

Challenging an ESA (Employment and Support Allowance) decision that you are fit to work

The rules for challenging ESA decisions are changing. From 28th October 2013 you are no longer able to appeal a decision to not grant you ESA without having first asked for a 'Reconsideration' of the decision. If you wish to challenge the decision that you are fit to work you need to take the following steps. (You might want to ask a Care Coordinator or Support Worker to help you with this):-

- Request a reconsideration of the decision. We have attached a copy of a suggested 'reconsideration request' letter. You should add your personal details and any additional information you think relevant about your health problems.
- If you have any medical evidence such as reports from Consultants, GP's, and other professionals that explain your difficulties then copies of these should be included with your request. Further evidence can be added if the reconsideration request is refused you go onto appeal. Letters from other people who know you can also be valuable.
- Send your reconsideration request and extra evidence to the address on the decision letter. Once your request is received by the DWP they should phone you to discuss the decision.

The DWP will then send you a 'Mandatory Reconsideration Notice'. This will either inform you that they have changed their decision and your benefit will be reinstated and back dated, or that they have not changed their decision and in the DWP's opinion you are fit to work. There is no time limit for this stage, but the DWP have a guideline of four weeks.

- If the Mandatory Reconsideration Notice says that the original decision is unchanged you can then move onto the next stage, which is to appeal to the Independent Tribunal Service. You do this using Form SSCS1. (<http://www.justice.gov.uk/downloads/forms/tribunals/sscs/sscs1.pdf>)
- While you are waiting for the reconsideration decision you cannot be paid ESA.
- Some people will be able to claim Income Support as either Single Parents or Carers, but the majority will need to claim Jobseekers Allowance (JSA).

When you claim JSA you will be asked to sign an agreement that you are able to work and will actively look for work. You should explain your difficulties and ask that your Jobseekers Agreement is tailored to your situation.

Please call our Welfare Benefits Advice Line at the earliest opportunity during the process. Late reconsiderations are possible.

The Mind in Croydon Welfare Benefits Advice Line 0208 753 2037

Our Advice Line is answered on Tuesday 10am – 1pm and Thursday 2pm – 5pm. You can leave a message.

Also:-

If your Housing Benefit has stopped, inform the Housing Benefit Department of the Council about what has happened. Make sure you respond to any requests the Council make for further information and your Housing Benefit should be reinstated. An example of a 'Reconsideration Request Letter' is shown below. The printable 'Reconsideration Request Letter' template is on the following page for individuals to print off and fill out.

EXAMPLE LETTER ONLY

Mr Anon Smith
123 Street Street
Croydon
CR0 XXX

ESA Reconsideration Section
London Benefit Centre
123 Street Street
London
SWX XXX

Date: xxxxxxx

Re : Mr Anon Smith
Date of Birth: 01.01.20XX
National Insurance No: AW 00 11 22 33 A

Dear Sir / Madam,

Please reconsider your decision that I am able to work.

I do not consider that the assessment of my health conditions was accurate. It did not fully take into account my difficulties in relation to my health and ability to work.

I am unable to work for the following reasons:-

(write a short description of the reasons why you are unable to work)

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I have provided further evidence in support of my request.

Thank you.

Yours faithfully
Mr Anon Smith
Mr Anon Smith

In the printable template letter below add in your own name and address, the address of the Benefit office you are sending the letter to, the date and your National Insurance Number as reference. See below.

ESA Reconsideration Section

Re:
Date of Birth:
National Insurance No:

Dear Sir / Madam,

Please reconsider your decision that I am able to work. I do not consider that the assessment of my health conditions was accurate. It did not fully take into account my difficulties in relation to my health and ability to work.

I am unable to work for the following reasons:-

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I intend to provide / have provided further evidence in support of my request.

Thank you.

Yours faithfully