



Employment and Support Allowance: an overview

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What is ESA?

Employment and Support Allowance is a benefit which is aimed at supporting people with disabilities and long-term health conditions who cannot work. It comes in two forms: Contribution Based ESA (referred to as “new-style” ESA) and Income Related ESA.

Contribution Based ESA is paid to those who are eligible as a result of having paid sufficient National Insurance Contributions. You must have paid sufficient contributions for at least the two years prior to your claim.

Most people cannot now claim Income Related ESA, since this is being replaced by Universal Credit. However, there is an exception for some people who are severely disabled.

You can check your National Insurance contributions on the HMRC website (www.gov.uk/check-national-insurance-record) or via the HMRC app (www.tinyurl.com/HMRC-app). The DWP will also check which type of ESA you should be claiming when you call to initiate your claim.

Contribution Based ESA and Income Related ESA: the differences

The process for claiming both versions of ESA are almost the same: ESA50 form - medical assessment - decision.

Income Related ESA is a means-tested benefit. You will be unable to claim if you have savings of £15k or more. If you have a partner who is working, their income will be taken into consideration.

Contribution Based ESA is a non-means tested benefit. This means that there are no savings limits and you can claim it based solely on your National Insurance contributions and your needs. It does not take into account if you have a partner, or their income.

ESA claimants are put into one of two groups, the Work Related Activity Group or the Support Group. You get an additional amount of money if you are put in the Support Group. If you are put in the support group you are also free from requirements to do any kind of “work-related activity” in order to continue to receive the benefit. If you are put in the Work Related Activity Group you will be required to undertake some activity to get you ready for looking for work (such as doing training, or updating your CV), although you can't be required to look for or take up work.

Making a claim

You can find out how to claim ESA from the government website here:

<https://www.gov.uk/employment-support-allowance/how-to-claim>

As part of the process of claiming ESA, you will be sent a form called ESA50. The ESA50 form consists of 18 activities. They ask if you can do each activity 'safely', 'reliably', 'repeatedly' and 'in a reasonable amount of time'. It is possible to score 15, 9, 6 or 0 points for each activity.

If you score a total of **15 points overall**, you will be awarded Income Related ESA and placed in the Work Related Activities Group.

In order to be placed in the Support Group, you need to score **15 points in any single activity**.

It is possible to qualify for ESA even without 15 points if there would be a "substantial risk" to you or anyone else if you *weren't* found to have limited capability for work.

Similarly, it is also possible to be put into the Support Group if "there would be a substantial risk" to you or anyone else if you were required to do work related activity. In plain English, this means that if doing work related activities will make your condition worse, you should be placed in the Support Group.

You should also aim to send in medical, and other, evidence with your ESA50. This can be letters from healthcare professionals, a diary of how your condition affects you, a statement from the person who knows you best on how your condition affects you, a copy of your repeat prescription or your own statement about your condition.

Filling in the form

When you fill in the form it is best to be honest. Please don't minimise how your condition affects you and the difficulties you have with everyday activities. Having to think about how your condition affects you can be distressing so if you can, have a friend or relative with you to support you through the process.

We would strongly recommend that in your answer to each question you include the four descriptors: safely, reliably, repeatedly, in a reasonable amount of time, as they apply to your personal situation. There is a sample answer below to illustrate.

Sample answer

Question 1. Mobilising unaided by another person with or without a walking stick, manual wheelchair or other such aid if such aid is normally or could reasonably be worn or used:

Answer: I find it very difficult to mobilise effectively even with a mobility aid, in my case a walking stick. I cannot mount or descend two steps unaided by another person even with the support of a handrail (this is the descriptor for 9 points). I cannot mobilise:

Safely: My mobility is affected by my condition. I cannot mobilise up and down steps safely due to the extreme exhaustion, pain and muscle weakness resulting from my condition. This is also true when I am mobilising on flat ground. I cannot mobilise 50m repeatedly within a reasonable timescale due to severe pain and discomfort.

Reliably: I cannot mount or descend two steps unaided by another person, even with the support of a handrail, as I find it very difficult to lift my feet to climb the steps. I also find descending two steps very difficult as I cannot judge the distance and the action involved increases my pain levels. I also cannot reliably walk 50m in a reasonable amount of time due to severe pain and discomfort.

Repeatedly: I cannot manage this activity repeatedly because I have to rest regularly due to muscle weakness, pain and exhaustion.

In a reasonable amount of time: I cannot manage this activity in a reasonable amount of time. It takes me more than twice as long as a non-disabled person to complete the activity. I can only manage this activity on three days a week which is also less than 50% of the time.

See Appendix I for the questions, descriptors and number of points each is awarded.

Remember: You can ask for an extension to collect more evidence, or to obtain advice, at any stage of the process. It is best to do this the day before your deadline to obtain the maximum extension. This is two weeks. However, the benefits agency will usually grant longer extensions if there is good reason, eg. you cannot see a consultant within the time frame to request further medical evidence or you are waiting for an appointment for welfare advice.

The medical assessment

The DWP have contracted Maximus to provide the ESA Work Capability face to face medical assessments in the UK. The Scottish Government has just taken responsibility for social welfare benefits in Scotland and will be bringing the medical assessments back in-house in the near future.

Face-to-face assessments were suspended due to Coronavirus in March 2020. In July, the DWP announced that some review and reassessment activity would begin to resume for PIP and Disability Living Allowance (DLA). Please check for updates at www.gov.uk/welfare

What you need to remember about ESA medical assessments:

1. You can ask for a home assessment. If you are too ill or concerned you will have a relapse if you have to go to an assessment centre, ask for a home assessment at the back of the form. You should also provide a supporting doctor's letter if possible.
2. You can ask for a home medical assessment if you will have to travel for 90 minutes or more each way to reach the assessment centre.
3. If at all possible, have a friend at home with you or take someone with you to the assessment centre for support.
4. Ask for the assessment to be recorded. There are strict rules about types of recording equipment, plus the assessor must agree to be recorded. It is therefore easier to ask the medical assessment provider to record your assessment than ask to record it yourself.
5. Recording of the assessments will soon be mandatory.
6. At the end of your assessment, ask for a copy of the report. This will then be sent to you when the decision maker is sent their copy. This will allow you to challenge any factual inconsistencies in the report before the decision on your claim is made or in the form of a Mandatory Reconsideration request.

The decision

Once you have received the decision letter you will have two options:

1. You agree with it – do nothing
2. You don't agree with the decision – ask for a Mandatory Reconsideration.

Mandatory Reconsideration

A Mandatory Reconsideration is the first stage of the appeals process. It means another decision maker at the DWP will look at your whole claim and decide whether they agree with the original decision or not.

You must ask for a Mandatory Reconsideration by phone or in writing within 30 days of the date on your decision letter. There is a form called CRMR1 you can use to ask for a Mandatory Reconsideration which it might be helpful to use so that you don't forget to include key pieces of personal information. However, you are likely to want to write more information than there is room for on the form. You can submit additional sheets of paper with the form, but make sure to write your name and National Insurance number on each additional sheet.

It is always best to ask for a Mandatory Reconsideration in writing if at all possible. You should write a paragraph about why you disagree with the decision in general. You should then list each of the activities you disagree with their decision on and explain why you think they made the wrong decision.

If you are appealing which group you have been placed in, you should detail which activity you think you should have been awarded 15 points for and why. If you are appealing on the 'Exceptional Circumstances' rule, you should include as much detail as you can as to why having to complete any work-related activities would make your condition worse. You should also provide any further supporting evidence at that point, if you have it.

Tribunal

If you are still not in agreement with their decision after the Mandatory Reconsideration stage, you have the option to go to tribunal.

To apply for a tribunal hearing, you can download and print form SSCS1 from the HMTCS website at www.tinyurl.com/tribunal-application

Or you can fill in the form online at www.tinyurl.com/tribunal-application-online

You must attach a copy of your mandatory reconsideration decision to the SSCS1 form.

You should ensure your completed SSCS1 reaches Her Majesty's Courts and Tribunals Service within 30 days of the date on your Mandatory Reconsideration notice. However, you can ask for a tribunal up to 13 months after this date if you have good reason. This could be not knowing about the 13 month rule, being too ill to request the tribunal etc.

Before the hearing, you will receive a 'tribunal pack'. This will include all the information you have submitted as part of your application, your assessment report and any additional evidence or letters you have sent in, as well as your appeal form. The tribunal panel will also receive this pack, but will not be able to review it together until the day of the tribunal. In some cases, the clerk to the panel may contact you on the day of the hearing, or when you arrive at the hearing, to inform you a decision has been made based on the information provided.

If you have any further evidence, you should send it to Her Majesty's Courts and Tribunals Service, quoting your reference number, at least one week before the date of your hearing. You can take new evidence with you on the day, but it may not be looked on favourably unless you have a very good reason for leaving it so late. Again, you must only send evidence that was valid at the time of your initial claim.

You may have to wait between six and 12 months for a tribunal date from the time you put in the SSCS1 request.

At the tribunal

You will be taken into a waiting room when you arrive; from there you will be called into a separate room with the panel. The tribunal panel will consist of a judge, a doctor and a person with a social care background. It is informal (no robes or wigs). You will sit across from them and they will ask questions as to how your condition affects you to try to gain more insight into your reasons for applying and then appealing.

You may take a friend with you to support you at the tribunal. However they will not be allowed to speak unless the panel asks them to give their opinion.

If you have an Official Representative from an organisation such as the Citizen's Advice Bureau Child or the Poverty Action Group, the tribunal panel will speak to, and ask questions of, you both.

Once they are satisfied that they have enough information to make a decision you will be asked to wait in the waiting room again. The panel will then discuss your appeal, come to a decision and then call you back in. You will receive their decision at that point in person.

Upper Tribunal

If you are unhappy with the decision you may be able to appeal to the upper tribunal. However, the upper tribunals can only look at the decision if the first tier tribunal decision is wrong on a point of law. If you would like to appeal to the upper tribunal, you should take specialist advice.

Note to the appendices

Appendix I (on the next page) assesses whether a claimant has limited capability for work. If you score 15 points or more from section one you will be placed in the Work Related Activity Group.

Appendix II (p 14) assesses whether a claimant has limited capability for work-related activity. If one or more of the descriptors there applies to you and this is accepted, you may qualify for entry into the Support Group.

Appendix I: assesses whether a claimant has limited capability for work

Activity	Descriptors	Points
1. Mobilising unaided by another person with or without a walking stick, manual wheelchair or other aid if such aid is normally or could reasonably, be worn or used.	(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
	(b) Cannot mount or descend two steps unaided by another person even with the support of a handrail.	9
	(c) Cannot either: (i) mobilise more than 100 metres on level ground without stopping in order to avoid significant discomfort or exhaustion; OR (ii) repeatedly mobilise 100 metres within a reasonable timescale because of significant discomfort or exhaustion.	9
	(d) Cannot either: (i) mobilise more than 200 metres on level ground without stopping in order to avoid significant discomfort or exhaustion; OR (ii) repeatedly mobilise 200 metres within a reasonable timescale because of significant discomfort or exhaustion.	6
2. Standing and sitting	(a) Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.	15
	(b) 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 30 minutes, before needing to move away in order to avoid significant discomfort or exhaustion.	9

Activity	Descriptors	Points
	(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
	(d) None of the above apply	0
3. Reaching	(a) Cannot raise either arm as if to put something in the top pocket of a coat or jacket.	15
	(b) Cannot raise either arm to top of head as if to put on a hat.	9
	(c) Cannot raise either arm above head height as if to reach for something.	6
	(d) None of the above apply.	0
4. Picking up and moving or transferring by the use of the upper body and arms	(a) Cannot pick up and move a 0.5 litre carton full of liquid.	15
	(b) Cannot pick up and move a one litre carton full of liquid.	9
	(c) Cannot transfer a light but bulky object such as an empty cardboard box.	6
	(d) None of the above apply.	0
5. Manual dexterity	(a) Cannot either: (i) press a button, such as a telephone keypad; OR (ii) turn the pages of a book with either hand.	15
	(b) Cannot pick up a £1 coin or equivalent with either hand.	15
	(c) Cannot use a pen or pencil to make a meaningful mark.	9
	(d) Cannot single-handedly use a suitable keyboard or mouse.	9
	(e) None of the above apply.	0

Activity	Descriptors	Points
6. Making yourself understood through speaking, writing, typing, or other means which are normally or could reasonably be used, unaided by another person.	(a) Cannot convey a simple message, such as the presence of a hazard.	15
	(b) Has significant difficulty conveying a simple message to strangers.	15
	(c) Has some difficulty conveying a simple message to strangers.	6
	(d) None of the above apply.	0
7. Understanding communication by (i) verbal means (such as hearing or lip reading) alone OR (ii) non-verbal means (such as reading 16 point print or Braille) alone OR (iii) using any aid that is normally or could reasonably be used unaided by another person	(a) Cannot understand a simple message due to sensory impairment, such as the location of a fire escape.	15
	(b) Has significant difficulty understanding a simple message from a stranger due to sensory impairment.	15
	(c) Has some difficulty understanding a simple message from a stranger due to sensory impairment.	6
	(d) None of the above apply.	0
8. Navigation and maintaining safety, using a guide dog or other aid if either or both are normally or could reasonably be used	(a) Unable to navigate around familiar surroundings, without being accompanied by another person, due to sensory impairment.	15
	(b) Cannot safely complete a potentially hazardous task such as crossing the road, without being accompanied by another person, due to sensory impairment.	15
	(c) Unable to navigate around unfamiliar surroundings, without being accompanied by another person, due to sensory impairment.	9
	(d) None of the above apply.	0

Activity	Descriptors	Points
9. Absence or loss of control whilst conscious leading to extensive evacuation of the bowel and/or bladder, other than enuresis (bed-wetting) despite the wearing or use of any aids or adaptations which are normally or could reasonably be worn or used.	(a) At least once a month experiences: (i) loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder; OR (ii) substantial leakage of the contents of a collecting device sufficient to require cleaning and a change in clothing.	15
	(b) The majority of the time is at risk of loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder, sufficient to require cleaning and a change in clothing, if not able to reach a toilet quickly.	6
	(c) None of the above apply.	0
10. Consciousness during waking moments	(a) At least once a week, has an involuntary episode of lost or altered consciousness resulting in significantly disrupted awareness or concentration.	15
	(b) At least once a month, has an involuntary episode of lost or altered consciousness resulting in significantly disrupted awareness or concentration.	6
	(c) None of the above apply.	0
11. Learning tasks	(a) Cannot learn how to complete a simple task, such as setting an alarm clock.	15
	(b) Cannot learn anything beyond a simple task, such as setting an alarm clock.	9
	(c) Cannot learn anything beyond a moderately complex task, such as the steps involved in operating a washing machine to clean clothes.	6
	(d) None of the above apply.	0
12. Awareness of everyday hazards (such as boiling water or sharp objects)	(a) Reduced awareness of everyday hazards leads to a significant risk of: (i) injury to self or others; OR (ii) damage to property or possessions such that they require supervision for the majority of the time to maintain safety.	15

Activity	Descriptors	Points
	(b) Reduced awareness of everyday hazards leads to a significant risk of: (i) injury to self or others; OR (ii) damage to property or possessions such that they frequently require supervision to maintain safety.	9
	(c) Reduced awareness of everyday hazards leads to a significant risk of: (i) injury to self or others; OR (ii) damage to property or possessions such that they occasionally require supervision to maintain safety.	6
	(d) None of the above apply.	0
13. Initiating and completing personal action (which means planning, organisation, problem solving, prioritising or switching tasks)	(a) Cannot, due to impaired mental function, reliably initiate or complete at least two sequential personal actions.	15
	(b) Cannot, due to impaired mental function, reliably initiate or complete at least two personal actions for the majority of the time.	9
	13(c) Frequently cannot, due to impaired mental function, reliably initiate or complete at least two personal actions.	6
	(d) None of the above apply.	0
14. Coping with change	(a) Cannot cope with any change to the extent that day to day life cannot be managed.	15
	(b) 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
	(c) Cannot cope with minor unplanned change (such as the timing of an appointment on the day it is due to occur), to the extent that overall, day to day life is made significantly more difficult.	6
	(d) None of the above apply.	0

Activity	Descriptors	Points
15. Getting about	(a) Cannot get to any place outside the claimant's home with which the claimant is familiar.	15
	(b) Is unable to get to a specified place with which the claimant is familiar, without being accompanied by another person.	9
	(c) Is unable to get to a specified place with which the claimant is unfamiliar without being accompanied by another person.	6
	(d) None of the above apply.	0
16. Coping with social engagement due to cognitive impairment or mental disorder	(a) Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the individual.	15
	(b) Engagement in social contact with someone unfamiliar to the claimant is always precluded due to difficulty relating to others or significant distress experienced by the individual.	9
	(c) Engagement in social contact with someone unfamiliar to the claimant is not possible for the majority of the time due to difficulty relating to others or significant distress experienced by the individual.	6
	(d) None of the above apply.	0
17. Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder	(a) Has, on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	15
	(b) Frequently has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	15
	(c) Occasionally has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.	9
	(d) None of the above apply.	0

Appendix II: assesses whether a claimant has limited capability for work-related activity

If one or more of the following descriptors apply to you and this is accepted, you may qualify for entry into the Support Group.

Activity	Descriptors
1. Mobilising unaided by another person with or without a walking stick, manual wheelchair or other aid if such aid can reasonably be used.	Cannot either: (a) mobilise more than 50 metres on level ground without stopping in order to avoid significant discomfort or exhaustion; OR (b) repeatedly mobilise 50 metres within a reasonable timescale because of significant discomfort or exhaustion.
2. Transferring from one seated position to another.	Cannot move between one seated position and another seated position located next to one another without receiving physical assistance from another person.
3. Reaching	Cannot raise either arm as if to put something in the top pocket of a coat or jacket.
4. Picking up and moving or transferring by the use of the upper body and arms (excluding standing, sitting, bending or kneeling and all other activities specified in this schedule).	Cannot pick up and move a 0.5 litre carton full of liquid.
5. Manual dexterity.	Cannot either: (a) press a button, such as a telephone keypad; OR (b) turn the pages of a book with either hand.
6. Making self understood through speaking, writing, typing, or other means normally used.	Cannot convey a simple message, such as the presence of a hazard.
7. Understanding communication by hearing, lip reading, reading 16 point print or using any aid if reasonably used.	Cannot understand a simple message due to sensory impairment, such as the location of a fire escape.

Activity	Descriptors
8. Absence or loss of control over extensive evacuation of the bowel and/or voiding of the bladder, other than enuresis (bed-wetting), despite the presence of any aids or adaptations normally used.	At least once a week experiences: (a) loss of control leading to extensive evacuation of the bowel and/or voiding of the bladder; OR (b)substantial leakage of the contents of a collecting device sufficient to require the individual to clean themselves and change clothing.
9. Learning tasks.	Cannot learn how to complete a simple task, such as setting an alarm clock, due to cognitive impairment or mental disorder.
10. Awareness of hazard.	Reduced awareness of everyday hazards, due to cognitive impairment or mental disorder, leads to a significant risk of: (a) injury to self or others; OR (b)damage to property or possessions such that they require supervision for the majority of the time to maintain safety.
11. Initiating and completing personal action (which means planning, organisation, problem solving, prioritising or switching tasks).	Cannot, due to impaired mental function, reliably initiate or complete at least two sequential personal actions.
12. Coping with change.	Cannot cope with any change, due to cognitive impairment or mental disorder, to the extent that day to day life cannot be managed.
13. Coping with social engagement, due to cognitive impairment or mental disorder.	Engagement in social contact is always precluded due to difficulty relating to others or significant distress experienced by the individual.
14. Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder.	Has, on a daily basis, uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace.

Activity	Descriptors
<p>15. Conveying food or drink to the mouth.</p>	<p>(a) Cannot convey food or drink to the claimant's own mouth without receiving physical assistance from someone else; OR (b) Cannot convey food or drink to the claimant's own mouth without repeatedly stopping, experiencing breathlessness or severe discomfort; OR (c) Cannot convey food or drink to the claimant's own mouth without receiving regular prompting given by someone else in the claimant's physical presence; OR (d) Owing to a severe disorder of mood or behaviour, fails to convey food or drink to the claimant's own mouth without receiving: (i) physical assistance from someone else; or (ii) regular prompting given by someone else in the claimant's presence.</p>
<p>16. Chewing or swallowing food or drink.</p>	<p>(a) Cannot chew or swallow food or drink; OR (b) Cannot chew or swallow food or drink without repeatedly stopping, experiencing breathlessness or severe discomfort; OR (c) Cannot chew or swallow food or drink without repeatedly receiving regular prompting given by someone else in the claimant's presence; OR (d) Owing to a severe disorder of mood or behaviour, fails to: (i) chew or swallow food or drink; or (ii) chew or swallow food or drink without regular prompting given by someone else in the claimant's presence."</p>

Useful contacts

Action for M.E.

Crisis Advocacy and Support Service

Tel: 0117 927 9551 Monday to Friday 10am to 5pm)

Email: questions@actionforme.org.uk

Website: www.actionforme.org.uk

Citizens Advice Bureau

Offers advice on a range of issues and may complete a benefits check for you

www.citizensadvice.org.uk

Civil Legal Advice

Help with some benefit appeals for eligible people.

www.gov.uk/civil-legal-advice

Disability Rights UK

Factsheets on benefits, tax credits and independent living

www.disabilityrightsuk.org

Local councils

Some local councils employ welfare rights workers and/or may also have information about other services in your area.

www.gov.uk/find-your-local-council



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