



Appealing your Employment and Support Allowance (ESA) decision

If your claim for ESA has been turned down and you want to appeal, there are several steps you need to follow.

Step1:

You must first lodge your appeal in writing. This can either be done by letter or you can complete a GL24 appeal form. This can be obtained by contacting the Department for Work and Pensions or go to our challenging benefit decisions web page to download this: www.nottinghamshire.gov.uk/benefits

The GL24 appeal form requires you to briefly explain the reasons why you think the decision is wrong. To help you with this you need to look at what relevant activities you cannot do and the points you have scored in your ESA assessment. This process is explained below.

When making a decision, ESA will have assessed you on your ability to carry out 17 physical and/or mental activities. Points are awarded based on your limitations for each activity. Points are totalled up and if these reach 15, you are deemed to have limited capability for work.

Within each type of activity there is a list of 'descriptors' with scores ranging from 0 to 15. The descriptors describe related tasks of varying degrees of difficulty. You score points when you are not able to perform the activity described. More than one descriptor may apply to you but you can only pick up the highest score from each type of activity. Download these descriptors from the Employment and Support Allowance web pages at www.nottinghamshire.gov.uk/benefits

If you score 15 in any one activity, you are automatically assessed as having a limited

capability for work. If your score is less than 15, it can be added to the scores from any of the other types of activity (in both the physical and the mental parts of the test). If your total score reaches 15, you pass the test.

If you have been turned down, you have failed to score the 15 points that are required from either/or the physical or mental health descriptors.

You need to look at how many points you have scored to work out how many more you need to reach 15. Download these descriptors from the Employment and Support Allowance web pages at www.nottinghamshire.gov.uk/benefits

Once you have identified the activities that you are unable to complete within the physical and/or mental descriptors, you can use these as your reasons for appealing. For example 'I have osteoarthritis in my knees/elbows/hips. I find sitting for more than 10 minutes very difficult, standing for more than 20 minutes is impossible, I have to sit down'.

You have one month from the date of decision to get your GL24 back to the Jobcentre that made the decision about your entitlement. At this point the decision maker takes a second look at the decision to see if the decision can be changed. If this decision is not a more favourable one, the appeal will continue.

You will continue to be entitled to the basic amount of ESA whilst you appeal but you must keep providing current 'fit notes'. If you do not do this your benefit will stop. Ideally you need a new lengthy fit note to be sent in with a valid appeal. This will ensure your basic ESA continues until the appeal is heard.

Step 2:

Get in touch with your GP, consultant, epilepsy nurse, diabetes clinic. Could they provide a letter of support outlining your illness/health problems? They should describe how your health condition affects your ability to perform any of the relevant descriptors, i.e. standing/sitting, hearing, continence. Would your medical records be helpful?

Check to see if there is a charge for this evidence. Often this costs around 10p for copies of medical records and around £20.00 for supportive letters. You only need medical records/evidence that relates to recent years.

Any evidence should be sent to the office dealing with your appeal as soon as is possible. This will be either the Jobcentre Plus or the Tribunals Service.

Step 3:

You will receive a pack of papers from Jobcentre Plus. This is called a submission and includes all the evidence that has been used to make the decision as well as anything that has been sent in since this date. You will then receive an enquiry form. This needs to be completed and returned within 14 days.

Question 2 on the enquiry form asks whether you wish to attend the hearing or opt for a paper hearing. It is always best to attend the hearing as there will be questions regarding any medical or disability issues you have.

You can choose a paper hearing but these are rarely successful. Oral hearings give you a chance to verbally express your difficulties and how they prevent you from working.

Step 4: The Appeal

Hearings are fairly local and will be heard in places such as Nottingham, Chesterfield or Lincoln. It is possible, depending on your postcode to be asked to attend Doncaster, Leicester or Derby.

There are usually two people who hear the appeal. One is a qualified lawyer who is called a judge. The other is a doctor.

The Tribunal members are independent and impartial and make a decision based on the evidence and guidance presented in the submission and at the hearing.

You get a time slot of just under one hour for your hearing. The panel will explain their function to you at the beginning of the hearing.

Usually you will be given the decision on the day of the hearing.

Please see out Social Security Appeals factsheet at: www.nottinghamshire.gov.uk/benefits for further information about what will happen at the Tribunal.

Decision Made:

Your appeal was allowed/successful at appeal;

You will get a copy of the decision and the Tribunal will send a copy to your local Jobcentre Plus. Your award will take a few weeks to come through. You will then be paid any money owing to you.

Your appeal was not allowed;

You have three choices;

1. If there has been an error of law (not simply you disagreed with their decision) you can appeal to the upper tribunal. Please see our Challenging benefits decisions web page for information about this.
2. You can sign on for Jobseeker's Allowance.
- 3) If it is six months since the last decision that found you fit for work, then it is possible that you could submit a new claim for ESA for the original illness or deterioration of your current illness.

What will happen to the ongoing ESA payments if my appeal is unsuccessful?

The basic ESA payment will stop within a few weeks of the tribunal. However this claim also has appeal rights, so you can begin the appeal process again.

In practice the chances of the second tribunal being successful are limited, especially if it is not long since the first tribunal. You are more likely to be successful if your condition has deteriorated or you have new evidence to support your claim.

If you need further advice on appealing a decision you can find out where your nearest advice centre is located by calling Nottinghamshire County Council on the contact details provided below or visit our benefit advice pages at www.nottinghamshire.gov.uk/benefitsadvice

Contact information:

Phone: 0300 500 80 80
Monday to Friday: 8am to 8pm
Saturday: 8am to 12 noon

Email: enquiries@nottscc.gov.uk
Website: www.nottinghamshire.gov.uk
Minicom: 01623 434993

Phone 0300 500 80 80 if you need the information in a different language or format.