



DLA

Revisions and Appeals

A Guide for Adults
with
Ulcerative Colitis and Crohn's Disease

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The information in this guide is intended as general information only and is not intended to be relied upon by any individual in relation to their specific circumstances. It is not intended as a replacement for appropriate professional advice.

**DLA Revisions and Appeals:
A Guide for Adults with Ulcerative
Colitis and Crohn's Disease
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The Decision Letter

Please note: this guide is designed for use by people who made their initial claim with the help of our publication: *Claiming Disability Living Allowance: a guide for Adults with Ulcerative Colitis and Crohn's Disease*. If you did not do so, please download a copy from our website at www.crohnsandcolitis.org.uk or telephone the Information Line and ask for one to be sent to you. There is information in that guide on completing the claim pack, submitting evidence and getting help, that it is assumed readers of this guide to appeals are familiar with.

We very much hope that your claim for DLA has been successful, but we are also aware that many valid, detailed and well supported claims are turned down initially. One thing that literally hundreds of members of Crohn's and Colitis UK, who have successfully claimed benefits, stressed to us, was the idea that you have to be persistent and not take no for an answer. Many of them had put in repeated claims and gone on to appeal before receiving an award. So do consider taking the matter further if you aren't happy with the decision.

The decision letter itself will leave you in one of three possible positions:

1. You have been awarded DLA at what you consider to be the correct rate and for the correct period of time.
2. You have been awarded DLA but at a lower rate or for a shorter period than you consider correct.
3. You have received no award at all.

What action, if any, you take next depends on which position you are in, so we'll look closely at all three of them. But please be warned that the appeals process is complicated and you may need to read parts of this guide several times before it starts to make any sense at all.

Position 1: You have been awarded DLA at what you consider to be the correct rate and for the correct period of time.

If this is the case then congratulations, you need do nothing else, though there may be other benefits such as income support which you can now apply for, or have increased, as a result of receiving DLA. Try to get advice about this.

Fixed period awards

If your award is for a fixed number of years, say three, you should be sent a renewal form to complete several months before it runs out. Even if your award is for an indefinite period you are still likely to receive review forms to fill in every few years and your award can still be reduced or stopped depending on what you write in them. So please do complete any further claim forms with just as much care as you completed the original (of which you will, of course, have kept a copy) and try to include up-to-date medical evidence showing that your condition hasn't improved. You can download a guide to completing renewal forms from the Crohn's and Colitis UK website.

Changes of circumstances

If your circumstances do change - your condition improves or deteriorates - you should tell the Department of Work and Pensions (DWP) who may then look at your case again, as it may mean that your DLA should be reduced or increased. Technically, looking at a decision again in this way is known as a *supersession*. It is very important that you realise that if you ask the DWP to look at a decision again, for any reason, the award can go down as well as up. So if you are asking for your award to be looked at again because your condition has deteriorated make sure you include good up-to-date medical evidence and, if at all possible, get advice before doing it.

Position 2: You have been awarded Disability Living Allowance but at a lower rate or for a shorter period than you consider correct.

If this is the case, read what is written below about revisions and appeals. But please remember that if you ask for the decision to be looked at again your award can be reduced or taken away altogether as well as increased. This is a very difficult position to be in, so please try to get advice from a welfare rights worker before taking any action.

At a lower rate

If the award is at a lower rate than you think is correct you need to decide two things:

Firstly, is the evidence to support the award that you have been given so strong that there is little likelihood of any of it being taken away?

Secondly is the evidence to support your being awarded a higher rate so strong that it is worth taking even a relatively small risk by asking for the decision to be looked at again?

These are decisions that you really do need the help of someone experienced to make.

For a shorter period

If the award is *for a shorter period* than you consider correct, the same two questions apply. But if it is the care component you are unhappy about bear in mind that it may be safer and simpler to face reapplying in say, three years time, rather than having to go through an appeal. However, if you have been awarded the higher rate mobility but you wish to buy a new car under the Motability scheme and your award is not for long enough, then you obviously have strong reasons for wishing to appeal. Again, we can only stress that your award can be reduced as well as increased and you should seek advice if at all possible.

If you have been awarded both components but you are only unhappy with one, either because of the rate or period of the award, make this clear. However, the DWP may decide that they have grounds to look at both in any case, so asking for one component to be looked at may also risk your award of the other component. It is a very difficult position to be put in.

Position 3: You have received no award at all.

You will probably be feeling very angry and hurt at not being believed if you have received no award at all. You may also feel let down because you followed all our advice to the letter and it got you nowhere. We wish we could offer guarantees about the outcome of your claim if you follow our guidance, but we can't.

What we can say, however, is that if you decide to ask for the decision to be looked at again you will already have done most of the work required, by providing detailed and relevant evidence. Nonetheless, you should be aware that the revision and appeal process can be time consuming and emotionally gruelling. The experience of going to a tribunal and being questioned in great detail about your everyday life can be distressing and there is still no certainty of success. However, most tribunals are run in a sensitive way by people who will try to put you at your ease and make it as little of an ordeal as possible. And remember, **more than half of all oral hearings are successful**: people come out with a higher award than they went in with. (And many of those claims won't have been half as detailed or well supported with evidence as yours). If you are fortunate enough to find an experienced representative your chances of success are even higher.

Also bear in mind that you can withdraw an appeal at any stage before the hearing is held, so at this stage you are not doing anything that you cannot undo if you choose.

Having the decision looked at again

There are two ways of having the decision looked at again:

- i) You can ask for the decision to be revised; or
- ii) You can lodge an appeal.

But, just to remind you, whichever you do, your award can be reduced or taken away altogether as well as increased. There is a time limit for both revisions and appeals: the DWP must receive your request **within one calendar month** of the date on the letter giving you the decision. There are limited circumstances in which a late request can be granted, but it isn't easy and you may need to seek advice.

i) Having the decision revised

If you write or telephone asking for a revision you are simply asking the Decision Maker to look at the matter again. However, if you have followed the instructions in this guidance and made a detailed claim supported by evidence we would *not* advise you to ask for a revision as it is very unlikely to result in a higher award. In addition, if you ask for a revision you will be put through to, or telephoned at home by, the Explanation Team who will explain to you how the decision was reached, and may attempt to persuade you to withdraw your challenge by telling you that your condition is not severe enough for an award, or a higher award, to be made. If you are contacted by the Explanation Team you can tell them you do not wish to have an explanation or you can listen to it but insist on carrying on with your challenge anyway. If you appeal instead of asking for a revision your claim will automatically be looked at again in any case before the appeal papers are prepared, so there really is no advantage in asking for a revision.

ii) Lodging an appeal

If you do decide to lodge an appeal the most important thing is to do so **within one calendar month** of the date on the decision letter. Get a copy of booklet GL24 *If you think our decision is wrong*, which explains the appeals process and also includes an appeal form which you can tear out and complete. You can get the booklet from your local DWP office, post office, jobcentre or advice agency. You can also download a copy by visiting the directgov website at http://www.direct.gov.uk/en/Diol1/DoltOnline/DG_4017514

The appeal form asks for:

- Your name and address
- Your national insurance number
- The benefit you are claiming
- The date shown at the top of the letter telling you about the decision
- *Why* you disagree with the decision (see below)
- Details of your representative if you have one
- Your signature and the date

If you can't get a copy of the form then write a letter containing *all* the information above. But bear in mind that the DWP is not obliged to accept an appeal that is not on the proper form, so only do this as a last resort.

Explaining why you disagree with the decision

As you will have been given very little information about why you have not received an award it can be difficult to explain why you disagree. You can request that the DWP send you their reasons for the decision and if you do so the deadline for your appeal will be extended by 14 days, which includes the time it takes for the information to be sent to you. We would *not* advise you to do this. The opportunities for confusion and missed deadlines are increased, the reasons given may still not be very detailed and it may make completing the appeal form more difficult unless you have detailed knowledge of benefits law. Instead, we suggest that you write something along the lines of the following:

I wish to appeal against the decision not to award me Disability Living Allowance. I consider that I provided enough evidence for an award to be made.

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 they may wish to ask. Please do not ask me to provide further details of my grounds of appeal as I will not be able to do so until I have been provided with a full copy of the papers and had the opportunity to try to get expert assistance in examining them. I am not legally trained and I am not in a position to deal with the complex rules relating to Disability Living Allowance without independent advice.

At this stage don't worry if you don't think you could face an oral hearing, there's months in which you can switch to a paper hearing if you choose, as we explain below. Send the completed form to the address on the letter telling you about the decision and mark the envelope 'Appeals'. By now we shouldn't need to remind you that you absolutely must keep a copy of your appeal form and note in your claim file the date that you sent it.

If you are in position 2 above: that is, you received an award but you are unhappy with it, and if you are absolutely unable to get advice within the deadline but you *do* wish to appeal then replace the first sentence in the box above with:

"I wish to appeal against the decision only to award me (*insert the rate(s) of Disability Living Allowance with which you are unhappy*). I consider that I provided enough evidence for a higher award of the (care component and/or mobility component) to be awarded."

and then use the same wording as in the box above for the second paragraph. But please carry on trying to get advice because, as we have said, you now run the risk of losing the award that you already have.

You should receive a letter from the DWP acknowledging your appeal. If you don't get an acknowledgement within 14 days write or telephone the DWP to check if they got the appeal form and ask for written confirmation.

If the decision maker says you haven't given enough information

Very rarely, and we consider unreasonably, the decision maker may write saying that you have not given sufficient grounds for your appeal and that you have 14 days from the date on the letter in which to provide further information. If you don't do so, or if the decision maker still considers there is not enough information, the DWP will ask a tribunal judge to decide whether your appeal should be struck out. If the judge does strike your appeal out you will need to seek advice from a welfare rights worker urgently

The best thing to do if you do receive a letter asking for extra information about your grounds of appeal is to try to get help from a welfare rights adviser. If that is not possible, try to give some extra information, but also point out that it appears to be a breach of natural justice to expect you to provide detailed information before you have seen any of the evidence used to refuse your claim. The sort of extra information you might provide is:

"I explained in my claim pack why I needed someone with me when I walk outdoors in unfamiliar places, so I consider I should have been awarded lower rate mobility."

"I explained in my claim pack that I have problems with preparing a cooked main meal, so I consider I should have been awarded lower rate care."

"I explained in my claim pack about all the attention I need in connection with my bodily functions and I consider I should have received an award of the care component on those grounds."

When your appeal is accepted

Once your appeal is accepted, before preparing the papers the Decision Maker looks again at the decision in your case. One of two things will then happen:

- 1 *The decision will be revised* and you will receive a new decision letter. If your award has been improved but you are still not happy with the award you will have to make a fresh appeal against the new decision **within one calendar month** of the date on the letter. And, once again, because you are now in Position 2 above you must realise that if you do appeal your award can be taken away as well as increased. We do realise how confusing this all is and all we can do is urge you to try to get advice if you find yourself in this position. If your award has not been improved in any way the appeal will continue.
- 2 *The decision will not be changed* and your appeal will be forwarded to the Tribunals Service. It may take several months for this to happen and you may hear nothing more until a bulky envelope lands on your doormat. These are the appeal papers, which we deal with in the next section.

Completing the Pre-Hearing Enquiry Form

Eventually you will receive what may be quite a bulky package. When it arrives, please don't panic. We have talked to members of Crohn's and Colitis UK who told us that they found this pile of papers so bewildering and intimidating that they gave up on their appeal there and then. Please don't do that. The contents may look confusing, but you'll soon discover that, as you are the subject of them, you are also uniquely well qualified to comment on them. But before we deal with the appeal papers there is something that requires more immediate attention.

Pre-hearing Enquiry Form

With the bundle is a form called the enquiry form. If you do not return this **within 14 days** of the date on the letter your appeal may be struck out. So, there's no time like the present...

As well as a section for you to give your name, address, telephone number and national insurance number the form contains the following boxes:

Box 1

Do you want to withdraw your appeal?

Tick no. Remember you can withdraw your appeal at any point, so don't feel pressured into making a decision yet.

Box 2

Do you wish to have an oral hearing?

Do you wish to have a paper hearing?

We would strongly advise you to ask for an oral hearing, which you attend in person. The chances of success at a paper hearing, where you are not present to tell the tribunal about your everyday life, are only about one in seven compared to about 1 in 2 for an oral hearing. It is likely to be another three months or more before your hearing, so there is still time to try to find a representative or someone to accompany you.

Box 3

Are you and/or your representative going to attend?

Tick yes, you are going to attend and ignore the other two boxes if you don't have a representative yet. If you find one they can just turn up on the day, you don't have to inform the tribunal beforehand.

Do you consent to less than 14 days notice of the date of your oral hearing?

Definitely do not consent to less than 14 days notice, particularly if you are hoping to find someone to go with you.

Are there any dates when you or your representative would not be able to attend a hearing?

Remember to check dates with anyone you hope is going to accompany you, either for support or as a witness.

Box 4

If you live outside Britain and have requested an oral hearing:

What is the expected date of your return?

What will be your address and telephone number?

Complete these if they apply to you.

Box 5

If you already have a representative please give their name and full address.

Ignore this box if you don't have a representative yet.

Box 6

Do you have any more evidence that you want to put before the tribunal?

If you hope to get more supporting evidence but don't know when you will be able to obtain it, simply write 'As soon as I can get it' in the box asking you when the Tribunals Service will receive extra evidence. (It doesn't quite answer their question, but they'll know what you mean.) You should send a copy of any extra evidence to the Tribunals Service as soon as you get it, but if necessary you can turn up with additional evidence on the day of the hearing. Always take the originals with you to the hearing anyway as the Tribunals Service frequently lose documents or fail to send them out in time for the hearing.

Box 7

In certain limited circumstances the Tribunals Service may need to obtain further medical evidence in connection with your appeal. Do they have your agreement to do so?

It is extremely unlikely that the Tribunals Service will seek further medical evidence. However, we would advise you **not** to give permission because your doctor or consultant may be sent a standard form to complete which may not be appropriate for your condition.

Box 8

Are you bringing an interpreter?

If you do need an interpreter or signer an extended hearing should be arranged.

Do you have any other special needs, e.g. disabled access or special travelling arrangements?

Tribunals are held locally, not at the regional office that you return the form to, unless that happens to be your home town. But you may still have to travel some distance, perhaps to the nearest large town or city, for your hearing. You can phone or write to the Tribunals Service to find out where your hearing will be held. If your condition means you cannot use public transport and you can't drive or get a lift you may need to travel to the hearing by taxi. The Tribunals Service may agree to pay the fare so explain in this box why a taxi is needed (see 'On the day' below for more about why public transport is best avoided).

If you cannot attend a hearing at any time because of your health, it is possible to have a domiciliary hearing held in your home. However, the Tribunals Service are very, very reluctant to grant domiciliary hearings – you may have a long fight on your hands. You may also have to wait up to a year before a date is set. But if you do need a domiciliary hearing, say so here.

When you've completed all the boxes don't forget to sign and date the form and then return it to the regional centre whose address is given on the form. And remember, they have to receive it **within 14 days of the date on the letter** that accompanied it or your appeal may be struck out. (If your appeal is struck out you can apply to have it reinstated, but there's no guarantee of success and you'll need advice.)

The Appeal Papers

Right, now it's time to examine the bundle!

Before you start, you may wish to make a hot drink, make yourself comfortable and make up your mind that you aren't going to be intimidated by the odd paragraphs, or even pages, of legal gobbledygook. This appeal is about your condition and how it affects you and that's something that *you* are the expert on.

The papers are prepared by the DWP and they generally contain around 80-120 pages which may or may not be in the following order:

- **Schedule of evidence:** this is the front page and it's just an index of what's inside.
- **Claimant details:** your name, address and national insurance number.
- **Decision appealed against:** this is just a restatement of the decision about your DLA claim.
- **Acts and Regulations relied upon:** this is a list of the relevant laws; you can research these if you wish, but you really don't need to. (See *Additional Sources of Information*)
- **Upper Tribunal decisions relied upon:** Upper Tribunals (previously known as Social Security Commissioners) are the next level up from a 'first tier' tribunal. (If you lose at the hearing you may be able to appeal to the Upper Tribunal yourself). Their decisions are binding on tribunals, which is why they are mentioned here. For example, a Commissioner decided that how breathless someone gets should be taken into account when deciding how far they can walk without severe discomfort. So now all DLA tribunals must take breathlessness into account. You can research relevant decisions if you want to, but again you don't need to. (See *Additional Sources of Information*).
- **Claimant's grounds of appeal:** this is taken from the appeal form you completed.
- **Summary of facts and Decision Maker's submission:** this is where the DWP explains why it thinks its decision was right. They may quote bits of law, large chunks from Commissioners' decisions, bits of your claim form and bits of medical evidence.
- **Documents relating to the case in chronological order:** this will include a copy of your claim form, any supporting letters and, if you had a DWP medical, a copy of the doctor's report.

So that's what's in the papers. Now the question is, what do you do with them? The answer is simple: ***look for things that are wrong***.

There are two areas you should pay close attention to:

i) The DWP medical report

This will only be in the papers if you actually had a visit from a DWP doctor. If you did, this is your chance to find out what he or she wrote about you. Go through the report with a fine tooth comb, read every word. If the writing is illegible write to the Tribunals Service telling them that you can't read the report or sections of it and ask them to obtain a typed transcript from the DWP. If you don't get one raise this at the hearing, you may want to ask for it to be adjourned whilst the tribunal gets a typed transcript (though there is no guarantee that they will do so). But it is obviously vital that you are able to read the evidence being used to refuse your claim.

Make a note of anything you consider to be wrong with the report. Did the doctor fail to note down things you told him or things that happened? Has the doctor said he considers you can do things that in fact you can't. Has the doctor taken things you said or did out of context? Has the doctor recorded things that didn't happen?

Many people feel awkward about challenging the opinion of a doctor, but please remember that if you don't point out to the tribunal where the doctor has got it wrong then the tribunal will have to accept what he has written. There is no need to make it a personal attack on the doctor - indeed, that might well antagonize the tribunal. All you need to say is that the doctor is mistaken in his opinion of what you can and can't do, or that he wrote things down incorrectly or incompletely or didn't record them at all. If the doctor seemed in a hurry, didn't seem to listen or asked leading questions then you should say so matter-of-factly, rather than angrily or accusingly.

If you kept a record of the visit this may be very valuable evidence to give to the tribunal. (See our guide, *Claiming Disability Living Allowance*, for further information). Don't assume that a tribunal is bound to take a doctor's word rather than yours. In many thousands of cases every year, tribunals accept the evidence of the claimant rather than that of the DWP doctor. And, of course, if you have managed to get detailed supporting evidence from your own doctor then the tribunal has to choose between two conflicting sets of medical evidence anyway. Your job is to help them choose the right evidence.

ii) The summary of facts and the Decision Maker's submission

Go through these just as carefully because what the DWP calls facts may not be facts at all. Has the Decision Maker made assumptions about you that aren't based on any evidence and then presented them as facts? Has the Decision Maker only told half the story? Has the Decision Maker used evidence from the DWP medical report which you consider to be incorrect? Has the Decision Maker ignored evidence that you or your health professionals provided that undermines his case? Has the Decision Maker just got things plain wrong?

If you have a representative, go through all these points with him/her. If not, try to make notes that you can use to remind you of all the points you want to make at the hearing. Remember to make a note of the relevant page numbers for each point you want to make, as the tribunal will want to check what is in the papers for themselves and it can save a lot of time if you can tell them where to look.

After you have been through the papers in this way you may want to get more evidence from your carers or health professionals to specifically counter what the DWP doctor or the Decision Maker have said about you. If you do, try to send copies to the Tribunals Service prior to the hearing, but always hang on to the original and take it with you on the day.

Notice of a Hearing

Once you have returned the enquiry form the next thing you should get is a letter giving you notice of your hearing, provided that you requested an oral hearing.

This will probably take several months and you will not usually get more than two weeks notice of the actual hearing. Indeed, as the Tribunals Service are only obliged to send out the notice 14 days before the hearing date you may actually get less than two weeks notice.

When you get the date, check it is one you, and your witnesses if you have any, can attend on. If it's not and it was a date you put down as being unable to attend then contact the Tribunals Service immediately. They should offer you a new date instead.

If they refuse to change the date write to them immediately stating why you will not be attending and asking for the hearing to be adjourned. Your letter should then be passed on to the tribunal judge. If he still carries on with the hearing in your absence you will have to get help in applying for a set aside, assuming you are unhappy with the tribunal's decision.

As always, keep copies of everything and make notes of names and dates when you speak to people on the phone (the Tribunals Service is particularly notorious for losing documents and records of phone calls).

If the date is one that you told the Tribunals Service you could attend then you will need a very compelling reason for wanting it changed and there is no certainty that the Tribunals Service will agree to do so.

If you are too ill to attend, inform the Tribunals Service by telephone and follow it up with a letter. If they do not postpone the hearing, make sure you get a doctor's letter saying that you were too ill to attend and seek advice on trying to get the tribunal's decision set aside if you are unhappy with it.

The notice of hearing will also include the address of your local tribunal offices and a map telling you how to get there.

The day of the Hearing

Don't be surprised if you didn't get much sleep the night before the hearing, most people turn up with rings under their eyes!

If you need to take anti-diarrhoeal medication to attend the hearing do so, but explain to the tribunal that you have done so and what pain or problems using such medication causes. (Otherwise they might decide that medication provides a simple solution to all your problems). But please try not to use any medication to calm your nerves unless it is something you normally take, and then take it only at the usual dose.

Tribunals are used to people being nervous and, if they are a good tribunal, they will do their best to put you at your ease. But people who arrive in a smiling state of medicated bliss seldom do themselves any favours.

It may seem odd to you, or there again it may not, but a big concern for many people is what they should wear to the hearing. As the tribunal members will be in suits or similarly formal clothes we think it makes sense to come reasonably smart. However, if your condition means that you normally wear clothes that make it easier to cope, such as slip-on shoes or elasticated trousers, then wear them. If you aren't wearing them, but you've said on your form that you do, the tribunal is sure to notice, even if they don't comment on it.

Also remember that you may well be asked how you got to the hearing. There is often an assumption that people who use public transport have less serious health problems because they are able to get to a bus stop and stand for long periods, as well as coping with the crowding, jolting and frequent stops and starts.

Of course, the truth may be that the journey was a nightmare for you, that you had to stop and rest many times, that you were in constant pain and discomfort and suffered continual anxiety in case of sudden bowel urgency. If possible, don't use public transport to get to the hearing. But if you do have to use public transport make sure you explain to the tribunal in great detail any problems or pain that the journey caused you and any problems it may cause you for the rest of the day or following days.

Finally, be aware that hearings often run very late and sometimes people are sent home without the hearing taking place because they have run out of time. So be prepared for a long wait, possibly hours. Nevertheless, it makes sense to get to the tribunal offices about 15 minutes early, just in case yours starts on time. You should be approached by a clerk in the waiting room who will tell you briefly what happens at the hearing and ask you about travel expenses.

If you have any additional evidence that you have not sent in, give it to the clerk now. You should also tell the clerk if you have brought any witnesses who may wish to give evidence during the hearing. Then all you have to do is wait (perhaps nervously, we all feel the same!) to be shown into the hearing.

At the Hearing

The tribunal itself consists of three people: a judge who is legally qualified (often a practicing or retired solicitor – you will NOT be facing a courtroom with wigs and gown however!), a doctor and a third member who has knowledge of disability issues. In addition, there will sometimes be a representative of the DWP, the Presenting Officer, who will put their case. A clerk may also be present, but they will probably come and go throughout the hearing and they take no part in the proceedings.

The three tribunal members sit together on one side of a table. You will be shown to seats opposite them with the presenting officer and your representative, if they are present. If you have also brought your spouse/ partner, friends or witnesses they can generally sit next to you or, if there isn't enough room, in seats behind you.

There is no limit on the number of people you can bring and, as tribunals are public hearings, members of the public can also attend. In practice, however, they don't. Sometimes someone from the DWP or a Citizens Advice Bureau who is learning about tribunals may wish to observe, however. You will normally be told if anyone else is attending and you can ask for the hearing to be held in private, though the final decision is the judge's.

There is no swearing of oaths and there is no set procedure for hearings; different judges run their hearings in different ways. Usually, though, they will begin by introducing everyone in the room and explaining what they are there for and what is going to happen before starting the hearing proper. Sometimes they will want to hear from the DWP first, if there is a Presenting Officer present. Sometimes they will want to hear from you or your representative first.

A very common technique is to ask you to describe what you did the previous day in great detail, and then the day before and then the day before until the tribunal feel they have a clear picture of how your condition affects you. If the last few days have been better ones than normal you need to make this clear to the tribunal at every possible occasion and tell them what you are like at other times.

If you're having an average to worse week prior to the hearing it can be a very good idea to keep a diary. (See our guide, *Claiming Disability Living Allowance*, for further information). You can take this to the hearing and use it to help you give accurate answers, the tribunal may even ask for copies of it to be made for them to read.

The hearing itself is usually scheduled to last thirty to forty minutes but they often overrun and this can mean pressure to get through the remaining ones quickly. But do try not to be rushed; it's important you get the chance to give all your evidence. It is obviously very difficult to feel confident and assertive in this situation, so it definitely helps if you have someone with you for support. You should ask them to listen carefully to the proceedings and to remind you about anything they feel has been missed. They can also speak themselves if you have told the clerk beforehand that they are there to provide support but also to act as a witness if needed.

At the end of the hearing the judge should ask if you have anything else you want to say. If he doesn't, and there are things you consider need mentioning, then politely ask to make a few final points.

The tribunal's decision

When the tribunal has heard all the evidence, everyone will be asked to leave. The three members will then consider their decision, a process which can take anything from a few minutes to half an hour or more. Waiting to go into the tribunal can be nerve-racking, but most people find this the worst wait of all. Don't, however, try to read anything into how long the tribunal takes to reach a decision. Years of attending hearings have taught us that there is no connection between the length of the wait and the result.

Very rarely the tribunal will not be able to make a decision on the day and it will be posted to you days, weeks and sadly sometimes even months later. Usually, however, you will be invited back into the room, told the decision and given a yellow piece of paper with the decision written on it (this is called the short decision notice). You are not invited to comment on the decision.

If you have got what you hoped for then you need do nothing else except perhaps congratulate yourself on your persistence through what was probably a very demanding and, at times, dispiriting process (though it does no harm to send a copy of the decision to the DWP just to make sure they know). Your award should be backdated to the date of your original claim, so you may be owed quite a large sum.

If you haven't got what you hoped for you will undoubtedly feel painfully hurt, disappointed and angry at apparently not being believed. You may well also feel that you've reached the end of your endurance and that you don't wish to pursue your claim any further. However, your feelings may change in the following weeks or months and you may want, therefore, to leave yourself the opportunity to try to appeal to the Upper Tribunal.

This is a more complex procedure. It may take more than a year and it is beyond the scope of this guidance. But, as always, there are tight deadlines and you need to get through the first one, below, in order to be able to pursue the appeal if you choose to. And, as before, you must bear in mind that if you do appeal, your award can be reduced or stopped altogether as well as increased.

Appealing to the Upper Tribunal

If you are unhappy with the decision, then as soon as you have been given it you can say to the judge that you would like to have a 'full written decision'. This is a complete record of the hearing which the judge writes and has sent to you. If you don't do it at the hearing you can still write to the Tribunals Service within one calendar month of the hearing and ask for a full written decision. In fact it's a good idea to make the request in writing anyway, even if you did do it verbally, just in case it doesn't get noted down.

Asking for the full written decision, which can take anything up to three months to arrive, does not commit you to anything. But if you do not have the full written decision you are not generally permitted to seek leave to appeal to the Upper Tribunal, so it's worth keeping your options open by asking for a copy whilst you consider what to do.

Whilst waiting for the written decision to arrive, do try to find someone who can advise you on the next steps, because sadly this is as far as we can travel with you in this guide. But, if you don't manage to find a welfare rights worker to take on your case, perhaps you'll take heart from the knowledge that all of us involved in writing this guidance have met people who took their appeal all the way to the Upper Tribunal, without help, and won.

We very much hope that you don't have to go that far to receive the benefits to which you are entitled, but if you do, we wish you luck.

Additional Sources of Information

You do not need to become an expert on benefits law in order to attend a hearing, even without a representative. Nevertheless, some people do want to learn more about the benefits system with which they are struggling. If you are one of those people, the sources of information below will get you started. Some of the books may be available at your local library or on inter library loan.

Disability Rights Handbook Disability Alliance (www.disabilityalliance.org) A single volume guide to benefits for people with long term health problems, published annually. This is a good place to start.

Welfare Benefits Handbook Child Poverty Action Group (www.cpag.org.uk) A complete guide to the benefits system, published annually. Very detailed, but not as user friendly as the *Disability Rights Handbook*

The Tribunals Service website (www.appeals-service.gov.uk) contains limited information about the appeals system and contact details for local venues.

The Upper Tribunal website (www.osspsc.gov.uk) contains a downloadable form for appealing to the tribunal and guidance on the procedure involved, along with full copies of many recent decisions.

www.benefitsandwork.co.uk includes up-to-date links to a range of benefits resources, including information about appeals.

Help, Support and Information

Crohn's and Colitis UK

Disability Benefit Support: 0845 130 2233

Information and support for people with Colitis and Crohn's Disease in appealing a decision on DLA is provided through the Information Service. Anybody wishing to have more information about how to challenge a DLA decision should ring the Crohn's and Colitis UK Information Line on **0845 130 2233**. Our Information Officers can direct you to various sources of help. Information Officers can also make an appointment for you to speak to a trained Disability Benefit Service Volunteer. Our volunteer will call you on the telephone, at a pre-arranged time, to talk over any questions or concerns you may have about your appeal. Our guides to DLA are available on our website, www.crohnsandcolitis.org.uk or if you prefer, we can post one to you.

NACC-in-Contact Support Line: 0845 130 3344

Even if you feel entirely able to appeal without help, you may well find the process emotionally disturbing. As your claim was not successful, you may feel that you have not been taken seriously or believed. Contacts are Crohn's and Colitis UK members who have been trained to give supportive listening over the telephone. They are not there to deal with any questions to do with DLA, but if you find the process of appealing is causing you distress, they can offer support.

Family, friends, carers and other Crohn's and Colitis UK members

If you can arrange emotional support from amongst your family and friends it may make appealing against your DLA decision easier to cope with. Bear in mind that the process may take many months, or sometimes, even years.

Advice agencies and advice workers

These may be able to help with filling forms and with challenging the decision if you're unhappy with it. However, advice agencies may be almost impossible to get through to on the phone, have no appointment system, long queues and no public lavatory. If you can't get through to your local agency on the phone, try writing to them explaining your health problems and asking if they do home visits, or if they can telephone you at home and offer advice. You can usually find numbers for advice agencies in your local Yellow Pages, in one or more of the following sections: disability information and services; information services; social service and welfare organisations; counselling and advice.

Please note: you may have to try repeatedly before you can get through to agencies on the telephone. You should also be aware that help from advice agencies is very much in demand, so the sooner you seek help the better.

Legal Services Commission: Direct helpline and website

The Community Legal Advice Service offers free initial (30 minutes) advice from a qualified legal adviser about Welfare Benefits between 9am and 8pm weekdays, 9am-12.30pm Saturdays. And if you call outside office hours, just leave a message and they say they'll call you back. If you are eligible for Legal Aid you can then get further free legal help with your case by phone and post. To use the helpline, call **0845 345 4345**. After you choose the welfare benefits option you will be advised to listen to recorded messages about benefits. We recommend that you don't; the messages are long, sometimes confusing and you can read them at your leisure on the CLA website if you wish to. Instead go straight for the option of speaking to an adviser.

You can also get information about your nearest CLA funded advice providers by visiting the CLA website at: www.communitylegaladvice.org.uk

Citizens' Advice Bureaux (CAB)

There are over 750 bureaux in mainland Britain. Look under Citizens Advice Bureau in your phone book for details of your nearest one. You can also find details of your nearest bureau at: www.citizensadvice.org.uk

Citizens Advice Scotland (CAS)

To find your nearest bureau, look under Citizens Advice Scotland in your phone book or visit the CAS website at: www.cas.org.uk

AdviceUK

Over 900 advice agencies are members of AdviceUK. Details of your nearest ones are available from AdviceUK's website at www.adviceuk.org.uk

AdviceNI

AIAC is the umbrella body for independent advice centres in Northern Ireland. You can get details of your local independent advice centre in Northern Ireland from their website at: www.adviceni.net

Disability Information Advice Line

There are over 140 local DIALs, all staffed by disabled people and all offering telephone advice. If you have a local line it should be listed in your telephone directory under DIAL UK. Alternatively, call the national office on **01302 310 123** or visit their website at www.dialuk.info where you can find a directory of DIAL offices.

Housing Associations

Some housing associations employ a welfare rights worker. If you live in a housing association property contact your local office.

Doctors' surgeries

An increasing number of surgeries and health centres have a welfare rights worker on the premises, part-time or full-time. Check with the receptionist.

Local Authority

Your local council may employ Welfare Rights Workers who can help you with your claim. Start by asking your council's main switchboard if they can put you through to a Welfare Rights Worker. If the operator doesn't know of one, ask to be put through to the Social Services Department and if they can't help, try the Housing Department; either department may employ Welfare Rights Workers.

Benefit Enquiry Line: 0800 88 22 00

This is a DWP line for general questions about benefits for 'disabled' people and carers.

Internet

www.dwp.gov.uk This is the website of the Department of Work and Pensions.

www.direct.gov.uk This is the website of the UK government.

www.disabilityalliance.org This website has a great deal of up to date information