body and you may be asked if there is any statement you wish to make about your case before proceeding further.

The PIP Tribunal is concerned only with the tests prescribed in the assessment as laid down in the regulations. A copy of these descriptors is contained in the pack of papers sent to you for your appeal and is enclosed with this pack.

The panel should have the same set of documents that you have and the members will have familiarised themselves with your case beforehand.

As you will probably be aware, the award of PIP is dependent on the number of points awarded. To qualify for each of the components, you need to be awarded have 8 points to be awarded the standard rate and 12 or more points for the enhanced rate.

One thing to remember is that the Tribunal are looking at your situation as it was at the time the decision was made, they cannot take into account any change in your condition since that date. You must, therefore, bear this in mind when giving your answers.

The Tribunal will be looking at the answers you gave on the PIP Questionnaire and the report prepared after your medical examination. If there are discrepancies between what you claim were your difficulties and what the examining doctor has concluded about your abilities, then you need to be able to explain the reasons why.

They must however consider whether you are able to complete a task safely, to an acceptable standard, repeatedly and in a reasonable time period. If you are able to do the task once but then you have difficulty in repeating it, then, dependant on the degree of difficulty, you might be considered as not being able to fulfil the task.

It is, however, up to you to prove your disability so it is in your interests to give as much information and be as explicit as you can in answer to questions you are asked.

When the Tribunal have finished their questions, you will usually be given the opportunity to make any additional comments about your claim which you think appropriate. You can use this as an opportunity to mention facts about

your physical or mental difficulties which have not been covered by the questions or to reiterate points which you think are important.

The Judge will then ask you to leave the room and return to the waiting room whilst they deliberate and make the decision. You will normally be given the decision of the Tribunal on the day.

Rarely, the Tribunal will not make the decision immediately but make it later and notify you by post.

## **7. FINALLY**

This guide is intended only to cover the main points of Appeal and Tribunal procedures and deals with the situation which our representatives have experienced for the majority of cases. We cannot, therefore, guarantee that your Tribunal will follow exactly the same pattern, as individual Judges may run their hearings slightly differently.

If you do come across any major variation to the model of the Tribunal procedures, as set out in this guide, or find that any of the information is incorrect for any reason, we would like to hear about it. We would also like to know the outcome of our client's Tribunal hearing, whether they are successful or not.

Like anyone else, we can all learn from experience and any input from clients can only help to improve our service.

# PERSONAL INDEPENDENCE PAYMENT ASSESSMENT

## Daily Living Activities

Activity	Descriptors	Points
1. Preparing food.	a. Can prepare and cook a simple meal unaided.	0
	b. Needs to use an aid or appliance to be able to either prepare or cook a simple meal.	2
	c. Cannot cook a simple meal using a conventional cooker but is able to do so using a microwave.	2
	d. Needs prompting to be able to either prepare or cook a simple meal.	2
	e. Needs supervision or assistance to either prepare or cook a simple meal.	4
	f. Cannot prepare and cook food.	8
2. Taking nutrition	a. Can take nutrition unaided.	0
	b. Needs – (i) to use an aid or appliance to be able to take nutrition; or (ii) supervision to be able to take nutrition; or (iii) assistance to be able to cut up food.	2
	c. Needs a therapeutic source to be able to take nutrition.	2
	d. Needs prompting to be able to take nutrition.	4
	e. Needs assistance to be able to manage a therapeutic source to take nutrition.	6
	f. Cannot convey food and drink to their mouth and needs another person to do so.	10
3. Managing therapy or monitoring a health condition.	a. Either – (i) does not receive medication or therapy or need to monitor a health condition; or (ii) can manage medication or therapy or monitor a health condition unaided.	0
	b. Needs either – (i) to use an aid or appliance to be able to manage medication; or (ii) supervision, prompting or assistance to be able to manage medication or monitor a health condition.	1
	c. Needs supervision, prompting or assistance to be able to manage therapy that takes no more than 3.5 hours a week.	2
	d. Needs supervision, prompting or assistance to be able to manage therapy that takes more than 3.5 but no more than 7 hours a week.	4
	e. Needs supervision, prompting or assistance to be able to manage therapy that takes more than 7 but no more than 14 hours a week.	6
	f. Needs supervision, prompting or assistance to be able to manage therapy that takes more than 14 hours a week.	8
4. Washing and	a. Can wash and bathe unaided.	0

bathing.	b. Needs to use an aid or appliance to be able to wash or bathe.	2
	c. Needs supervision or prompting to be able to wash or bathe.	2
	d. Needs assistance to be able to wash either their hair or body below the waist.	2
	e. Needs assistance to be able to get in or out of a bath or shower.	3
	f. Needs assistance to be able to wash their body between the shoulders and waist.	4
	g. Cannot wash and bathe at all and needs another person to wash their entire body.	8
5. Managing toilet needs or incontinence.	a. Can manage toilet needs or incontinence unaided.	0
	b. Needs to use an aid or appliance to be able to manage toilet needs or incontinence.	2
	c. Needs supervision or prompting to be able to manage toilet needs.	2
	d. Needs assistance to be able to manage toilet needs.	4
	e. Needs assistance to be able to manage incontinence of either bladder or bowel.	6
	f. Needs assistance to be able to manage incontinence of both bladder and bowel.	8
6. Dressing and undressing.	a. Can dress and undress unaided.	0
	b. Needs to use an aid or appliance to be able to dress or undress.	2
	c. Needs either - (i) prompting to be able to dress, undress or determine appropriate circumstances for remaining clothed; or (ii) prompting or assistance to be able to select appropriate clothing.	2
	d. Needs assistance to be able to dress or undress their lower body.	2
	e. Needs assistance to be able to dress or undress their upper body.	4
	f. Cannot dress or undress at all.	8
7. Communicating verbally.	a. Can express and understand verbal information unaided.	0
	b. Needs to use an aid or appliance to be able to speak or hear.	2
	c. Needs communication support to be able to express or understand complex verbal information.	4
	d. Needs communication support to be able to express or understand basic verbal information.	8
	e. Cannot express or understand verbal information at all even with communication support.	12
8. Reading and understanding signs, symbols and words.	a. Can read and understand basic and complex written information either unaided or using spectacles or contact lenses.	0
	b. Needs to use an aid or appliance, other than spectacles or contact lenses, to be able to read or understand either basic or complex written information.	2
	c. Needs prompting to be able to read or understand complex written information.	2
	d. Needs prompting to be able to read or understand basic written information.	4
	e. Cannot read or understand signs, symbols or words at all.	8
9. Engaging with	a. Can engage with other people unaided.	0

other people face to face.	b. Needs prompting to be able to engage with other people.	2
	c. Needs social support to be able to engage with other people.	4
	d. Cannot engage with other people due to such engagement causing either – (i) overwhelming psychological distress to the claimant; or (ii) the claimant to exhibit behaviour which would result in a substantial risk of harm to the claimant or another person.	8
10. Making budgeting decisions.	a. Can manage complex budgeting decisions unaided.	0
	b. Needs prompting or assistance to be able to make complex budgeting decisions.	2
	c. Needs prompting or assistance to be able to make simple budgeting decisions.	4
	d. Cannot make any budgeting decisions at all.	6

### MOBILITY ACTIVITIES

Activity	Descriptors	Points
1. Planning and following journeys.	a. Can plan and follow the route of a journey unaided.	0
	b. Needs prompting to be able to undertake any journey to avoid overwhelming psychological distress to the claimant.	4
	c. Cannot plan the route of a journey.	8
	d. Cannot follow the route of an unfamiliar journey without another person, assistance dog or orientation aid.	10
	e. Cannot undertake any journey because it would cause overwhelming psychological distress to the claimant.	10
	f. Cannot follow the route of a familiar journey without another person, an assistance dog or an orientation aid.	12
2. Moving around.	a. Can stand and then move more than 200 metres, either aided or unaided.	0
	b. Can stand and then move more than 50 metres but no more than 200 metres, either aided or unaided	4
	c. Can stand and then move unaided more than 20 metres but no more than 50 metres.	8
	d. Can stand and then move using an aid or appliance more than 20 metres but no more than 50 metres.	10
	e. Can stand and then move more than 1 metre but no more than 20 metres, either aided or unaided.	12
	f. Cannot, either aided or unaided, – (i) stand; or (ii) move more than 1 metre.	12