

Disability Law Service

Fighting injustice for disabled people

Mandatory Reconsiderations for ESA (Mental health)

**Points to consider when requesting a Mandatory
Reconsideration**

Introduction

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To successfully overturn an ESA decision in a Mandatory Reconsideration, you will have to make a reference to the descriptors in the assessment that apply to you and how they affect your daily life, giving examples where possible.

You may use this guide to understand how an assessor scores your condition in the assessment, and to best explain your circumstances in a way the decision maker will be more likely to reconsider in your favour.

The Limited Capability for Work Assessment: Mental, cognitive & intellectual function

The limited capability for work assessment has 7 activity headings relating to mental conditions out of the full 17 headings. Under each activity heading is a list of descriptors with scores ranging from 0 to 15 points. You score points when you are not able to perform a task described safely, to an acceptable standard, as often as you need to and in a reasonable time.

The highest points you score under each activity heading are added together and, if you score 15 points or more, you are assessed as having a limited capability for work. These points can be scored under just one activity heading or from any number of headings added together.

If you believe a decision is wrong because you have not been awarded enough points on the assessment, you must explain if you meet any of the descriptors in an activity and how this affects your daily life, giving examples where possible.

Provide as much evidence as possible to accompany your statements both in the mandatory reconsideration and appeal phases. A medical report from your GP addressing the descriptors that affect you could especially prove to be invaluable in successfully appealing the decision.

[Activity 11: Learning Tasks](#)

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Activity 11 is defined in regulations as Learning tasks.

Activity 11 assesses the ability to learn and retain information in order to be able to carry out a task. The method of learning - visual demonstration, reading or verbal instruction - is not relevant but if the person needs to be shown how to do a task again they have not learned it.

Descriptors

(a) Cannot learn how to complete a simple task, such as setting an alarm clock. 15 points

(b) Cannot learn anything beyond a simple task, such as setting an alarm clock. 9 points

(c) Cannot learn anything beyond a moderately complex task, such as the steps involved in operating a washing machine to clean clothes. 6 points

(d) None of the above apply. 0 points

What you will need to do:

The first activity in this section concerns about how you can learn and retain information. This includes learning different types of tasks which are indicated in the descriptors.

The very first descriptor asks if you cannot learn how to do a simple task, the word learn means that you know how to do it yourself without the need of someone else telling you again and again the way to do the task. The example given in the descriptor is setting an alarm clock, but this is not the only task the scope of the descriptor is restricted to. Anything which is a simple task is relevant here. Another example of a simple task would be turning on and off machines such as the TV or a kettle.

When thinking about these descriptors keep in mind your ability to concentrate on a task and if you have difficulty doing this. It is also important to explain or note down in your explanation how anxious or nervous you can get while doing such tasks. For example, if you have to set an alarm clock to a different time one day and you are very nervous and anxious. It is detail like this which is important because it can mean that it interferes with your ability to do the task. Being overwhelmed to the point that

you cannot do a task like this means that you are incapable of learning the task completely. You must explain the circumstances in the reconsideration form.

If you can do a simple task for one day and not the other by yourself this means that you have not learnt the task and you are having difficulty with it. You can have only learnt something if you are able to do something consistently without the need of having someone telling you how to do it again. This applies for complex tasks too.

The second part of the descriptor deals with complex tasks and again the scope of the descriptor is not restricted to learning how to work washing machine and can certainly include other tasks. Other complex tasks could include learning how to use technology that you are not familiar with and doing tasks such as texting or emailing on a phone or computer. or making a beverage or food for someone or yourself which involves a lot of steps.

When stating your reasons of why you deserve another descriptor instead of the one you had been awarded, you should explain any tasks which you couldn't learn or had struggled with doing. It is also important to give details of how long it takes you to learn something and if you had to be told how to do a task again. If you have problems with concentration or your memory it is also worth mentioning. If you cannot consistently do tasks, then again you should mention this in your explanation and explain the difference between when you can do such tasks and when you cannot.

[Activity 12: Awareness of everyday hazards](#)

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Activity 12 is defined in regulations as Awareness of everyday hazards (such as boiling water or sharp objects).

Activity 12 assesses the ability to recognise risks from common hazards. A descriptor may be satisfied if there is a lack of understanding and insight that something is dangerous, or there is an impaired ability to recognise that a situation will present a potential hazard.

Descriptors

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 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 points

(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 points.

(d) None of the above apply. 0 points

What you will need to do:

Sometimes with certain mental illnesses, there can be a possibility of being easily distracted which can result in potentially dangerous risks.

Some examples would be getting distracted while cooking and leaving the stove on or forgetting to close windows and lock doors when you leave your house. Things that can be dangerous would come under this descriptor.

In explaining your reasons for being put in a descriptor it would be useful to include relevant information such as if you act impulse and do not understand fully the

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danger and risks of things at that time but maybe later. Also, you should mention, how often and give examples of the kind of risks and dangers that may occur to you in this context.

As this heading is mostly concerned about how often supervision is needed, it is important to give details of the occasions or types of risk that normally occur in your every day life. Even if you do not have a supervisor, you should explain why there is a substantial risk to you and why you should be awarded the points of the particular descriptor you believe you should be placed into.

[Activity 13: Initiating and completing personal action](#)

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Activity 13 is defined in regulations as 'Initiating and completing personal action' (which means planning, organisation, problem solving, prioritising or switching tasks).

Activity 13 assesses the ability to initiate and successfully complete tasks without the need for external prompting. A descriptor may be satisfied if there is a significant restriction of an individual's ability to understand how to co-ordinate actions in the correct sequence such that they can't successfully complete any personal actions in a logical order.

Descriptors

- (a) Cannot, due to impaired mental function, reliably initiate or complete at least 2 sequential personal actions. 15 points**
- (b) Cannot, due to impaired mental function, reliably initiate or complete at least 2 personal actions for the majority of the time. 9 points**
- (c) Frequently cannot, due to impaired mental function, reliably initiate or complete at least 2 personal actions. 6 points**
- (d) None of the above apply. 0 points**

What you will need to do:

This section of the form is about how you are affected in the routine of the personal tasks of your daily life. There is emphasis on if you can start and finish these tasks when doing something else too or being interrupted and going back to this activity.

An example of this could be if you are making food but the door rings and you answer it, would you be able to go back to making food or not. Thinking about situations like this with other every-day personal tasks, could you do this repeatedly daily?

Relevant information that should be included in your explanation of these factors would be if you get confused, can't concentrate or get distracted during such tasks. It is also important to show how your condition related to these tasks, e.g. if your condition makes you feel tired and lack any motivation. Furthermore, if you have to be reminded to do things or encouraged to such tasks you should mention this in your explanation.

[Activity 14: Coping with change](#)

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Activity 14 is defined in regulations as 'Coping with change'.

Activity 14 assesses the ability to cope with changes in normal routine whether permanent or not. A descriptor may be satisfied where small changes result in the individual's day to day life being made significantly more difficult, or so it cannot be managed.

Descriptors

14. Coping with change

(a) Cannot cope with any change to the extent that day to day life cannot be managed. 15 points

(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 points

(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 points

(d) None of the above apply. 0 points

What you will need to do:

It is important to think about how change affects you and what kind of feelings it can cause you. These are completely valid, e.g. if there is a change to your daily schedule which makes you feel overwhelmed then you should include this in the details of your explanation. Any kind of change to your behaviour because of the change in question is important and should be mentioned.

For this, it would be helpful to go into some detail of examples of when you could not cope with change and how it affected you and to what extent.

Other things that you should mention is how the rest of your day would be affected by a minor change. If this change is sudden or expected how might this change the situation or how you are affected? Even if you are affected negatively sometimes and other times you can cope it is worth mentioning the times where you could not cope or struggled with such change.

[Activity 15: Getting about](#)

Activity 15 is defined in regulations as 'Getting about'.

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Activity 15 assesses the ability to travel without support from another person as a result of disorientation; or of agoraphobia causing fear of travelling unaccompanied by another person. Specified places with which a person is familiar include locations in their local area such as the GP surgery, dentist, bank, post office, local shops etc.

Descriptors

15. Getting about

(a) Cannot get to any place outside the claimant's home with which the claimant is familiar. 15 points.

(b) Is unable to get to a specified place with which the claimant is familiar, without being accompanied by another person 9 points

(c) Is unable to get to a specified place with which the claimant is unfamiliar without being accompanied by another person. 6 points

(d) None of the above apply. 0 points

What you need to know:

This question concerns if you are struggling with going out because of your mental illness.

This is about how you feel if you are going around to familiar and unfamiliar places. It would be useful to include examples of where you feel comfortable going and what kind of places which would make you uncomfortable and how it would affect you.

If you have to be accompanied by another person when you are going to places you should include this too in the explanation.

If there is any inconsistency with where you feel more comfortable to go or not, you should include it in your explanation.

Again, if this changes on different day, and you cannot go to a certain place one day but you can another day you should definitely include this in your explanation.

Activity 16: Coping with social engagement

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Activity 16 is defined in regulations as ‘Coping with social engagement due to cognitive impairment or mental disorder’.

Activity 16 assesses the ability to interact with people. A descriptor may be satisfied where there is a significant lack of self-confidence in face-to-face social situations that is greater in its nature and its functional effects than mere shyness or reticence.

Descriptors

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 points

(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 points

(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 points

(d) None of the above apply. 0 points

What you need to know:

This heading is about how you feel when you interact with people socially, both familiar and unfamiliar.

When thinking about what descriptor you belong to you should think about how you find it hard to talk and socialise people. For example, does it make you feel nervous, uncomfortable, can you look them in the eye etc.

Does it make a difference if you plan to meet with people or if you suddenly see someone on the streets? If so, include this in the details of your explanation.

If there is inconsistency in how you socialise, in other words you can speak to people more comfortably on some days more than others. It is important you mention it and give examples too. Furthermore, it is worth while to state if you can keep on talking to different people throughout the day e.g. if you were going to the GP in the morning and then go shopping later on where you bump into someone you know, would you be able to socialise with both or would it very difficult for you.

If you are only comfortable with talking to some familiar people, you should give examples. It would also be helpful in your explanation if you could explain in what situations you feel as if you can't socially engage with people, e.g. if you struggle to talk to your GP properly, or a cashier at a store.

If you do find it hard and you tend to avoid people, you should make sure you explain in the mandatory reconsideration form that you do this sometimes or however often and explain why.

If you have any physical affects after or during social engagement, this is also relevant and should be discussed.

[Activity 17: Appropriateness of behaviour](#)

Activity 17 is defined in regulations as 'Appropriateness of behaviour with other people, due to cognitive impairment or mental disorder'.

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Activity 17 assesses the ability of a person to control their behaviour in an average workplace setting. A descriptor may be satisfied where there are difficulties with social behaviour which are the effects of episodic relapsing conditions such as psychotic illness, as well as conditions such as autism which may result in consistently abnormal behaviour

Descriptor

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 points**
- (b) Frequently has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace. 15 points**
- (c) Occasionally has uncontrollable episodes of aggressive or disinhibited behaviour that would be unreasonable in any workplace. 9 points**
- (d) None of the above apply. 0 points**

What you need to know:

For the mandatory consideration form, it would be important to discuss all things that are relevant when you engage with other people. These kinds of behaviours would be shouting, hitting, throwing things, ignoring, swearing aggressively, crying etc.

If you have ever been a situation where you have been violent towards people or been barred from a public place due to your behaviour, you must mention it in the explanation.

If your behaviour is in any way affected by medication that you take you should include this in your explanation too.

If you struggle to control your behaviour in any way you should describe it by giving examples of some of the situations you have been in.

You should also mention if you avoid going out because you fear what you may do or behave in a situation you were not expecting.

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**For further information and advice, please contact our helpline on
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