



Benefits and Work
Guides you can trust

The Best Possible

Employment and Support Allowance & Universal Credit Appeal Submissions

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ESA Sample Appeal Submissions

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Introduction

This guide contains sample documents to help you get through the complex appeals system for Employment and Support Allowance (ESA) and Universal Credit (UC).

It isn't intended to be used on its own, however. You need to use our detailed guide to ESA and UC mandatory revisions and appeals to take you step by step through the entire process.

Sample mandatory reconsideration request

The first step on the road to a successful challenge of an ESA or UC work capability decision is a mandatory reconsideration request. Whilst in theory you can request a mandatory reconsideration by telephone, we would always advise making the request in writing – even if you have already done so by telephone. You can write a letter (see sample letter below) or complete a [CRMR1](#) form which can be downloaded from www.gov.uk. If you have an online UC account you can additionally send a message via your journal to confirm that you would like to challenge a decision.

We would advise you to make the request in writing because there are an increasing number of examples of the Department for Work and Pensions (DWP) failing to keep any record of verbal requests for a mandatory reconsideration.

There are also an increasing number of examples of the DWP failing to respect mandatory reconsideration requests and instead telephoning the claimant and then deciding themselves whether you really want to have the decision looked at again.

Clearly this is not lawful. Once the one month time limit for submitting a mandatory reconsideration has passed it can be more difficult to get your request accepted. The absolute time limit is 13 months. If your request is outside the one month time limit but less than 13 months, you should refer to the following case law in support of your request –

https://assets.publishing.service.gov.uk/media/5bb61f8040f0b64a3f97a671/2018_AACR_5ws.pdf

So, below is a sample mandatory reconsideration request letter that we hope will help reduce the chance of anything going wrong for you and also make it easier to put things right if the DWP don't follow the rules.

Name:
Date of birth:
NINO:
Date:

Dear Sir/Ms,

MANDATORY RECONSIDERATION REQUEST: decision date 12 March 2019

I request that you reconsider your decision dated 12 March 2019 finding me capable of work.

I consider that I provided enough evidence for a finding to be made that I do have limited capability for work [if you think you should be in the ESA support group or UC Limited Capability for Work-Related Activity group, add the words 'and limited capability for work-related activity'].

I do not consider that the decision maker took full account of the severity of my condition or of the way that it affects my everyday activities and bodily functions.

I do not have any further evidence to add at this stage.

OR

I wish to add the following evidence: *[see the sample written submissions later in this guide for the kind of additional evidence you may wish to add, although at this stage you may not have copies of things like the Health Assessment Advisory Service medical report].*

Important note: should I wish to withdraw this request I will only do so in writing. Under no circumstances will I withdraw this request verbally. If you speak to me on the telephone about this matter, nothing I say should be construed as a withdrawal unless and until it is confirmed in writing.

Yours faithfully,

Appeal form

Do not be deterred if the DWP do not change the decision in your favour at the mandatory reconsideration stage. Many more people win at appeal than do at the mandatory reconsideration stage.

Again, there is more information about this in our guide to ESA and UC appeals.

Once you have got your reconsideration decision, if you are not happy with it the next step is to complete a SSCS1 form, (to be renamed SSCS1PE from early 2020), and send it to the Tribunals Service along with a copy of your mandatory reconsideration decision notice. Don't worry if you use a copy of the old form it will still be accepted, but it may take longer to process your appeal. The SSCS1 can be downloaded [here](#).

Alternatively, if you live in England Scotland or Wales, you can now submit an ESA or UC appeal online [here](#) and the information required is similar to the paper SSCS1 form. Scroll down and click on the box 'Start now'.

You have one month from the date of the decision to submit your appeal. If you miss this time limit you will need to explain why your appeal is late. The absolute time limit is 13 months from the date of the decision

Again, there is more information about this in our guide to ESA and UC appeals.

Your grounds of appeal may be very basic, especially if you do not have copies of documents such as the Health Assessment Advisory Service medical report at this stage. For example you may just write that:

I wish to appeal against the decision that I do not have limited capability for work. I consider that I provided enough evidence for a finding to be made that I do have limited capability for work [if you think you should be in the ESA support group or UC Limited Capability for Work-Related Activity Group, add the words 'and limited capability for work-related activity'].

I do not consider that the decision maker took full account of the severity of my condition or of the way that it affects my everyday activities and bodily functions.

I wish to have an oral hearing so that I can explain the full effects of my condition to a tribunal and answer any questions that they may wish to ask.

Alternatively, you may wish to give a detailed explanation of why you think the decision is wrong.

You can do this using five of the steps in the seven-step system we describe below.

Sample written submissions

Below we've set out a framework you can use for creating a written submission. You can also use steps 2-7 below to complete the grounds of appeal in a SSCS1 appeal form or online appeal form.

You don't have to follow this layout and you can change and adapt it to suit your purposes, but it does give you a starting place for writing your submission.

1 Your details

It's worth including all the details below at the start of your submission so that you can be sure it gets to the right people. The date of the decision being challenged is useful to include because it helps remind you and the tribunal about the relevant date. The law says that if your condition changed after this date then it can't be relevant to this appeal.

Name

Tribunal Ref No:

NINO:

Hearing: Date, Time and Venue: (if you know these when you send your submission)

Date of decision being challenged:

2 Introduction

This may indicate which decision/part of the decision you are appealing against. For example, "I submit that I have limited capability for work", or "I submit that I have both limited capability for work, and limited capability for work-related activity".

3 Potted history – optional

The appeal submission (sometimes called the appeal bundle) from the DWP decision-maker (DM) should include a history of your case. If there are any factual inaccuracies within this you could point them out here. You can add personal information, e.g. why you had to give up work, or the history of an accident.

4 Undisputed scores

Any points awarded that you think are correct. Be careful to be sure before dismissing any activities and descriptors that you believe do not apply to you, or any additional or further points you might be entitled to. The appeal tribunal is unlikely to consider these if you have stated you are not disputing them.

5 Each disputed activity in detail

Explain in detail why you think the decision is wrong and what the right decision is for a disputed activity by using steps 5a-e below. Then repeat 5a-e for each additional activity you want to dispute.

5a Descriptor you think is incorrect

5b What you think the correct descriptor is NB If you think more than one descriptor may apply within an activity, you may include two or more, as long as you can explain why for each

5c What error the health professional (HP) or DM has made

5d What evidence is in the papers to support you

5e Any further evidence you want to add including any Upper Tribunal decisions relevant to this activity you wish to quote (these are not required by the tribunal but may help you to win your appeal)

6 Any general points about the evidence.

7 Conclusion.

Example 1

1 Your details

It's worth including all the details below at the start of your submission so that you can be sure it gets to the right people. The date of the decision being challenged is useful to include because it helps remind you and the tribunal about the relevant date – if your condition changed after this date that won't be relevant to this appeal.

Name

Tribunal Ref No:

NINO:

Hearing: Date, Time and Venue: (if you know these when you send your submission)

Date of decision being challenged:

2 Introduction

What you are appealing against and how many points you scored.

Following a medical assessment I was awarded 6 points. I have been found capable of work and am now appealing against that decision. I believe that I have limited capability for work-related activity.

3 Potted history – optional

I am 58 years old. I suffer from arthritis in my arms, legs and spine. I have worked all my adult life. For the last 10 years, I have worked in a National Trust shop. But I finally had to stop this year as I was taking so much time off sick and my doctor agreed that I could no longer continue. I agree with the DM's summary of my appeal.

4 Undisputed scores

Any points awarded that you think are correct

I was awarded 6 points from activity 3, 'cannot raise either arm above head height as if to reach for something'. I consider this to be the correct score for this activity.

5 Each disputed activity in detail

Explain in detail why you think the decision is wrong and what the right decision is for a disputed activity by using steps 5a-e below. Then repeat 5a-e for each additional activity you want to dispute.

5a Descriptor you think is incorrect

5b What you think the correct descriptor is

5c What error the HP or DM has made

5d What evidence is in the papers to support you

5e Any further evidence you want to add including any Upper Tribunal decisions relevant to this activity you wish to quote

MOBILISING

I was awarded 0 points for mobilising (activity 1).

I believe that the correct descriptor is 1(a)(i) 'Cannot mobilise more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion'. This scores 15 points.

The HP has based their assessment of my walking ability on what I can manage around the home and at a supermarket. They appear to have made assumptions about my ability to walk without pain, and without asking me how I actually manage.

In fact, I actually lean on a trolley and stop three times down each aisle to rest and do not cover the whole supermarket in one trip.

I explained the difficulties I had with walking in the claim pack, at pages 35-37 of the appeal papers. This made it clear that I could only walk 20 metres without stopping and that I am in pain all the time when I walk.

I am also enclosing a letter from my consultant which states that my arthritis is not well controlled by drugs, and that I am likely to be in significant pain when walking.

6 Any general points about the evidence

The person who carried out my medical was with me for only 20 minutes. They are a generalist nurse with no specialist knowledge of arthritis. My GP and my consultant, who both support my claim, have known me for at least 20 years.

7 Conclusion

I believe that I should have been awarded 21 points and that I should have been placed in the support group because descriptor 1(a)(i) of the support group activities applies.

I further believe that finding me fit for work poses a substantial risk to my physical health, in that I experience such high levels of pain following any walking activity (which would be required for any job) that I have to rest for long periods of time afterwards. I believe that there are no “reasonable adjustments” that could be made that would relieve me of this risk to my health.

I additionally request that the tribunal considers whether, as a consequence of such activity, I satisfy the conditions of entitlement to ESA under Regulation 31. I submit that I should be placed into the support group because there would be a substantial risk to my health if I were found not to have a limited capability for work-related activity.

Example 2

1 Your details

It's worth including all the details below at the start of your submission so that you can be sure it gets to the right people. The date of the decision being challenged is useful to include because it helps remind you and the tribunal about the relevant date – if your condition changed after this date that won't be relevant to this appeal.

Name

Tribunal Ref No:

NINO:

Hearing: Date, Time and Venue: (if you know these when you send your submission)

Date of decision being challenged:

2 Introduction

What you are appealing against and how many points you scored.

I have been found capable of work and I wish to appeal against that decision as I believe that I have a limited capability for work. I was awarded 6 points for my problems with starting and finishing tasks. However, my mental health conditions cause me many more problems than this. The medical assessment on which the decision is based is not complete or accurate, and therefore the decision maker has been unable to reach a correct decision.

3 Potted history – optional

I am 27 years old. I suffer from anxiety and depression and for much of the time I am agoraphobic and cannot leave the house alone. I was working in a call centre for more than 4 years, but following a relationship breakdown 2 years ago, I became more and more depressed and finally I was dismissed because of my sickness absence.

Since then, I have been involved with mental health services and I am currently under the home treatment team, as I have attempted to take my own life on three occasions in the past two years. The most recent time was 14 weeks ago, when I was admitted to hospital as an emergency.

4 Undisputed scores

Any points awarded that you think are correct

I was awarded 6 points for the problems I have with motivation and inability to start and complete tasks. This is correct, as I am frequently unable to prompt myself to get out of bed, to maintain my personal hygiene or to get dressed.

5 Each disputed activity in detail

Explain in detail why you think the decision is wrong and what the right decision is for a disputed activity by using steps 5a-e below. Then repeat 5a-e for each additional activity you want to dispute.

5a Descriptor you think is incorrect

5b What you think the correct descriptor is

5c What error the HP or DM has made

5d What evidence is in the papers to support you

5e Any further evidence you want to add including any Upper Tribunal decisions relevant to this activity you wish to quote

AWARENESS OF HAZARDS

I have been awarded no points for awareness of everyday hazards (activity 12).

I believe I should have been awarded nine points for descriptor 12(b), as I frequently need supervision to maintain my own and others' safety.

I had clearly stated to the health professional that I have set fire to my kitchen twice in the last month. On one occasion, the fire service was called by a neighbour, as I had left a pan on the cooker and completely forgotten about it.

On several other occasions, I have lost my concentration and cut myself when preparing vegetables, as I explained in my claim form. My mind wanders and if I am not fully focussed on the task, I am at risk of hurting myself and causing damage to my property (as well as my neighbour's). I often burn myself when cooking too – I keep forgetting to use oven gloves and have caused myself some very painful injuries when taking hot dishes out of the oven.

My Community Mental Health Nurse (CMHN) has explained these difficulties in the enclosed letter. As he knows me better than the HP who examined me, I believe his evidence should be taken into account when making a decision about my capability for work.

GETTING ABOUT

I have been awarded no points for getting about (activity 15).

I believe I should have been awarded at least six points as I never go to unfamiliar places without another person, as I get so anxious. I also stay indoors a lot as I feel so low so don't even feel able to go to familiar places unless someone goes with me. I have been diagnosed with agoraphobia.

6 Any general points about the evidence

The person who carried out my medical was with me for only 20 minutes. They are a generalist nurse with no specialist knowledge of mental health problems. My GP and my CMHN, who both support my claim, have known me for the past 2 years and are more knowledgeable about my conditions and the effects on my functional ability.

The contents of the medical report are very sparse and incomplete; the HP has failed to include the details of my hospital admissions, which I feel are relevant. I have weekly support from my CMHN, as well as more frequent phone contact with the "out of hours" mental health support team. None of this has been recorded in the report that was sent to the decision maker.

7 Conclusion

I believe that I should have been awarded at least 15 points, and that I should have been awarded ESA as I have a limited capability for work due to my mental health condition.

I request that the tribunal considers whether Regulation 31 applies, as I believe that finding me fit for work-related activity will pose a substantial risk to my mental health and my managed recovery.

Example 3

1 Your details

It's worth including all the details below at the start of your submission so that you can be sure it gets to the right people. The date of the decision being challenged is useful to include because it helps remind you and the tribunal about the relevant date – if your condition changed after this date that won't be relevant to this appeal.

Name

Tribunal Ref No:

NINO:

Hearing: Date, Time and Venue: (if you know these when you send your submission)

Date of decision being challenged:

2 Introduction

What you are appealing against and how many points you scored.

Following a medical assessment, I have been found capable of work and am now appealing against that decision. I wasn't awarded any points and I believe this is because no account has been taken of the difficulties I have regarding my mental health condition.

3 Potted history – optional

I have had mental health problems since I was a teenager and I have been sectioned under the Mental Health Act four times in the past 15 years. I have been diagnosed with paranoid schizophrenia, which is managed with medication. However, this is not always effective. When my medication has been changed in the past, I have experienced psychotic episodes that are dangerous to my personal safety and the safety of others.

4 Undisputed scores

Any points awarded that you think are correct

None awarded.

5 Each disputed activity in detail

Explain in detail why you think the decision is wrong and what the right decision is for a disputed activity by using steps 5a-e below. Then repeat 5a-e for each additional activity you want to dispute.

5a Descriptor you think is incorrect

5b What you think the correct descriptor is

5c What error the HP or DM has made

5d What evidence is in the papers to support you

5e Any further evidence you want to add including any Upper Tribunal decisions relevant to this activity you wish to quote

SOCIAL ENGAGEMENT

I have not been awarded any points for coping with social engagement (activity 16).

However, I believe that I should have been awarded 15 points for this activity.

The health professional has not taken into account the information in my claim pack.

In my pack I explained that I cannot deal with other people at all, unless they are involved in my health care in a professional capacity.

The only person I have any contact with is my mental health support worker, who visits me once a week and phones me twice a week to ensure I am safe and that I am complying with my medication. I cannot engage with others at all without experiencing significant distress, anxiety and paranoia. When I have been expected to see other people (such as attending the medical assessment) my mental health has deteriorated and I have become destructive within my home due to the distress it causes me.

The assessor has not made any record of these difficulties in her report, so I believe the decision maker has not had all the relevant evidence available to them to make an accurate decision.

I enclose a copy of my most recent review with my psychiatrist, which gives much more information about my mental health, and therefore should be given more weight as evidence than the report from the assessor.

6 Any general points about the evidence

Throughout the medical assessment, I was so anxious and distressed I could not concentrate. The assessor has noted that I “coped well” with the interview, but at the time all I could think about was getting through the questions so that I could leave as quickly as possible. The assessment took only 13 minutes, which I believe indicates that it was not carried out thoroughly or accurately.

7 Conclusion

I believe that I should have been awarded 15 points for social engagement and been placed in the Support Group.

Example 4

1 Your details

It's worth including all the details below at the start of your submission so that you can be sure it gets to the right people. The date of the decision being challenged is useful to include because it helps remind you and the tribunal about the relevant date – if your condition changed after this date that won't be relevant to this appeal.

Name

Tribunal Ref No:

NINO:

Hearing: Date, Time and Venue: (if you know these when you send your submission)

Date of decision being challenged:

2 Introduction

What you are appealing against and how many points you scored.

Following a medical assessment, I have been found capable of work and am now appealing against that decision. I was not awarded any points.

3 Potted history – optional

I worked all my adult life until I had an accident 3 years ago, which shattered my hip joint and pelvis. Since then, I have been unable to work at all and I have been in and out of hospital for operations. Unfortunately, these have been of limited benefit in improving my mobility. Until last year, I was using a wheelchair to get around, as I was unable to bear my weight at all. Through rehabilitation following an operation in September, I have become more able to get around independently on crutches, but my mobility is still extremely limited. Since my accident, I have not had a single day without pain, which can vary in intensity, but never goes away, despite taking strong painkillers. I don't believe that the report from the assessor has given an accurate reflection of the problems I still have.

4 Undisputed scores

Any points awarded that you think are correct

I have been awarded no points, which I fail to understand.

5 Each disputed activity in detail

Explain in detail why you think the decision is wrong and what the right decision is for a disputed activity by using steps 5a-e below. Then repeat 5a-e for each additional activity you want to dispute.

5a Descriptor you think is incorrect

5b What you think the correct descriptor is

5c What error the HP or DM has made

5d What evidence is in the papers to support you

5e Any further evidence you want to add including any Upper Tribunal decisions relevant to this activity you wish to quote

MOBILISING

I was awarded 0 points for mobilising (activity 1).

I believe that the correct descriptor is 1(a)(i) Cannot mobilise more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion, which scores 15 points.

The assessor has noted that I “walked 5 metres to the interview room, using crutches” and has then decided that this means I could walk 200 metres. I dispute this, as she did not ask me about the level of pain I was in.

I cannot walk as far as 20 metres without experiencing stabbing pains in my hips, which cause me to have to stop and rest before I can continue. On the day of the assessment I took double the amount of my painkillers, just to make it there and home again. For the remainder of that day and the whole of the following day, I was in so much pain I couldn’t move around my home comfortably at all. The HP has based their assessment of my walking ability on an extremely brief observation and on what I can manage around the home, where I stop to rest frequently to relieve the pain. I note that the assessment for this activity should be based on the ability to walk out of doors on level ground, not indoors.

I explained the difficulties I have with walking in the claim pack, and in my reconsideration request, which make it clear that I can only walk a maximum of 20 metres without stopping and that I am in severe pain all the time when I walk.

I enclose letters from my consultant and my physiotherapist, which show the extent of the damage to my hip and pelvis, and indicate that I experience significant pain when walking.

STANDING AND SITTING

I was awarded 0 points for sitting and standing.

I believe that descriptor 2(b)(iii) applies to me, and I should have been awarded 9 points for this activity.

Due to the damage to my hip/pelvis as described above, I am very uncomfortable when sitting or weight bearing for longer than 20 minutes in total. When I’m at home, I am able to recline, with the careful use of cushions, so that I am in a lot less pain than either sitting or standing. The assessor has noted that I was observed to be fidgeting during the assessment. However, she then noted that I sat for the whole time, which she has recorded as 35 minutes.

I take issue with two aspects of this report:

Firstly, the whole assessment, from the time she called me from the waiting room to me leaving the interview room, took 35 minutes. However, I was not sitting or standing throughout the whole of that time. She asked me to get on the couch, where she examined my leg raising, etc., which took at least 10 minutes, as I struggled to get onto and off the couch (neither of which has been mentioned in the report).

Secondly, she has not asked me about the significant discomfort I was experiencing (which is the reason for fidgeting) by having to sit for more than 10 minutes in such an uncomfortable chair and position. As I have stated above, I was unable to move around at all for the remainder of the examination day and the day after because of the effects of attending.

Although I understand that this difficulty alone would not qualify me for an award of ESA, I feel it illustrates how misleading and inaccurate it is, so leading the decision maker to reach an incorrect decision on my claim.

I therefore feel that the whole report should be disregarded as meaningful evidence.

6 Any general points about the evidence

The assessor has clearly failed to record vital and pertinent information in relation to my health problems and has clearly, by omission, misled the decision maker, who has made a decision on the basis of the report.

I request that the evidence I have given, supported by the letters from my consultant and physiotherapist, is given more weight when considering my entitlement to ESA.

7 Conclusion

I believe that I should have been awarded 24 points and that I should have been placed in the support group because descriptor 1(i) of the ESA Regs., Schedule 3 applies.

Example 5

1 Your details

It's worth including all the details below at the start of your submission so that you can be sure it gets to the right people. The date of the decision being challenged is useful to include because it helps remind you and the tribunal about the relevant date – if your condition changed after this date that won't be relevant to this appeal.

Name

Tribunal Ref No:

NINO:

Hearing: Date, Time and Venue: (if you know these when you send your submission)

Date of decision being challenged:

2 Introduction

Following a medical assessment, I have been found capable of work and am now appealing against that decision.

3 Potted history – optional

I am 35 years old. I suffer from Asperger's syndrome and Obsessive Compulsive Disorder. I have had a series of part-time jobs, with the last one ending 1 year ago, but have not been able to stay in work long due to the effect that social interaction has on my anxiety.

4 Undisputed scores

I was not awarded any points.

5 Each disputed activity in detail

Explain in detail why you think the decision is wrong and what the right decision is for a disputed activity by using steps 5a-e below. Then repeat 5a-e for each additional activity you want to dispute.

5a Descriptor you think is incorrect

5b What you think the correct descriptor is

5c What error the HP or DM has made

5d What evidence is in the papers to support you

5e Any further evidence you want to add including any Upper Tribunal decisions relevant to this activity you wish to quote

COPING WITH CHANGE

I was awarded 0 points for coping with change (activity 14).

However, the descriptor which applies is 14(b). I cannot cope with minor planned change (such as a pre-arranged change to the routine time scheduled for a lunch break), to the extent that overall day to day life is made significantly more difficult. (9 points).

The HP has said that I can cope with change but did not ask me anything about this.

The letter from my Support Worker shows that I get heightened anxiety and distressed if any of my routines are changed. I have my meals at the same time every day and cannot cope with any change in this, for example, if the telephone rings during a meal time I would not answer it.

GETTING ABOUT

I was awarded 0 points for getting about (activity 15).

However, the descriptor 15(c) applies. I am unable to get to a specified place with which the claimant is unfamiliar without being accompanied by another person. (6 points).

The HP has said that I attended the examination alone. However, my Support Worker attended with me and stayed in the waiting room until I was called and I called her when I was finished.

SOCIAL ENGAGEMENT

I was awarded 0 points for social engagement (activity 16).

However, the descriptor 16(b) applies. Engagement in social contact with someone unfamiliar to me is always precluded due to difficulty relating to others or significant distress experienced by me (9 points).

The HP says that I made eye contact and coped well with the examination. In fact I was sweating and very anxious and had not slept the night before.

My support worker states in her letter that I find it very distressing to meet with new people and engage with them.

6 Any general points about the evidence

The Health Professional has said that I was at ease throughout and answered all the questions. However, it was stated on my form that I have Asperger's and Obsessive Compulsive Disorder. I was very nervous but I tried to hide this and I was so exhausted I could not leave the house for three days afterwards for fear of meeting anyone. The HP was a physiotherapist with no experience of autistic disorders and severe anxiety associated with social interaction, so was not able to make those statements with any certainty. Those observations should not be relied upon.

In the case (CE/3883/2012), about Employment and Support Allowance, the Judge held; "where...the disability analyst is a physiotherapist and the problems she is dealing with are mental health problems the opinion of the physiotherapist as to the conclusions to be drawn have no probative value whatsoever. This is because the physiotherapist has no professional expertise in mental health matters."

7 Conclusion

I believe that I should have been awarded 24 points and that I should have been found to have limited capability for work and placed in the work-related activity group.

Example 6

1 Your details

It's worth including all the details below at the start of your submission so that you can be sure it gets to the right people. The date of the decision being challenged is useful to include because it helps remind you and the tribunal about the relevant date – if your condition changed after this date that won't be relevant to this appeal.

Name

Tribunal Ref No:

NINO:

Hearing: Date, Time and Venue: (if you know these when you send your submission)

Date of decision being challenged:

2 Introduction

Following a medical assessment, I have been found capable of work and am now appealing against that decision. I was awarded 6 points for standing and sitting.

3 Potted history – optional

I am 30 years old. I suffer from a foot deformity which causes me discomfort all of the time and pain when I walk. I also have an unusual gait as I try to balance and I use crutches at times. I have not worked for some time and have had numerous investigations about the causes and possible treatment of my condition.

4 Undisputed scores

I am not disputing the score for activity 2, standing and sitting. I was awarded 2(c) Cannot, for the majority of the time, remain at a work station, either: (i) standing unassisted by another person (even if free to move around) or; (ii) sitting (even in an adjustable chair); or (iii) a combination of (i) and (ii), for more than an hour, before needing to move away in order to avoid significant discomfort or exhaustion. (6 points).

5 Each disputed activity in detail

Explain in detail why you think the decision is wrong and what the right decision is for a disputed activity by using steps 5a-e below. Then repeat 5a-e for each additional activity you want to dispute.

5a Descriptor you think is incorrect

5b What you think the correct descriptor is

5c What error the HP or DM has made

5d What evidence is in the papers to support you

5e Any further evidence you want to add including any Upper Tribunal decisions relevant to this activity you wish to quote

MOBILISING

I have not been awarded any points for mobilising (activity 1). I dispute this.

The descriptor which should apply is 1(a) Cannot either; (i) mobilise more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion or (ii) repeatedly mobilise 50 metres within a reasonable timescale because of significant discomfort or exhaustion. (15 points).

The HP has stated that I have good upper body strength and the decision-maker has stated that I can use a wheelchair to mobilise a significant distance.

However, I don't have a wheelchair. I have been advised to use crutches or sticks as I need to take some weight off my feet. My hips are damaged by my gait and I have been told by my Physiotherapist that if I was to use a wheelchair, my feet would seize up and I would be in more pain. I am trying to delay using a wheelchair to prevent my condition from worsening. I have not had any NHS or Occupational Therapy recommendation to use a wheelchair. I live in a house with stairs and a wheelchair would not be practical currently.

In the case CE/3431 2012, the Judge stated that:

"The tribunal should approach this descriptor, as any descriptor, on the basis of the evidence before it. It appears to have gone ahead to consider the use of a wheelchair without first deciding if in its view aids are reasonably needed by the appellant for mobility."

I enclose a letter from my Physiotherapist which confirms that it is not reasonable for me to use a wheelchair currently.

6 Any general points about the evidence

7 Conclusion

I believe that I should have been awarded 21 points and that I should have been placed in the Support Group as Activity 1(a)(i) is a schedule 3 descriptor.