

Benefits for adults with autism

Employment Support Allowance
(ESA)

Employment and Support Allowance

- **Employment and Support Allowance (ESA) is the benefit for people who cannot work or have a limited ability to work because of a disability or health condition**
- You must be aged between 16 and state pension age
- You must have a 'limited capability for work'
- You must meet certain rules about being resident in the
- The general rule is that you cannot work and get ESA, but certain types of 'permitted work' are allowed
- Your income and savings must be low enough to qualify
- An appointee can claim on behalf of someone who lacks capacity

Eligibility for ESA and Further/Higher Education

- It is possible to get ESA whilst you are in full time education, if you meet certain rules
- As a full time advanced student, you can only get income-related ESA if you are also getting disability living allowance (DLA) or Personal Independence Payment (PIP). As a higher education student you will be automatically counted as having limited capability for work. You will still be assessed under the limited capability for work-related activity test, which decides whether you are in the support group or the work-related activity group
- In higher education, if you're eligible for a student loan, part of it will be considered as income
- If you are a part-time student, you can claim income-related ESA as long as you are on a low enough income; you do not also have to be getting DLA or PIP
- People over 16 can get ESA when in Further Education, but only if no one is receiving child benefit or child tax credits for them

Permitted work

- The idea of permitted work is that it allows you to test your own capacity for doing some work and perhaps gain new skills. To help make this possible earnings under permitted work are ignored in the benefit calculation, up to a limit of £120 a week
- If you are considering starting permitted work you must tell the DWP or Jobcentre Plus and get their approval
- Permitted work must be fewer than 16 hours per week, unless you are doing supported permitted work when there is no hours limit and only the earnings limit applies (usually under an approved scheme)
- Earnings from permitted work (below the limit) are also ignored completely in Housing Benefit and in most Council Tax Support schemes run by local councils

ESA: Filling in the ESA 50

- The ESA 50 is part of the assessment called the 'work capability assessment'. This assessment is points based. You have to score 15 points to pass and be entitled to ESA. Start by looking at the criteria and identifying which points you should score
- Complete the ESA 50 as if the person reading it has never heard of autism
- Remember that the person reading has no previous knowledge of you
- Get help. Get advice from a welfare rights adviser if possible. Advice centres, law centres, local authority welfare rights teams or Citizens Advice Bureaux are often able to provide welfare rights advice. Alternatively, ask a friend or family member to help with the form
- Provide as much detail and as many examples as you can
- Be honest about the difficulties that you have. Filling in these forms can be a difficult and negative process but it is important to explain your difficulties and the help that you need as accurately as possible

Top tips

- Mention any other conditions, e.g. anxiety, depression or epilepsy that affect you
- Focus on the questions you should score most on, likely to be 11 to 17
- You are being asked about your ability to do things ***safely, reliably and without support***
- Explain and give examples of all difficulties
- Explain all difficulties you might have with a face to face assessment, and with taking part in work seeking related activities (see NAS factsheet for prompts)

Stages of the application process

- Stage 1: fill in the ESA 50
- Stage 2: ATOS decide if you need a medical/face to face assessment
- The assessment usually takes place at a an assessment centre. You can take someone with you to help explain your difficulties
- A decision is made about eligibility for ESA; whether you have limited work related capability, or whether you should be in the support group (when you are not expected to work or look for work as a condition of receiving benefit)

Appeals and reconsiderations

- This can only be done by the benefit claimant, or their appointee. You must either telephone or write to the office that issued you the decision within one month of the date of the decision
- You must first ask for a 'mandatory reconsideration' of the decision
- Once they have carried out a reconsideration they issue you a new decision, which you have the right to appeal against
- It is a good idea to ask for copies of any evidence that they used to make the decision to be posted to you. Keep a copy of your letter.
- It will strengthen your case if you can explain why the decision is wrong, and if you can send in more information or evidence to show why the decision is wrong
- **If your ESA is refused because you are found to be capable of work, ESA will not be paid pending the outcome of the reconsideration.** If the reconsideration is unsuccessful, you can then appeal. Once your appeal form is submitted, ESA can be reinstated (at the basic assessment rate) pending the outcome of the
- There is no time limit for the department to complete their reconsideration. The government has stated that they expect a “straightforward” ESA reconsideration to take about 14 days. However, if you have more evidence you want to submit, they must give you at least one month to do this and if there is a lot of evidence to consider, it could reasonably take them longer to make a decision.
- This is important because you will have to decide whether you want to increase the chances of a successful reconsideration or whether you want a “quick” decision based on existing evidence

Appeals and reconsiderations contd.

- If you don't live in a universal credit full service area, you can claim job seekers allowance pending the outcome of the reconsideration and it will not affect the outcome. You will, however, need to comply with all the conditions attached to JSA. If your reconsideration is unsuccessful and you appeal, you should state when you appeal that you wish to go back on ESA, otherwise you will remain on JSA pending the appeal.
- If you do live in a universal credit full service area, you could choose to claim universal credit pending the outcome of the reconsideration, but would then not be able to move back onto ESA regardless of the outcome of the appeal
- You can only ask for an appeal once you have had a reconsideration and have been issued with a new decision. You must request the appeal in writing. You can write a letter but you must include certain information so it is easier to use the official form.
- In England, Scotland and Wales use the SSCS1 Appeal Form.