Personal Independence Payment

Guide to Completing the PIP 2 form - How Your Disability Affects You

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NB: This publication was correct at the time of printing, but benefits law frequently changes so this guide should be used in conjunction with independent benefits advice.

This publication applies to new claims (including changing from DLA) made on or after 16th March 2017 when new regulations came into affect.

City and County of Swansea
Dinas a Sir Abertawe

Personal Independence Payment
A Guide to Completing the PIP 2 form - How Your Disability Affects You

This form is your chance to explain how your disability or long term illness affects you. To be awarded PIP you need to score enough points from a list of descriptors:

Daily Living Component: Standard Rate – 8 points; Enhanced Rate – 12 points.
Mobility Component: Standard Rate – 8 points; Enhanced Rate – 12 points.

Do you have to complete and return the PIP2 form?:
If you indicated during your initial new claim phone call (or as can be sent in 'exceptional circumstances' your initial paper claim form - PIP 1) that you suffer from mental health problems, behavioural problems, learning disabilities, developmental disorders or memory problems and do not return this form you should still be invited to a 'face-to-face assessment'. ***BUT*** still complete the form because it is your chance to give your own explanation of your problems.

If you have not indicated any of these problems and **do not** return the form within a month without 'good reason', you will be found not to qualify for PIP and your claim will be refused.

If there is enough evidence (not just the form but backed up with evidence from any professionals involved in your care or treatment), you may be awarded PIP (or refused if it is decided that there is enough evidence to show you do not meet the criteria for an award) without having a 'face to face assessment'. Even if this is not the case the PIP2 form is your chance to make sure it is not just the healthcare professional's (HP) opinion that is put before the DWP decision maker (or appeal panel). Use this opportunity to describe how you feel you meet the criteria. Remember to include with this form (or forward later if necessary) any supportive evidence you can obtain to support your claim eg; letter from GP, Mental Health Nurse, Psychiatrist, Social Worker, Support Worker or your carer—evidence is not restricted to information from medical professionals.

The 'Point Score' and Fluctuating Conditions:
You should be awarded points in each activity provided the descriptor applies on over 50% of the days in the 'required period' (previous 3 months and following 9 months after claim date). If more than one descriptor in an activity applies for at least 50% of that period the highest score should be awarded. If no descriptor applies for 50% of the days but a combination add up to 50% of the days, points should be awarded for the descriptor that applies on most days. If a combination adding up to 50% of the time apply on an equal number of days, the higher score should be awarded. Unfortunately the correct legal approach is not always followed in the HP's report or by the DWP decision maker and lower points are often given instead which can affect the level of award or getting any award at all!

Aids and Appliances:
All the daily living and mobility descriptors are considered on the basis of you wearing or using any aid or appliance, including artificial limbs, you either normally use or could reasonably be expected to use. If you use an aid or appliance out of preference, to make things easier but *'it is not required'* to do the activity to the HP guidance states you should be treated as being able to do the activity unaided—explain why it IS needed. If you do not use an aid or appliance, the guidance states it should be considered if you manage the activity reliably with an easily available one instead of needing prompting, assistance or supervision.

Aids and appliances can include things that are not specially designed for disabled people and can be 'everyday objects', e.g. an electric can opener. However the guidance states that 'where the object would usually or normally be used by someone without any limitation in carrying out the relevant activity it is unlikely to be an aid or appliance' and that commonly used devices should not score points for needing an aid or appliance. The guidance uses the example of sitting on a bed in order to get dressed, an example which has been discussed in conflicting caselaw, and the broad consensus that has been reached is that an everyday item, not specifically designed for people with disabilities, can count as an aid but it is dependent upon whether it has sufficient connection with the activity to count as an aid. It will depend on whether the 'aid' is being used in a usual or normal manner to complete the activity or is needed to assist with performing a function of the activity. So while it is normal to sit on a bed to get dressed, if you have to lie back on the bed to pull up your lower clothes, then it might count as an aid. Therefore you need to try to explain why you need this object to help you do the activity, how it is being used due to your functional difficulty with the activity and how this is more than a normal or usual way that someone with no impairments would use the item.

Night-time Care Needs:
Although called 'daily living activities', needs should be looked at over a 24 hour period and night-time needs taken into account.

Prompting:
This is defined in the legislation as 'reminding, encouraging or explaining by another person'.

The healthcare professional's (HP) guidance describes prompting as another person reminding or encouraging the claimant to undertake or complete a task or explaining how to but not physically helping them. To apply, this only needs to be required for part of the activity.

Assistance:
This is defined as meaning 'physical intervention by another person and does not include speech'.

The HP guidance describes assistance as requiring the presence and ***physical intervention*** of another person to help the claimant complete the activity which can include doing some of the activity for them and only needs to be required for part of the activity.

Therefore people with mental health problems who can physically do the activity but need prompting to actually do it, will be restricted to the points for 'prompting' - which are generally lower than the points awarded for 'assistance'.

Supervision:
Is defined as 'the continuous presence of another person for the purpose of ensuring safety'.

The HP guidance says supervision must be needed to avoid a 'serious adverse event' occurring. The risk must be likely to occur in the absence of such supervision. The supervision must be needed for the full duration of the activity.

It is important to remember the test is not whether you actually receive help from another person but whether this help is needed even though it may not br available. You may be able to struggle through a task but in order to manage the task 'reliably' you need some help.

Reliably:
You can only be treated as able to do something if it can be performed **'reliably'.** You must be able to do it **Safely; To an acceptable standard; Repeatedly; and In a reasonable time period.**

The regulations define **'safely'** as meaning 'in a manner unlikely to cause harm' to self or others 'either during or after completion of the activity'.

The HP guidance states that the likelihood of harm should be considered 'the risk that harm *may* occur due to impairments is insufficient - the harm has to be likely to occur'.

However caselaw (a three judge panel, which means it has more clout) has held that '*an activity that cannot be carried out safely does not require that the occurrence of harm is "more likely than not". A tribunal must consider whether there is a real possibility that cannot be ignored of harm occurring, having regard to the nature and gravity of the feared harm in the particular case. Both the likelihood of the harm occurring and the severity of the consequences are relevant. The same approach applies to the assessment of a need for supervision.'* So in other words it is a balance between how likely the harm is and how bad the harm would be if it happened.

'Repeatedly' means 'as often as the activity being assessed is reasonably required to be completed'.

'Within a reasonable time period' means 'no more than twice as long as the maximum period that a person without a physical or mental condition which limits that person's ability to carry out the activity in question would normally take to complete that activity'.

'To an acceptable standard' is not defined in the regulations. However caselaw has held that factors such as pain, the severity of pain or breathlessness will affect whether an activity can be performed to an acceptable standard. Also consider factors such as fatigue or motivation as they may affect whether you can manage an acceptable standard. It is important to explain these problems both at the face-to-face consultation and on the PIP2 form.

The HP guidance states that an acceptable standard is one which is 'good enough'.

This guide gives details of how the terminology used in the descriptors is legally defined in the regulations, plus guidance given in the PIP Assessment guide for healthcare professional's (HP) - this guidance was last updated in September 2016— but remember this is guidance only **NOT** the law. How the law 'should' apply is also defined by caselaw, which is legally binding, but not always applied by decision makers and we have kept the current caselaw in mind when writing this guide. We have also given some of our ideas of when the descriptors may apply. The guide includes each page of the actual PIP2 form followed by a page of guidance notes .

Section 3 - How your health condition or disability affects your day-to-day life

Tell us in the rest of this form how your health conditions or disabilities affect your day-to-day activities.

Q3 - Preparing Food

ⓘ Use **page 7** of the **Information Booklet** to help answer these questions

Tell us about whether you can prepare a simple one course meal for one from fresh ingredients.

This includes things like:
- food preparation such as peeling, chopping or opening packaging, and
- safely cooking or heating food on a cooker hob or in a microwave oven.

Tick the boxes that apply to you, then provide more information in the Extra information box.

Q3a - Do you need to use an aid or appliance to prepare or cook a simple meal?
Aids and appliances include things like:
- perching stools, lightweight pots and pans, easy grip handles on utensils, single lever arm taps and liquid level indicators.

☐ Yes
☐ No
☐ Sometimes

Q3b -Do you need help from another person to prepare or cook a simple meal?
By this we mean:
- do they remind or motivate you to cook?
- do they plan the task for you?
- Do they supervise you?
- Do they physically help you?
- Do they prepare all your food for you?

This includes help you have, **and** help you need but don't get.

☐ Yes
☐ No
☐ Sometimes

Q3c - Extra information - Preparing Food

Tell us more about any difficulties you have when **preparing and cooking food**:
- tell us how your condition affects you doing this activity
- tell us how you manage at the moment and the problems you have when you can't do this activity
- tell us how long it takes to prepare and cook food
- does whether you can do this vary throughout the day? Tell us about good and bad days
- can you cook using an oven safely? If not, tell us why not
- tell us about the aids or appliances you **need** to use to help you prepare and cook food
- do you experience any other difficulties, **either during or after the activity**, like pain, breathlessness or tiredness?
- tell us about the **help you need from another person** when preparing food. This includes help you have **and** help you need but don't get

If you need to add more please continue at **Q15 Additional Information**.

1. Preparing Food	
a. Can prepare and cook a simple meal unaided	**0**
b. Needs to use an aid or appliance to be able to either prepare or cook a simple meal	**2**
c. Cannot cook a simple meal using a conventional cooker but is able to do so using a microwave	**2**
d. Needs prompting to be able to either prepare or cook a simple meal	**2**
e. Needs supervision or assistance to either prepare or cook a simple meal	**4**
f. Cannot prepare and cook food	**8**

Daily Living

The law has defined what certain terms mean:

Cook: means to heat food at or above waist height.

Prepare: means getting the food ready for cooking or eating, therefore includes activities such as peeling and chopping vegetables and opening packaging.

Simple meal: means a cooked one course meal for one using fresh ingredients.

Under the old DLA rules, you could be awarded lower rate care for difficulties preparing and cooking a simple meal, including the use of an oven. With PIP this needs to be combined with other difficulties unless you cannot prepare and cook food at all.

The cannot prepare and cook food descriptor, is likely to be interpreted as meaning 'cannot at all' and therefore only likely to be used for people with very severe learning difficulties or severe physical problems which mean that even with physical assistance or supervision they would still not be capable. The 8 point descriptor refers to just food instead of the ability to make a simple meal.

This activity does not look at whether you are able to safely bend to get food in or out of an oven; it just considers the ability to use a hob or microwave. The HP guidance states this activity does not include carrying items around the kitchen, but this is not law, just guidance and some moving things around the kitchen is needed to prepare and cook a simple meal. It does though include the ability to serve food on a plate, which usually involves some moving things around the kitchen.

The HP guidance gives examples of aids and appliances including using prostheses, a perching stool, lightweight pans, easy grip handles, single lever arm taps, spiked chopping boards. A perching stool is stated as an aid—consider issues such as safely getting on/off the stool. But the latest guidance emphasises the difference between *needing* to use an aid/appliance and *choosing* to in order to make things easier - but remember you need to be able to do the activity reliably, so if you can just about manage without the aid, but choose to use it to **reduce** pain or risk, it means you need to use it to be able to prepare/cook safely, repeatedly, in a reasonable time and to an acceptable standard. Explain why you need the aid and are not just using a gadget for convenience. Although pre-chopped vegetables are not considered an aid or appliance, being reliant on them may show that you could be considered as requiring either an aid or appliance or help from another person to complete the activity.

The guidance says prompting may apply if you lack the motivation to cook or need to be reminded how to cook and prepare food on the majority of days - **Descriptor D. Note:** prompting with **either** cooking **or** preparing is enough**. Descriptor E** - includes needing supervision to tell if food is safe to eat e.g. meat cooked. If you could not safely use the hob but could safely use a microwave **Descriptor C** may applies. However, the health professional should still consider ability to **prepare** food for cooking. So, someone who safely cooks in a microwave but needs assistance to **prepare** food meets 'E' not 'C' Caselaw has clarified that heating up ready meals does not count as cooking, but heating a meal prepared from fresh ingredients does. A freshly prepared meal would not come with instructions and would probably involve more steps but remember, if you need either supervision or assistance to prepare a simple meal then **E** could apply and if 2 or more descriptors apply on the majority of days then the higher scoring one should count.

Reliably: the HP guidance has given examples of how reliably affects the activities:

Safely:

- 'increased risk of cutting oneself or another person as a result of a health condition or impairment'
- 'fire as a result of not understanding how to use an electrical appliance or gas hob correctly' - but also include the risk of fire, are fire alarms regularly set off?
- Burning or scalding yourself eg; if you are likely to drop a saucepan or spill food.
- 'an actively suicidal person may require supervision to carry out these activities or be unable to carry them out at all, due to the risk of self harm posed by access to knives, naked flames, hot implement and food' - stating that a person in this situation is 'likely to have a care plan'. Guidance states supervision due to a significant risk of self-harm is covered by Descriptor E.

Repeatedly:

- If you can prepare a meal, but the exhaustion from doing so means you can cook lunch but have not recovered enough to cook tea, you cannot do it 'repeatedly' (ie as often as required).

In a reasonable time period:

- Capable of preparing a meal, but the need for formalised ritual means it takes all morning to prepare breakfast is not doing it in a reasonable timescale.

Q4 - Eating and drinking

ⓘ Use **page 7** of the **Information Booklet** to help answer these questions.

Tells us about whether you can eat and drink
This means:
- remembering when to eat
- cutting food into pieces
- putting food and drink in your mouth, and
- chewing and swallowing food and drink.

Tick the boxes that apply to you, then provide more information in the extra information box.

Q4a - Do you need to use an aid or appliance to eat and drink?
Aids and appliances include things like:
- weighted cups, adapted cutlery

☐ Yes
☐ No
☐ Sometimes

Q4b - Do you use a feeding tube or similar device to eat or drink?
This means things like a feeding tube with a rate limiting device as a delivery system or feed pump.

☐ Yes
☐ No
☐ Sometimes

Q4c - Do you need help from another person to eat and drink?
By this we mean:
- do they remind you to eat and drink?
- do they supervise you?
- do they physically help you to eat and drink?
- do they help you manage a feeding tube?

This includes help you have **and** help you need but don't get.

Q4d - Extra information - Eating and drinking

Tell us more about any difficulties you have when **eating and drinking**:
- tell us how your condition affects you doing this activity
- tell us how you manage at the moment and the problems you have when you can't do this activity
- tell us how long it takes you to complete this activity
- does whether you can do this vary throughout the day? Tell us about good and bad days
- do you experience any other difficulties, **either during or after the activity,** like pain, breathlessness or tiredness?
- tell us about the aids and appliances you **need** to use to help you eat and drink
- tell us about the **help you need from another person** when eating and drinking. This includes help you have **and** help you need but don't get.

If you need to add more please continue at **Q15 Additional Information.**

2. Taking Nutrition	
a. Can take nutrition unaided	**0**
b. Needs: (i) to use an aid or appliance to be able to take nutrition **or** (ii) supervision to be able to take nutrition **or** (iii) assistance to be able to cut up food	**2**
c. Needs a therapeutic source to be able to take nutrition	**2**
d. Needs prompting to be able to take nutrition	**4**
e. Needs assistance to be able to manage a therapeutic source to take nutrition	**6**
f. Cannot convey food and drink to their mouth and needs another person to do so	**10**

The law gives definitions:

Take nutrition: means to either 'cut food into pieces, convey food and drink to one's mouth and chew and swallow food and drink' or 'take nutrition by using a therapeutic source'.

Therapeutic source: is defined as meaning parenteral (other than through the mouth) or enteral (into intestines) tube feeding, using a rate-limiting device such as a delivery system or feed pump.

Remember if you need physical help to use the therapeutic source at any time it is very important to explain this to show how you meet the higher scoring descriptor.

The guidance states that the type of food or drink should not be considered but the 'claimant's ability to nourish themselves'. The guidance also states that the 'frequency of taking nutrition should only be considered if the claimant has an eating disorder, supported by further medical evidence', however the law is clear that it should be done 'as often as reasonably required'. Help needed to eat sufficiently nutritious food or eat often enough should, however be explained and caselaw points to the definition which includes cutting food into pieces, chewing and swallowing suggesting cooked meals not snacks or liquids only.

Arguably nutritional value is important because the activity is called 'taking nutrition' not 'eating food' but the weight of caselaw currently disagrees. 'Reliably' is still important so 'safety' and 'acceptable standard' still have to be considered. E.g. is the activity of cutting food into pieces and chewing and swallowing it done 'safely' for a diabetic or an alcoholic if not done often enough? The current guidance states that the type of food and drink do not matter 'but rather the claimant's ability to nourish themselves', however the dictionary definition of nourish is '*provide with the food or other substances necessary for growth, health, and good condition'.*

The government's guidance says that when assessing whether supervision is required 'whether the claimant has a real risk of choking' should be considered. This could apply to someone who has regular seizures or has throat problems. The risk of choking would need to be due to your health condition or disability.

The government have said that motivation to eat is taken into account by whether a claimant can complete this descriptor 'reliably', although they have also stated that prompting to take nutrition will only qualify if prompting is essential for you to complete the activity although the prompting can occur at any point. Therefore if you need encouragement to start eating, and would often not get round to eating without this encouragement, the activity would not be completed. Explain how often you miss meals and explain why e.g. 'I get so down, that due to my depression I just don't want to eat'.

This is an important activity for some mental health problems, as the prompting descriptor equals 4 points. Lacking the motivation to eat can affect people with depression or substance dependency etc as well as people with eating disorders; if your health means you are not eating properly, so explain this here.

The HP guidance states that prompting may apply if you need reminding to eat 'for example, due to a cognitive impairment or severe depression'. The guidance on prompting about portion size means this descriptor could apply to different types of eating disorders, whether eating too little or bingeing as a result of your health condition or disability. The guidance states 'prompting regarding portion size should be directly linked to a diagnosed condition such as Prader Willi Syndrome or Anorexia. In cases where obesity is a factor through the claimant's lifestyle choices then this descriptor would not apply'. This is a very simplistic view of eating problems and it is important to fully explain why prompting is required for other health reasons and do not be restricted to just diagnosed eating disorders. Remember it is guidance only, not the legal test.

Reliably: the guidance for healthcare professionals has given examples of how the issue of reliability affects the different activities:

Safely:

- Risk of choking on food.

To an acceptable standard:

- 'Spilling food can be considered, regular spillage requiring a change of clothes after meals is not an acceptable standard of taking nutrition'.
- It is not necessary to be able to cut up tough meat like steak to be acceptable.

Standard Rate – 8 points; Enhanced Rate – 12 points

Q5 - Managing treatments

ⓘ Use **page 8** of the **Information Booklet** to help answer these questions.

Tell us about whether you can monitor changes in your health condition, take medication or manage any treatments carried out at home.

Monitoring changes include things like:

- monitoring blood sugar levels, changes in mental state and pain levels

A home treatment includes things like:

- physiotherapy and home dialysis

Tick the boxes that apply to you then provide more information in the Extra information box.

Q5a - Do you need to use an aid or appliance to monitor your health conditions, take medication or manage home treatments?
For example, using a Dosette Box for tablets.

- ☐ Yes
- ☐ No
- ☐ Sometimes

Q5b - Do you need help from another person to monitor your health conditions, take medication or manage home treatments?
By this we mean:

- do they remind you to take medications and treatment?
- do they supervise you while you take your medication?
- Do they physically help you to take medication or manage treatments?

This includes help you have **and** help you need but don't get.

- ☐ Yes
- ☐ No
- ☐ Sometimes

Q5 - Extra information - Managing treatments

Tell us more about any difficulties you have with **managing your treatments**:

- tell us how your condition affects you doing this activity
- tell us how you manage at the moment and the problems you have when you can't do this activity
- tell us how long it takes you to manage your treatments
- does whether you can do this vary throughout the day? Tell us about good and bad days
- do you experience any other difficulties, **either during or after the activity,** like pain, breathlessness or tiredness?
- tell us about the aids and appliances you **need** to use to help you monitor your treatment
- tell us about the **help you need from another person** when managing your treatments. This includes help you have **and** help you need but don't get.

If you need to add more please continue at **Q15 Additional information.**

3. Managing Therapy or Monitoring a Health Condition	
a. Either: (i) does not receive medication, therapy or need to monitor a health condition **or** (ii) can manage medication, therapy or monitor a health condition unaided	**0**
b. Needs any one or more of the following: (i) to use an aid or appliance to be able to manage medication; (ii) supervision, prompting or assistance to be able to manage medication; (iii) supervision, prompting or assistance to be able to monitor a health condition	**1**
c. Needs supervision, prompting or assistance to be able to manage therapy that takes no more than 3.5 hours a week	**2**
d. Needs supervision, prompting or assistance to be able to manage therapy that takes more than 3.5 but no more than 7 hours a week	**4**
e. Needs supervision, prompting or assistance to be able to manage therapy that takes more than 7 but no more than 14 hours a week	**6**
f. Needs supervision, prompting or assistance to be able to manage therapy that takes more than 14 hours a week	**8**

IMPORTANT: the wording of **Descriptor B** has changed for new claims from 16/03/17, and even more importantly the legal definition of what therapy means has been substantially tightened since caselaw held that if supervision, prompting or assistance was needed to ***both*** manage medication and to monitor a health condition that this could amount to managing therapy and the higher points awarded. If your claim was made before 16/03/17, when the regulations changed, this caselaw can still be used as an argument - please seek advice.

The definitions in law are now:

Medication: as needing to be prescribed or recommended by a registered doctor, nurse or pharmacist.

Therapy: means therapy to be undertaken at home which is prescribed or recommended by a - (a) registered - (i) doctor; (ii) nurse; or (iii) pharmacist; or (b) health professional regulated by the Health Professions Council; but does not include taking or applying, or otherwise receiving or administering medication (whether orally, topically or by any other means), or any action which, in [the claimant's] case, falls within the definition of "monitor a health condition".

The Health Professions Council (HP) (renamed the Health and Care Professions Council, includes professions such as occupational therapists, physiotherapists, speech therapists, the full list of professions is detailed on http://www.hpc-uk.org/).

Monitor a health condition: to detect significant changes in the claimant's health condition which are likely to lead to a deterioration in their health and take action advised by a doctor, nurse or health professional (regulated by the HP as detailed above) without which their health is likely to deteriorate.

Manage medication: means take medication, where a failure to do so is likely to result in a deterioration in [the claimant's] health.

Manage therapy: means undertake therapy, where a failure to do so is likely to result in a deterioration in [the claimant's] health.

The HP guidance states that Descriptor B could include help to physically open medication, interpreting/reading blood sugar, supervision or prompting to ensure medication is taken properly. The updated guidance states that aids such as dosette boxes, pill boxes, alarms, reminders etc only apply if there is evidence they are needed due to your health condition and there is evidence to explain their use or if unable to read and need an aid to manage medication independently. No points scored if just used for convenience—so explain why they are needed. Equipment such as needles, glucose meters and inhalers are not aids according to the guidance. But if a spacer is needed to use the inhaler properly then argue that it is an aid or any equivalent extra equipment needed and any assistance/prompting/supervision needed to use or understand any equipment still counts. Supervision due to the risk of accidental or deliberate overdose or deliberate self-harm would fit into Descriptor B and score 1 point.

In relation to needing help to manage therapy you do not have to actually receive therapy on the majority of days throughout a year but that you have need for the level of therapy specified in the descriptor assessed across the year. For example if you need help with dialysis at home one day a week every week throughout the year it is the case that 'on the majority of days' you need the required weekly help. It is the length of time the supervision/prompting/assistance takes, not length of time the therapy takes that counts for which of Descriptors C to F applies. Remember that it is therapy at home, not at a healthcare professionals place of work that counts, therefore going for speech therapy sessions will not count *but* needing help to do any exercises or practicing recommended at home will.

Reliably: - **Safely:**

- Risk of overdosing—accidental or deliberate.
- Taking too little medication, forgetting to take medication or not taking the correct medication at the right time.
- Failure to carry out therapy which is likely to lead to a significant deterioration of an individual's health condition as a result.

To an acceptable standard:

- Taking the medication or completing the recommended therapy, to avoid likely deterioration.

Standard Rate – 8 points; Enhanced Rate – 12 points

Q6 - Washing and bathing

ⓘ Use **page 8** of the **Information Booklet** to help answer these questions.

Tells us about whether you can wash and bathe.
This means things like:
- washing your body, limbs, face, underarms and hair and
- using a standard bath or shower

This doesn't include any difficulties you have getting to the bathroom.

Tick the boxes that apply to you then provide more information in the Extra information box.

Q6a - Do you need to use an aid or appliance to wash and bathe yourself, including using a bath or shower?
Aids and appliances include things like:
- bath / shower seat, grab rails.

☐ Yes
☐ No
☐ Sometimes

Q6b - Do you need help from another person to wash and bathe?
By this we mean:
- Do they physically help you?
- Do they tell you when to wash and bathe?
- Do they watch over you to make sure you are safe?

This includes help you have **and** help you need but don't get.

☐ Yes
☐ No
☐ Sometimes

Q6c - Extra information - Washing and bathing

Tell us more about any difficulties you have when **washing and bathing**:
- tell us how your condition affects you doing this activity
- tell us how you manage at the moment and the problems you have when you can't do this activity
- tell us how long it takes you to wash and bathe
- does whether you can do this vary throughout the day? Tell us about good and bad days
- do you have difficulty washing particular parts of your body? Which parts?
- does it take you a long time to wash and bathe?
- do you experience any other difficulties, **either during or after the activity,** like pain, breathlessness or tiredness?
- tell us about the aids and appliances you **need** to help you wash and bathe
- tell us about the **help you need from another person** when wash and bathing. This includes help you have **and** help you need but don't get

4. Washing & Bathing	
a. Can wash and bathe unaided	**0**
b. Needs to use an aid or appliance to be able to wash or bathe	**2**
c. Needs supervision or prompting to be able to wash or bathe	**2**
d. Needs assistance to be able to wash either their hair or body below the waist	**2**
e. Needs assistance to be able to get in or out of a bath or shower	**3**
f. Needs assistance to be able to wash their body between the shoulders and waist	**4**
g. Cannot wash and bathe at all and needs another person to wash their entire body	**8**

The regulations give definitions:

Bathe: 'includes getting into or out of an un-adapted bath or shower'.

The HP guidance for health professionals now states that Descriptor E 'should be applied as a hypothetical test to consider whether the claimant needs assistance to get in to and out of either one of an unadapted bath, or an unadapted shower'. This has been supported by caselaw, so even if you can manage in your standard shower but would need physical assistance to manage getting in or out of a hypothetical standard bath - even if you don't have one, you can still be awarded 3 points for Descriptor E. If you have a wet room shower, the guidance states, if it is reasonably required (not automatic—you must need it) could be evidence that you cannot get into an unadapted shower.

The HP guidance gives examples of aids: long-handled sponge, shower seat or bath rail. The guidance comments that for Descriptor D to apply you must be unable to make use of aids and cannot reach lower limbs or hair; therefore if it is reasonable for you to use easily available aids and this would mean you could manage without physical assistance the lower scoring Descriptor B would apply instead.

The guidance describes Descriptor F as applying to any part of the body between the shoulders and waist, front or back.

Prompting may apply if you lack motivation or need to be reminded to wash or bathe. A useful piece of caselaw has found that if, at times, you have sufficient impetus to bathe, such as for an appointment, but for the majority of days you lack the motivation due to your health, you could still score points for Descriptor C. But if the only reason you don't is due to laziness then this would not apply.

If you have washed yourself but do not either realise you have failed to do so sufficiently or are physically unable to do so sufficiently and are still not clean this has not been done to an acceptable standard and therefore you should be considered unable to complete this activity.

This could apply to someone with learning difficulties, mental health problems or substance misuse problems or to someone with a visual impairment or just physically unable to complete the activity. It is important to explain why your health or disability means you cannot manage this to an acceptable standard.

Descriptor C and needing supervision to wash and bathe for safety reasons has changed in the HP guidance, previously it was noted that the risk of drowning as a result of having a fit whilst bathing was a 'safely' concern. Now not only has this been removed from the guidance, but the HP's are asked to consider the likelihood of the risk stating 'if the claimant can wash or bathe the majority of the time without risk of injury, for example because their health condition is under control through medication' then it will not apply, and we have seen decisions saying 'does not have a seizure on 50% of days'. Please do not accept this approach, instead look at the safely guidance at the beginning of this guide and consider the gravity of drowning in the bath due to a seizure and we would argue that if your seizures are not fully under control then Descriptor C could apply.

Reliably: the guidance for healthcare professionals has given examples of how the issue of 'reliability' affects the different activities:

Safely:

- Risk of falling or slipping causing injury (which descriptor may apply will depend on whether the activity can be managed safely by use of an aid such as a grab rail, or if physical assistance or supervision for the duration of the task is needed to manage safely.

In a reasonable time period:

- Someone who, has obsessive ideas around cleanliness and takes considerably prolonged periods of time to complete activities due to repetitive and extended hand washing.
- An individual who becomes breathless and exhausted whilst washing and dressing, and needs two hours to complete these tasks.

Standard Rate – 8 points; Enhanced Rate – 12 points

Q7 - Managing toilet needs

ⓘ Use **page 8** of the **Information Booklet** to help answer these questions.

Tell us about whether you can use the toilet and manage incontinence.

Using the toilet means:
- being able to get on or off a standard toilet, and
- cleaning yourself after using the toilet

Managing incontinence means:
- emptying your bowel and bladder, including if you need a collecting device such as a bottle, bucket or catheter, and
- cleaning yourself after doing so

This doesn't include difficulties you have getting to the bathroom.

Tick the boxes that apply to you then provide more information in the Extra information box.

Q7a - Do you need to use an aid or appliance to use the toilet or manage incontinence?
Aids and appliances include things like:
- commodes, raised toilet seats, bottom wipers, bidets, incontinence pads or a stoma bag

☐ Yes
☐ No
☐ Sometimes

Q7b - Do you need help from another person to use the toilet or manage incontinence?
By this we mean:
- Do they physically help you?
- Do they tell you when to use the toilet?
- Do they watch over you to make sure you are safe?

This includes help you have **and** help you need but don't get.

☐ Yes
☐ No
☐ Sometimes

Q7c - Extra information - Managing toilet needs

Tell us more about any difficulties you have with your **toilet needs or incontinence**
- tell us how your condition affects you doing this activity
- tell us how you manage at the moment and the problems you have when you can't do this activity
- tell us how long it takes you to complete this activity
- does whether you can do this vary throughout the day? Tell us about good and bad days
- are you incontinent? Tell us in what way and how you manage it
- do you experience any other difficulties, **either during or after the activity,** like pain, breathlessness or tiredness?
- tell us about the aids and appliances you **need** to help you manage your toilet needs
- tell us about the **help you need from another person** when managing your toilet needs. This includes help you have **and** help you need but don't get

5. Managing Toilet Needs or Incontinence	
a. Can manage toilet needs or incontinence unaided	0
b. Needs to use an aid or appliance to be able to manage toilet needs or incontinence	2
c. Needs supervision or prompting to be able to manage toilet needs	2
d. Needs assistance to be able to manage toilet needs	4
e. Needs assistance to be able to manage incontinence of either bladder or bowel	6
f. Needs assistance to be able to manage incontinence of both bladder or bowel	8

Legal definitions:

Toilet needs: is defined as getting on and off an un-adapted toilet, evacuating the bladder and bowel and cleaning oneself afterwards.

Manage incontinence: is defined as manage involuntary evacuation of the bowel or bladder, including using a collecting device or self-catheterisation and clean oneself afterwards.

The government's guidance has stated that incontinence pads, raised toilet seats, bottom wipers, commodes or a stoma bag may count as suitable aids and appliances. Caselaw has now confirmed that incontinence pads are an aid for managing incontinence, if you need to use them and are not awarded points for Descriptor B please seek advice. Also remember to include details of any help required to empty any aids such as a commode, that are used to manage incontinence.

The HP guidance states that claimants with 'indwelling (permanent) catheters or stoma are considered incontinent for the purposes of this activity' but doesn't list them as 'aids or appliances'. Caselaw has now confirmed that a stoma and bag should count as an aid or appliance to manage incontinence, and therefore this argument should also apply to catheters and bags. To score the higher scoring Descriptors E and F you will need to explain what physical assistance is also required to manage the incontinence. Because you count as incontinent you require more than assistance with toilet needs and the HP guidance states that Descriptor D only refers to people needing physical assistance to get on/off the toilet and clean themselves, not help due to incontinence.

The guidance for healthcare professionals states that this activity does not include managing clothing as this is covered by activity 6, so the guidance says that if you only require help to get changed after suffering incontinence this will not score points for this descriptor. Although this is guidance only and not law, caselaw has now confirmed that the definitions of both managing toilet needs and managing incontinence excludes the need for help in removing/cleaning soiled clothes from being covered by this activity. Despite this our advice is to still provide details of any, prompting, supervision or assistance you require to change into clean clothes, as this is likely to at least indicate that either incontinence aids may be needed or there could be difficulties in cleaning afterwards. We also feel that there remains an argument that changing into clean clothes could form part of 'clean one-self afterwards', although if this argument is important to your claim, it is likely that advice will be needed.

The HP guidance states that this activity also does **not** include climbing stairs or mobilising to the toilet. The guidance goes on to say that if a commode is used just due to limited mobility to get to the toilet, instead of due to the risk of incontinence, it will not count as an aid to toilet needs because it is being used because of mobility problems instead and therefore is not covered by this activity. A commode under this guidance will only score points if needed due to a bladder or bowel problem causing urgency. If a commode is used due to a combination of mobility problems and problems controlling the bladder/bowel, focus on explaining the limited control problems. This approach has now been confirmed by caselaw, so if your mobility problems prevent you from reaching the toilet in time we recommend that you try to speak to your GP about whether there are any continence issues. Also consider whether your limited mobility means you may have difficulty getting on or off the toilet and do you reasonably require either an aid or assistance to manage, if so focus on this aspect.

Caselaw taking an alternative view may emerge and therefore we advise to still include details of help you need getting to the toilet, if you cannot get to the toilet in time there is an argument that you cannot do this activity to an acceptable standard.

As all the activities look at your needs at any point during the day and night, you could argue that needing help to change bedding at night is part of needing help to clean yourself afterwards and to maintain a hygienic environment. Give details of all your problems with the activity, although due to the current caselaw and guidance this is unlikely to be accepted—but if a regular change of bedding is needed, does this show a need for at least incontinence pads at night?

Give details of how problems such as substance misuse or mental health results in either not being aware or not being able to motivate yourself to clean yourself after having an accident and explain that this is due to your health problems.

Reliably: Safely examples from the HP guidance**:**

- Slipping or falling when getting on or off the toilet.
- Sickness or infection due to an inability to maintain personal hygiene.

Standard Rate – 8 points; Enhanced Rate – 12 points

Q8 - Dressing and undressing

ⓘ Use **page 9** of the **Information Booklet** to help answer these questions.

Tell us about whether you can dress or undress yourself
This means:
- putting on and taking off clothes, including shoes and socks
- knowing when to put on or take off clothes, and
- being able to select clothes that are appropriate

Tick the boxes that apply to you then provide more information in the Extra information box.

Q8a - Do you need to use an aid or appliance to dress or undress?
Aids and appliances include things like:
- modified buttons, front fastening bras, velcro fastening, shoe aids or an audio colour detector

☐ Yes
☐ No
☐ Sometimes

Q8b - Do you need help from another person to dress or undress?
By this we mean:
- do they physically help you?
- do they select your clothes?
- do they tell you when to dress and undress?
- do they tell you when to change your clothes?

This includes help you have **and** help you need but don't get.

☐ Yes
☐ No
☐ Sometimes

Q8c - Extra information - Dressing and undressing

Tell us more about any difficulties you have when **dressing and undressing**:
- tell us how your condition affects you doing this activity
- tell us how you manage at the moment and the problems you have when you can't do this activity
- tell us how long it takes you to dress and undress
- does whether you can do this vary throughout the day? Tell us about good and bad days
- do you have difficulty dressing certain parts of your body? Which parts?
- do you experience any other difficulties, **either during or after the activity,** like pain, breathlessness or tiredness?
- tell us about the aids and appliances you **need** to help with dressing and undressing
- tell us about the **help you need from another person** when dressing and undressing. This includes help you have **and** help you need but don't get

If you need to add more please continue at **Q15 Additional information.**

6. Dressing & Undressing	
a. Can dress and undress unaided	**0**
b. Need to use an aid or appliance to be able to dress or undress	**2**
c. Needs either: (i) prompting to be able to dress, undress or determine appropriate circumstances for remaining clothed **or** (ii) prompting or assistance to be able to select appropriate clothing	**2**
d. Needs assistance to be able to dress or undress their lower body	**2**
e. Needs assistance to be able to dress or undress their upper body	**4**
f. Cannot dress or undress at all	**8**

Definitions—only one for this activity:

Dress and undress: includes putting on and taking off socks and shoes.

The HP's guidance states this activity assesses the ability to put on and take off 'appropriate, un-adapted clothing that is suitable for the situation'. (Strangely the need to be 'culturally appropriate', which was in previous guidance has now disappeared).

Previous government guidance has stated you would not be considered able to perform this activity reliably if you cannot determine when it is appropriate to change into clean clothes, this is absent from the current HP guidance. Caselaw has now confirmed that because Descriptor C refers to being able to select appropriate clothing and to be able to dress to an acceptable standard this means not wearing 'malodorous' (foul smelling) or 'unhygienic' clothes. The caselaw goes on to confirm that an acceptable standard does not mean fastidious and a common sense approach is needed, and that 'mere indifference' to the state of your clothing is not enough - it needs to be caused by your physical or mental health. However if a person does not notice that their clothing is dirty or smelly there would usually be an underlying reason for this even if the person themselves lacks the insight to be aware of the reasons, for example, due to dementia or other mental health conditions.

Although assistance is defined as physical assistance, if physical assistance is required to dress due to a cognitive impairment this should still count, for example due to a learning disability or brain damage you need more than reminding to get dressed but need someone to physically help you get dressed.

The current guidance for healthcare professionals only gives examples of modified buttons and shoe aids as suitable aids (previous guidance included modified zips or trousers, front fastening bras and velcro fastenings—so still include if these are the aids you need). You do not have to need to use aids for both dressing and undressing, just one is enough. Caselaw has basically said that a common sense approach is needed to the type of clothing and fastenings, with the exception of socks and shoes, no particular type of clothing should be considered as it is a general functional test, so difficulty getting into a dress with tiny buttons cannot be used to generate points but neither can saying there is no need because you can get into loose, elasticated clothes with no fastenings. Reasonable alternatives such as a cardigan instead of a pullover can be considered, or slip on shoes (check whether appropriate) and remember most outer clothing has fastenings and it is reasonable in this country to need a coat on to go out.

For this activity chairs or beds are not considered aids, as people with no impairments will tend to sit getting dressed, it is a normal way to get dressed, the exception would be if the bed was needed to assist with the function of pulling on clothes, but caselaw has said this is likely to be exceptional. However if you can only get dressed by sitting or lying down, maybe it takes you a lot longer to get dressed, or are in pain, or get breathless and have to stop—so can you do so in a reasonable time period and to an acceptable standard? Explain these problems and how much longer it takes you on the form.

The HP guidance says that prompting 'may apply to claimants who need to be encouraged to dress at appropriate times, e.g. when leaving the house or receiving visitors' and 'whether the claimant can determine what is appropriate for the environment such as time of day and the weather'.

If due to conditions such as depression you regularly do not get dressed and stay in your pyjamas all day as it feels too much effort to get dressed because you feel too low, explain that you need prompting, even if you do not get it—make it clear this help is needed because of your mental health. Caselaw has found that if, at times, you have sufficient impetus to dress, such as for an appointment, but for the majority of days you lack the motivation due to your health, you could still score points for Descriptor C.

But if you do not get dressed because you physically cannot manage and do not have someone to help you everyday, explain why you cannot manage and what help you need. For all activities it is the help you reasonably need in order to do the activity reliably that is important, not the help you actually receive.

Reliably: In a reasonable time period:

- An individual who becomes breathless and exhausted whilst washing and dressing, and needs two hours to complete these tasks will not have done this in a reasonable time period.

Standard Rate – 8 points; Enhanced Rate – 12 points

Q9 - Communicating

ⓘ Use **page 9** of the **Information Booklet** to help answer these questions.

Tell us about whether you have difficulties with your speech, your hearing or your understanding of what is being said to you.
This means in your native spoken language.

Tick the boxes that apply to you then provide more information in the Extra information box.

Q9a - Do you need to use an aid or appliance to communicate with others?
Aids and appliances include things like:
- hearing and voice aids
- picture symbols, and
- assistive computer technology**.**

☐ Yes
☐ No
☐ Sometimes

Q9b - Do you need help from another person to communicate with others?
By this we mean:
- do they help you understand what people are saying?
- do you have someone who helps you by interpreting speech into sign language?
- do they help you by speaking on your behalf?

This includes help you have **and** help you need but don't get.

☐ Yes
☐ No
☐ Sometimes

Q9c - Extra information - Communicating

Tell us more about any difficulties you have with **your speech, your hearing and your understanding of what is said to you:**

- tell us how your condition affects you doing this activity
- tell us how you manage at the moment and the problems you have when you can't do this activity
- tell us how long it takes you to complete this activity
- does whether you can do this vary throughout the day? Tell us about good and bad days
- do you experience any other difficulties, **either during or after the activity,** like anxiety and distress?
- tell us about the aids and appliances you **need** to help you to communicate
- tell us about the **help you need from another person** when communicating. This includes help you have **and** help you need but don't get

If you need to add more please continue at **Q15 Additional information.**

7. Communicating Verbally	
a. Can express and understand verbal information unaided	**0**
b. Needs to use an aid or appliance to be able to speak or hear	**2**
c. Needs communication support to be able to express or understand complex verbal information	**4**
d. Needs communication support to be able to express or understand basic verbal information	**8**
e. Cannot express or understand verbal information at all even with communication support	**12**

The regulations define:

Basic verbal information: Information in your native language conveyed verbally in a simple sentence.

Complex verbal information: Information in your native language conveyed verbally in either more than one sentence or one complicated sentence.

Communication support: Support from a person trained or experienced in communicating with people with specific communication needs, including interpreting verbal information into a non-verbal form and vice versa.

This activity is both the ability to speak and to hear and understand what someone is saying to you.

The HP guidance has given examples of simple sentences: 'can I help you?', 'I would like tea please', 'I came home today', 'the time is 3 o'clock' and a complex sentence: 'I would like tea please; just a splash of milk and no sugar, as I always have sweeteners with me for when I go out'. Whether you agree that these are simple or complex sentences is a matter of judgement and open for debate.

The HP guidance explains that communication support from someone who is experienced in communication with people with specific communication needs includes both people directly experienced in communicating to the claimant such as family members and people with experience of communicating with people with similar needs such as a sign language interpreter. That family and friends experienced in communicating with the claimant can provide communication support has now been confirmed by caselaw.

Needing communication support still applies even if you do not have access to the support. The HP guidance gives the example of a deaf person who cannot communicate verbally and does not use sign language possibly needing another person to write verbal information down even if they do not routinely have this help (remember if you rely on sign language, an interpreter is communication support).

The guidance for healthcare professionals says verbal information can include interpretation from verbal into non-verbal form and vice-versa, e.g. speech to sign language or written text, as is clear from the legal definition. It also states that the ability to lip read is not a consideration for this activity, however caselaw has said there is no legal evidence for this concession, but the DWP's representative said lip-reading is not adequate to reliably understand what was said. Further caselaw has said a deaf person may be able to lip read to an acceptable standard, but there are difficulties so any lip reading still needs to be done to an acceptable standard - explain your difficulties understanding strangers, light levels, positioning etc.

Examples given of an aid or appliance is a hearing aid or electrolarynx (but also consider the problems conveying verbally with an electrolarynx and the clarity of speech for the correct level of points).

The HP guidance states that if you are not using a prescribed hearing aid, then the reasons why should be asked and if there is a 'good medical reason' such as chronic ear infections then hearing without the aid should be assessed, but if there is 'not a good reason' you should be assessed as if using the hearing aid.

Remember that the ability to understand is part of this descriptor, but because of the legal definition in the regulations defining what basic and complex verbal information is, it may be very difficult to include people with basic communication abilities in this activity. But the HP guidance is trying to limit the scope further by stating the ability to remember and retain information is not part of this activity, giving the example of people with dementia or learning disabilities. We disagree with this– if you need support with understanding due to the level or type of learning difficulties or dementia, there is nothing in the regulations to prevent this.

Caselaw has looked at the interaction between the activities of communicating verbally and engaging with others and held that there is no reason a person cannot score under both descriptors if anxiety prevents verbal communication but it is not automatic. There must be communication problems as well as a problem with engagement to score under both but even if one causes the other both (communication and social engagement) descriptors/problems can still count. The facts of each case must be considered.

Reliably: To an acceptable standard:

- Clarity of the claimant's speech should be considered. Having to concentrate a little harder e.g. articulating some sounds differently following a stroke but still being understandable would be an acceptable standard but would not be if you have to resort to gestures, writing it down or needing assistance in order to be readily understood.

Standard Rate – 8 points; Enhanced Rate – 12 points

Q10 - Reading

ⓘ Use **page 9** of the **Information Booklet** to help answer these questions.

Tell us about whether you can read and understand signs, symbols and words in your native language. Also tell us about difficulties you have concentrating when doing so.

This means:

- signs, symbols and words written or printed in your native language, **not braille**
- understanding numbers, including dates
- other instructions, such as timetables

Tick the boxes that apply to you then provide more information in the Extra information box.

Q10a - Do you need to use an aid or appliance other than spectacles or contact lenses to read signs, symbols and words?
Aids and appliances include things like magnifiers.

- ☐ Yes
- ☐ No
- ☐ Sometimes

Q10b - Do you need help from another person to read or understand signs, symbols and words?
By this we mean do they read or explain signs and symbols to you?

This includes help you have **and** help you need but don't get.

- ☐ Yes
- ☐ No
- ☐ Sometimes

Q10c - Extra information - Reading

Tell us more about any difficulties you have when **reading and understanding signs, symbols and written words:**

- tell us how your condition affects you doing this activity
- tell us how you manage at the moment and the problems you have when you can't do this activity
- tell us how long it takes you to complete this activity
- does whether you can do this vary throughout the day? Tell us about good and bad days
- do your difficulties depend on how complicated the signs, symbols and words are, or how big they are?
- do you experience any other difficulties, **either during or after the activity,** like pain, breathlessness or tiredness?
- tell us about the aids and appliances you **need** to help you read
- tell us about the **help you need from another person** when reading. This includes help you have **and** help you need but don't get.

8. Reading & Understanding Signs, Symbols & Words	
a. Can read and understand basic and complex written information either unaided or using spectacles or contact lenses	**0**
b. Needs to use an aid or appliance, other than spectacles or contact lenses, to be able to read or understand either basic or complex written information	**2**
c. Needs prompting to be able to read or understand complex written information	**2**
d. Needs prompting to be able to read or understand basic written information	**4**
e. Cannot read or understand signs, symbols or words at all	**8**

The legal definitions:

Basic written information: Means signs, symbols and dates written or printed in standard size text in your native language.

Complex written information: Is more than one sentence of written or printed standard size text in your native language.

Read: Includes reading signs, symbols and words but does not include reading Braille.

If you can only read Braille you cannot read, you must be able to see the information to be considered able to read.

The HP guidance states that this activity considers both the inability due to cognitive impairment to understand written information and the ability to visually see information.

The guidance states that the prompting descriptors may apply if you need another person to explain the information to you due to a cognitive impairment, stating for complex written information, a person may need someone to explain and for basic written information, that a person may need to be reminded of the meaning of basic information. But remember there is nothing in law restricting the need for prompting to be only due to sight or cognitive problems. So if your mental health prevents you from being able to even attempt to read a sentence due to anxiety, or your perception means you misunderstand things etc then there is no reason why this should not also count.

The HP's guidance states that consideration needs to be given to whether you can read and understand information both in and outdoors and uses an example of a large magnifier or blue screen to read text indoors and a portable magnifying glass outdoors. The previous guidance stated if you are unable to complete the descriptor either indoors or outdoors it may apply, therefore you should explain your difficulties in both situations. But the current guidance now states 'if, despite aids, the claimant cannot read both indoors **and** outdoors, another descriptor may apply'. This new guidance does not fit with the legal definition of **repeatedly** - 'as often as the activity being assessed is reasonably required to be completed' and our advice is to explain the situations where you are unable to read information that you reasonably need to read, e.g. can read with equipment at home but not the bus times at the bus station which you need to see to get home from work.

Previous HP guidance gave the example of understanding bank statements or utility bills and if you could not then you could not read complex information to an acceptable standard. This is no longer included in the current guidance, but if you have difficulty understanding your bills, include this here. The example of 'complex written information' given is: 'Your home may be at risk if you do not keep up repayments on your mortgage or any other debt secured on it. Subject to terms and conditions'.

The example of 'basic written information' given is a green exit sign on a door. This is not legally correct as it would be written in very large text, whereas the legal definition given in the regulations is 'written or printed in **standard size** text', which most people would think of as 12 point. A useful piece of caselaw has stated that Descriptor E, 'cannot read or understand signs, symbols or words at all', should apply if words cannot be understood even if signs and symbols can be. HP guidance states it may apply to someone who needs another person to read everything for them due to a learning disability or severe visual impairment.

It is important to remember the legal definitions of what both basic and complex written information is and this has been confirmed in caselaw as being the definitions that should be applied despite not being a high threshold of reading ability and due to the definition 'complex' not being what you would normally associate with the word.

To score points for this activity the guidance states that illiteracy must be caused by a health condition or impairment, for example learning difficulties, and not due to a lack of education, so it is important to explain the reason why you are unable to read or understand information. People can often have unrecognised learning difficulties though, so think about school history, any extra help required etc. This has been confirmed in caselaw, that points can only be awarded due to illiteracy if the cause of illiteracy is linked to a physical or mental condition limiting that person's ability to read or which has prevented that person from learning to read.

Standard Rate – 8 points; Enhanced Rate – 12 points

Q11- Mixing with other people

ⓘ Use **page 10** of the **Information Booklet** to help answer these questions.

Tell us about whether you have difficulties mixing with other people.
This means how well you are able to:

- get on with other people face-to-face, either individually or as part of a group
- understand how they're behaving towards you, and
- behave appropriately towards them

It includes both people you know well and people you don't know.

Tick the boxes that apply to you then provide more information in the Extra information box.

Q11a - Do you need another person to help you to mix with other people?
By this we mean:

- do they encourage you to mix with other people?
- do they help you understand how people are behaving and how to behave yourself?

This includes help you have **and** help you need but don't get.

☐ Yes
☐ No
☐ Sometimes

Q11b - Do you find it difficult to mix with other people because of severe anxiety or distress?

☐ Yes
☐ No
☐ Sometimes

Q11c - Extra information - Mixing with other people

Tell us more about any difficulties you have when **mixing with other people:**

- tell us about how your condition affects you doing this activity
- tell us how you manage at the moment and the problems you have when you can't do this activity
- do you have behaviours that could put yourself or others at risk?
- does whether you can do this vary throughout the day? Tell us about good and bad days
- do you avoid mixing with other people, some more than others?
- does it take you a long time to mix with other people?
- do you experience any other difficulties, **either during or after the activity,** like anxiety or distress?
- tell us about the **help you need from another person** when mixing with other people. This includes help you have and help you **need** but don't get.

If you need to add more please continue at **Q15 Additional information**

9. Engaging With Other People Face to Face	
a. Can engage with other people unaided	**0**
b. Needs prompting to be able to engage with other people	**2**
c. Needs social support to be able to engage with other people	**4**
d. Cannot engage with other people due to such engagement causing either: (i) overwhelming psychological distress to the claimant **or** (ii) the claimant to exhibit behaviour which would result in a substantial risk of harm to the claimant or another person	**8**

Engage socially: interaction with others in a contextually and socially appropriate manner, understand body language and establish relationships.

Psychological distress: distress related to an enduring mental health condition or an intellectual or cognitive impairment.

Social support: support from a person trained or experienced in assisting people to engage in social situations.

The government have said that this activity is about difficulties engaging with other people generally, not just people you know well and so have not confined the descriptors to specific situations. The activity considers your ability to interact with other people face to face in a contextually and socially appropriate manner, understand body language and establish relationships. The HP guidance says that vulnerability to others should be considered giving the example of someone with Downs Syndrome or Autism may be less risk aware and vulnerable to manipulation or abuse.

The previous HP guidance stated that psychological distress may have a physical root cause. For Descriptor D, the HP guidance now refers to the legal definition resulting in 'a severe anxiety state in which the symptoms are so severe that the person is unable to function', citing conditions such as generalised anxiety disorder, panic disorder, dementia or agoraphobia. Caselaw has stated that a physical problem causing communication difficulties could cause anxiety in social situations sufficient for this activity to apply, so explain the impact any physical problems may have on your confidence and anxiety levels in social situations.

Family and friends that know the person well will count as experienced in assisting people to engage in social situations as well as people who do not know them but are used to providing support to people with health conditions or impairments. The first HP guidance referred to needing the presence of a third party to interact with others for Descriptor C, needing social support. The current guidance now states that this descriptor 'may apply to people who can only engage with others with active and skilled support on the majority of days, or who are left vulnerable due to their level of risk-awareness as a result of their condition'. It may help to describe what the person giving support is doing i.e. providing reassurance, explaining how to behave, monitoring for inappropriate behaviour etc. Caselaw has held that social support includes moral or emotional support, it has also held that social support does not have to happen at the time of social engagement, it could be that the social support is what allows engagement to take place. So if your support worker, counsellor, family etc, give you more than prompting, but actually prepare you in advance to cope with social engagement, explain this.

The HP guidance for B has changed back to, may apply to people 'who need encouragement to interact with others by the presence of a third party'. Legally prompting does not have to happen through the duration of an activity and therefore if someone just needs prompting to start engaging in social contact, then they should explain this and should be eligible for points.

The inability to engage socially must be as a result of your health condition or impairment and not 'simply a matter of preference by the claimant'. Therefore if you are unable to engage socially due to your mental health, such as due to your level of anxiety or because of problems establishing relationships with people because of being on the autistic spectrum, explain both the problems and the cause of the problems. Caselaw has held that the ability to engage face to face, refers to engaging with an individual or small group as it is not possible to engage face to face with a crowd. Problems whilst being in a crowd could be a distraction but not a problem with the function of engaging face to face.

Explain how often you have cancelled appointments because on that day your level of anxiety or paranoia was too high for you to cope with engaging with other people. Remember this does not have to be everyday, a descriptor applies if it applies for over 50% of the days in a year. Going to your PIP face to face assessment is not the same as engaging socially and establishing relationships, but if you manage to go on your own, it is likely to be construed as not having a problem with this activity, if your anxiety levels make appointments difficult try to take someone with you. Caselaw has confirmed that this activity relates to social situations.

Reliably: **Safely:** Becoming violent which presents a serious risk of harm to the claimant and/or another person.

Use examples of any incidents that have happened when your mental health or cognitive impairment have resulted in being unable to control your temper leading to aggressive behaviour to others. Although the guidance states becoming violent as a 'safely' concern – also consider that verbal aggression and/or disinhibited behaviour can also be a safety risk. This behaviour must be due to your health.

Standard Rate – 8 points; Enhanced Rate – 12 points

Q12 - Making decisions about money

ⓘ Use **page 10** of the **Information Booklet** to help answer these questions.

Tell us about whether you can make decisions about spending and managing your money. This means:

- understanding how much things cost
- understanding how much change you should get
- managing budgets, paying bills and planning future purchases

This activity looks at your decision making ability not things like getting to the bank.

Tick the boxes that apply to you then provide more information in the Extra information box.

Q12a - Do you need someone else to help you to understand how much things cost when you buy them or how much change you'll receive?

By this we mean:

- do you need someone to do it for you?
- do they need to remind you to do it or how to do it?
- do you need someone to help you understand?

This includes help you have **and** help you need but don't get.

☐ Yes
☐ No
☐ Sometimes

Q12b - Do you need someone else to help you manage your household budgets, pay bills or plan future purchases?

By this we mean:

- do you need someone to do it for you?
- do they have to help you manage your bills?
- do you need encouraging to do it?

This includes help you have **and** help you need but don't get.

☐ Yes
☐ No
☐ Sometimes

Q12c - Extra information - Making decisions about money

Tell us more about any difficulties you have when **making budgeting decisions:**

- tell us about how your condition affects you doing this activity
- tell us how you manage at the moment and the problems you have when you can't do this activity
- tell us how long it takes you to complete this activity
- does whether you can do this vary throughout the day? Tell us about good and bad days
- do you experience any other difficulties, **either during or after the activity,** like anxiety and distress?
- tell us about the **help you need from another person** when making decisions about money.

This includes help you have **and** help you need but don't get.

If you need to add more please continue at **Q15 Additional information.**

10. Making Budgeting Decisions	
a. Can manage complex budgeting decisions unaided	**0**
b. Needs prompting or assistance to be able to make complex budgeting decisions	**2**
c. Needs prompting or assistance to be able to make simple budgeting decisions	**4**
d. Cannot make any budgeting decisions at all	**6**

The legal definitions:

Simple budgeting decisions: decisions involving calculating the cost of goods and calculating the change required after a purchase.

Complex budgeting decisions: decisions involving calculating household and personal budgets, managing and paying bills and planning future purchases.

The current HP guidance states that 'assistance' in this activity refers to another person 'carrying out' elements, although not all, of the decision making process for you.

BUT the legal definition of assistance is 'physical intervention by another person and does not include speech', therefore if you need physical help to 'carry out' his activity i.e. assistance, then legally it should apply. E.g. a blind person may need the physical intervention of someone in order to see their change in a shop or to see the amount on a bill in order to make a decision. The guidance is not the same as the law and should not conflict with the law, so explain any physical help needed to make a budgeting decision here *and be prepared to argue the case.* There has been caselaw stating that this activity primarily refers to the cognitive/intellectual decision making process but no definitive answer on whether help or the degree of help needed for people with physical disabilities to put them in a position to make the decision counts or not. Therefore still make the argument.

Prompting has been described as the claimant needing to be encouraged or reminded to make budgeting decisions.

The HP guidance describes Descriptor B as applying to people who need assistance managing their household bills or planning future purchases. A claimant who is vulnerable due to cognitive or developmental impairments and is vulnerable due to not understanding 'everyday financial matters' should also be considered.

The previous HP guidance stated that in order to complete this activity, claimants do not need in-depth financial knowledge. Complex budgeting decisions are those that are involved in calculating household and personal budgets, managing bills and planning future purchases. It does not include decisions which require financial knowledge, e.g. calculating interest rates or comparing mortgages.

Previous guidance stated this activity is not whether a good decision has been made, but that you understand the decision made e.g. understand the need to pay bills and budget but make an expensive purchase despite this, even though you know you have bills to pay and understand how to budget. ***But*** if bad decisions are made, consideration should be given to whether this is due to a health condition or impairment.

The HP guidance states that some people may lack motivation to do this activity and consideration must be given as to whether this is due to a health condition and consideration must be given to 'whether the individual would carry out the activity if they really had to' e.g. a final notice. We disagree with this approach, this is the guidance setting to high a bar and you should explain all the prompting you need due to your lack of motivation to prevent the final notice needing to arrive.

If due to mental health conditions, such as manic depression, you lose control of your decision making ability when in a manic or 'high' phase and spend all of your money with no thought of the consequences, then explain this here and explain any patterns of this behaviour. Caselaw has found that impulsiveness due to ADHA and using up funds on '*superficially attractive propositions'* amounts to decision making in not paying bills.

If you suffer from a substance dependency and are fully aware that you cannot afford your dependency, but are unable not to spend your money on your addiction despite knowing the consequences, argue that this should count because you have made the bad decision as a result of your health condition and in fact are not in control of the decision making process.

Standard Rate – 8 points; Enhanced Rate – 12 points

Q13 - Going out

ⓘ Use **page 10** of the **Information Booklet** to help answer these questions.

Tell us about whether you can plan and follow a route to another place. Also tell us if severe anxiety or stress prevents you from going out.
This includes planning and following a route to another place using public transport.

This activity doesn't look at your ability to walk which is covered in Question 14, **Moving around.**

Tick the boxes that apply to you then provide more information in the Extra information box.

Q13a - Do you need help from another person to plan a route to somewhere you know well?
By this we mean do you:

- need someone to help you plan a route, or plan it for you?
- need to be encouraged to go out or have someone with you when going out to reassure you?
- need help from an assistance dog or specialist aid, such as a white stick?
- need someone to be with you to keep you safe or stop you getting lost?

This includes help you have **and** help you need but don't get.

☐ Yes
☐ No
☐ Sometimes

Q13b - Do you need help getting to somewhere you don't you know well?
By this we mean do you:

- need to be encouraged to go out or have someone with you when going out to reassure you?
- need help from an assistance dog or specialist aid, such as a white stick?
- need someone to be with you to keep you safe or stop you getting lost?
- need help using public transport?

This includes help you have **and** help you need but don't get.

☐ Yes
☐ No
☐ Sometimes

Q13 - Going out continued

Q13c - Are you unable to go out because of severe anxiety or distress?

☐ Yes
☐ No
☐ Sometimes

Q13d - Extra information - Going out

Tell us more about any difficulties you have when **planning and following a route:**

- tell us about how your condition affects you doing this activity
- tell us how you manage at the moment and the problems you have when you can't do this activity
- tell us how long it takes you to complete this activity
- does whether you can do this vary throughout the day? Tell us about good and bad days
- does whether you can do this depend on where you're going?
- do you experience any other difficulties, **either during or after the activity,** like anxiety or distress?
- tell us about the **help you need from another person** when planning and following a journey. This includes help you have **and** help you need but don't get.

Mobility

1. Planning and Following Journeys	
a. Can plan and follow the route of a journey unaided	**0**
b. Needs prompting to be able to undertake any journey to avoid overwhelming psychological distress to the claimant	**4**
c. For reasons other than psychological distress cannot plan the route of a journey	**8**
d. For reasons other than psychological distress cannot follow the route of an unfamiliar journey without another person, assistance dog or orientation aid	**10**
e. Cannot undertake any journey because it would cause overwhelming psychological distress to the claimant	**10**
f. For reasons other than psychological distress cannot follow the route of a familiar journey without another person, an assistance dog or an orientation aid	**12**

IMPORTANT: the wording of Descriptors C, D and F have changed for new claims from 16/03/17, to prevent caselaw from a three judge panel hearing from continuing to apply. The caselaw said that following a journey includes both navigation and ability to make progress which may be limited if a person experiences overwhelming psychological distress. Because this was a three judge Upper Tribunal decision, it was binding over single judge decisions and decision makers and first tier tribunals. The effect was to widen the descriptors from the ability to navigate and allow claimants whose mental health meant that the distress was suitably overwhelming and therefore needed someone with them in order to get where they were going on either unfamiliar or familiar routes to score points. The decision cited the government's own consultation response on the descriptors from 2012 as supporting their decision and therefore it is disingenuous for the DWP to claim that the amendments to the descriptors were needed for '*... to restore the original intention of the benefit which has been expanded by the legal judgments'*. If your claim was made before 16/03/17, when the regulations changed, this caselaw can still be used as an argument - please seek advice.

The regulations define:

Psychological distress: as distress related to an enduring mental health condition or an intellectual or cognitive impairment.

Assistance dog: a dog trained to guide or assist a person with a sensory impairment, which means guide, hearing and dual sensory dogs.

Orientation aid: a specialist aid designed to assist disabled people to follow a route safely. (The guidance explains that a specialist satellite navigation system will count as an orientation aid, but that a generic sat. nav. will not).

You should explain how you believe you meet the wording of the descriptor in line with the regulations and caselaw, you should remember guidance is not law.

The HP Sept 16 guidance states that 'journey' means a local journey, whether familiar or unfamiliar, and that environmental factors count, e.g; being unable to reliably complete this activity because you are unable to cope with crowds or loud noises. However a Judge has dismissed the guidance as irrelevant stating that there is no mention of the journey needing to be local in the law. This caselaw says that by limiting consideration to only local journeys gives different entitlement depending on where you live stating that '*a person who lives in a quiet corner of rural Wales will be subject to a different test from one who lives on the outskirts of London or some other 'intimidating destination'* . However despite the Judge dismissing the HP guidance as irrelevant, it is still important to know how the HP doing your assessment and the decision maker is likely to assess your claim.

The guidance states this activity is designed to assess the barriers faced by claimants that are associated with mental, cognitive or sensory ability. The HP guidance describes 'overwhelming psychological distress' as meaning 'a severe anxiety state in which the symptoms are so severe that the person is unable to function', as could occur with agoraphobia, dementia, generalised anxiety state or panic disorder.

For Descriptor B the guidance says it applies when going out causes overwhelming psychological distress and prompting is needed on the majority of days to go out. The prompting can take place before or during the journey and 'any journey' means any single journey on the majority of days. If with support you can successfully go out on the majority of days then B is likely to apply. If agoraphobia is severe & on the majority of days you're unable to go out even with support, then E is more appropriate.

Descriptors B and E refer to any journey familiar or not. The guidance says if you can pick your child up from school 5 days a week, neither apply even if you cannot go anywhere else without someone with you, however this risks ignoring the issue confirmed by caselaw that if something cannot be done for a significant part of the day it cannot be done. A descriptor only has to apply on over 50% of days, so if you can go out some days explain the proportion of good/bad days. A descriptor should apply if it applies at any time of the day in a 24 hour period if you would reasonably need to do it at that time (this is separate from the requirement to be able to do something repeatedly) and so if you cannot go out without prompting for 'b' or at all for 'e' for a significant amount of the majority of days then arguably points should be scored.

Q14 - Moving around

ⓘ Use **page 11** of the **Information Booklet** to help answer these questions.

Tell us about whether you can physically move around
This means how well you can walk and if you need to use aids and appliances to get around.

Tick the boxes that apply to you then provide more information in the Extra information box.

Q14a - How far can you walk taking into account any aids you use?
To give you an idea of distance, 50 metres is approximately 5 buses parked end to end.

- ☐ Less than 20 metres.
- ☐ Between 20 and 50 metres.
- ☐ Between 50 and 200 metres.
- ☐ 200 metres or more.
- ☐ It varies.

Q14b - Do you use an aid or appliance to walk?
Walking aids include:
- walking sticks
- walking frames
- crutches, and
- prostheses.

- ☐ Yes
- ☐ No
- ☐ Sometimes

Q14c - Do you use a wheelchair or similar device to move around safely, reliably and repeatedly and in a reasonable time period?

- ☐ Yes
- ☐ No
- ☐ Sometimes

Q14 - Extra information - Moving around

Tell us more about any difficulties you have when **moving around**

- tell us about how your condition affects you doing this activity
- tell us how you manage at the moment and the problems you have when you can't do this activity
- tell us how long it takes you to complete this activity
- does whether you can do this activity vary throughout the day? Tell us about good and bad days
- do you regularly fall? Do you find it difficult to move around on certain ground surfaces?
- do you use a wheelchair? Is it motorised or manual?
- do you experience any other difficulties, **either during or after the activity,** like pain, breathlessness or tiredness, dizziness or anxiety?
- tell us about the aids and appliances you **need** to use when moving around?
- tell us about the **help you need from another person** when moving around. This includes help you have and help you **need** but don't get

2. Moving Around	
a. Can stand and then move more than 200 metres, either aided or unaided	**0**
b. Can stand and then move more than 50 metres but no more than 200 metres, either aided or unaided	**4**
c. Can stand and then move unaided more than 20 metres but no more than 50 metres	**8**
d. Can stand and then move using an aid or appliance more than 20 metres but no more than 50 metres	**10**
e. Can stand and then move more than 1 metre but no more than 20 metres, either aided or unaided	**12**
f. Cannot, either aided or unaided: (i) stand **or** (ii) move more than 1 metre	**12**

Legal definition:

Stand: is defined in the regulations as meaning stand upright with at least one biological foot on the ground.

Therefore a double amputee cannot stand and should be awarded Descriptor F, but a single lower limb amputee may be able to stand, a prosthesis is considered to be an appliance in the guidance and therefore you will have to consider how far you can reliably move.

Move is not defined in the regulations but the guidance for healthcare professionals clarifies that this activity requires a person to stand and then move independently while remaining standing. If a wheelchair is needed to move that distance you should be considered not to be able to stand and move the distance.

The HP guidance states this activity should be judged in relation to flat outdoor surfaces including kerbs. This has been supported by caselaw and no account is taken of where in Swansea you actually live.

In the initial consultation for PIP the 20 metre distance was considered the distance to achieve a basic level of independence in the home, 50 metres to achieve a basic level of independence outdoors and 200 metres a higher level of independence outdoors.

Aids and appliances may include walking sticks, crutches and prostheses.

The HP guidance says in order to do this activity reliably, consideration should be given to the manner of moving, including gait, speed, risk of falls, symptoms or side effects such as pain, breathlessness and fatigue. Levels of pain should still be considered as to whether moving is to an acceptable standard, including in stoic claimants who, despite pain, may walk further in a reasonable time. Brief pauses do not stop the distance you can walk, but longer halts could and would also bring into question whether you can manage the distance in a reasonable time period. So explain why you need to stop and how long before you can move again and how this affects your speed of walking. The DWP quote an average walking speed of 60 metres per minute.

The HP guidance states that this activity is only the physical act of moving and awareness of danger is considered under activity 11, Planning and Following Journeys. However there is some overlap in the case of falls and there will remain issues surrounding people suffering from conditions such as autism who may refuse to walk and ground themselves and therefore are unable to manage the physical act of walking. The cause of problems with moving around do not have to be physical and genuine psychosomatic pain or exhaustion could limit your ability to move around.

The meaning of Descriptor C has divided opinion in caselaw as to whether this means that although you can manage no further than 50 metres without an aid, does this mean no further than 50 metres even if you have an aid or does it not matter how far you can go with an aid as long as you cannot go further than 50 metres unaided. The DWP's advice for decision makers states that Descriptor C only applies to people who can not go further than 50 metres aided or unaided and quotes the caselaw supporting this but not the caselaw holding the opposite view. These pieces of caselaw are at the same level, so you can argue the approach which is helpful to you.

Reliably: **Safely:** Falling
Repeatedly:

- A person who is able to stand and move 20 metres unaided, but is unable to repeat it again that day cannot do it repeatedly as you would reasonably expect people to move 20 metres more than once a day.
- If a person can walk one day, but the exertion means they are unable to the next this should be considered. Longer periods of fluctuating ability should be looked at in relation to the rules on fluctuating conditions (see front page of this guide.
- 'symptoms such as pain, fatigue and breathlessness should be considered when determining whether an activity can be carried out repeatedly. Whilst these symptoms may not necessarily stop the claimant carrying out the activity in the first instance, they may be an indication that it cannot be done as often as is required'.

Caselaw has said about how often needing to reasonably require repeated distances, that it is not unreasonable to include how often a claimant wishes to walk (avoiding extremes) and not just when they need to. So give examples of how your mobility restricts you from doing the things you would like to do.

Standard Rate – 8 points; Enhanced Rate – 12 points

Q15 - Additional Information

Tell us anything else you think we should know about your health conditions or disabilities and how these affect you that you haven't mentioned already.

- If any carers, friends or family want to provide further information they can do it here
- You don't have to complete this part if you've covered everything in the form

Continue on separate pieces of paper, if needed. Remember to write your name and National Insurance Number at the top of each page and tell us which questions your comments refer to.

Section 4 - What to do now

Also see **page 11** of the Information Booklet

- Check you've answered all the questions and sign the declaration in ink
- Place this form in the envelope provided so that the address on the back page shows through the window

What happens next

After we've received your form we may contact you to arrange a face-to-face consultation with a health professional.

This will give you the chance to tell us more about how your health condition or disability affects your daily life. If you've given us enough information, we might not need to see you.

If we ask you to go to a face-to-face consultation, you must attend, or we can't decide if you're able to get PIP.

Coming to a face-to-face consultation

You'll be able to take someone with you. If you can't attend on the date given, you can contact the health professional to rearrange. The consultation will last about an hour, it's not a full physical examination, but the health professional will talk you to understand how your health condition or disability affects your daily life.

Tell us about any help you (or someone you bring with you) would need if you have to go for a face-to-face consultation.

Face to Face Consultation:

A healthcare professional will assess which of the 'daily living' and 'mobility' descriptors apply. This is very similar to an Employment and Support Allowance medical although the descriptors are different. Claimants can take someone with them to this assessment, you can record the assessment, but you have to notify Capita in advance and it can only be done on a tape or cd machine capable of recording 2 identical copies and sign an agreement about how you are allowed to use your copy. You are allowed to take notes and these do not have to be given to the assessor.

Capita are responsible for arranging the assessments in Wales and initially said that a large number of the consultations will take place in the claimant's home, despite this they now usually happen at an assessment centre, usually at Frigate House in Swansea, but you may be asked to attend an assessment centre further away. Home visits now only happen if Capita accept the need for it from the medical evidence you have sent in with your PIP form or a letter from your GP supporting your request to be seen at home. Give clear reasons why you are unable to attend the assessment centre. Capita state on their website that you are only allowed to cancel an appointment once and if you are more than 20 minutes late or forget your ID you will be treated as having failed to attend. If you do not provide what is accepted as a good reason to the DWP your claim will be refused. For more information go to www.capita-pip.co.uk.

The HP guidance states they should read all the evidence on file prior to the consultation, therefore it is important to ensure that any supportive evidence available is supplied before this stage. At the consultation a clinical history of all conditions should be taken, because of how the point scoring system works it is important that the healthcare professional is informed of all of your problems, not just what you view as your main problem. The healthcare professional should record your 'relevant social and occupational history' and will ask questions about your 'typical day' in order to establish how your health/disability affects your daily living and mobility. Informal observations will be made as part of the assessment e.g. your appearance, manner, ability to walk into the assessment room etc. If relevant according to your health/disability clinical examinations may be done to establish problems with mental function, sensory impairment, cardiorespiratory, musculoskeletal and nervous or other body systems.

Following the consultation the healthcare professional will produce a report to be sent to the DWP. In the report the healthcare professional will choose which descriptor they believe reflects the claimant's ability in each activity and what their likely prognosis is which will advise the decision maker on the level and length of any award. The HP guidance states they should not consider whether the descriptors chosen will lead to entitlement to payment of PIP but only whether the descriptor is appropriate. Whilst the decision maker can come to a different conclusion based on the evidence from the healthcare professional, the experience of the Work Capability Assessment leads us to believe the decision maker will usually accept the healthcare professional's opinion.

Length of PIP award:

PIP awards are usually for a fixed period. In the DWP guidance there, are exceptions for when following assessment, it is considered that the claimant has either a level of functional ability which is not likely to change in the long-term or high levels of functional impairment which are only likely to increase and if this is the case, a fixed term award will be inappropriate and an on-going award with a review after 10 years should apply.

The DWP advice for decision makers state that there are 2 types of fixed term awards—short fixed term awards; minimum 9 months, maximum 2 years and longer fixed term awards with a review date or 'planned intervention' set 12 months before the end date of the claim.

Further details are given in Decision Making Process Guidance which is DWP internal guidance, but a copy was found through a freedom of information request. This states that a short fixed term award can be made with or without a planned intervention date, based on the HP's recommendation. If there is no planned intervention date then the award stops at the end date and a new claim is needed. If then the HP says there is likely to still be problems at the recommended review date, then the review date will be set 12 months before the end of the award. A longer fixed term award will happen when the HP says there will still be problems at the recommended review point and the review point is more than 12 months from the assessment date.

The DWP's PIP computer system is set up to issue an 'end of award notification' 14 weeks before the end of the award and how to claim if the claimant considers their 'needs have continued'.

Caselaw has determined that the decision on whether a fixed term award is inappropriate is appealable

Planning and Following Journeys continued:

The guidance appears to forget that if you cannot do something reliably, then you cannot do it, so if you cannot reliably undertake any journey because it would cause you overwhelming psychological distress, you cannot do it to an acceptable standard can you? You probably won't make it to the end of your journey, it may take you longer and you are unlikely to manage the journey repeatedly. So explain why going anywhere causes you overwhelming psychological distress, such as anxiety or panic attacks and because you cannot do this reliably that Descriptor E should apply.

The guidance states that Descriptor B could also apply if you are actively suicidal or at risk of exhibiting violent behaviour and require prompting when out not to harm yourself or others. The guidance states there 'must be good evidence the person is a suicide risk', such as the involvement of mental health services, a care plan etc. For violent behaviour the guidance says good evidence of being unable to control behaviour is required and that being prompted 'reduces a substantial risk of the person committing a violent act'. But if this applies then surely you cannot safely and to an acceptable standard undertake any journey because it would cause overwhelming psychological distress to the claimant and maybe Descriptor E should apply.

If due to disinhibition or lack of awareness of risk, supervision or support are required to navigate a journey safely then Descriptor D or F could be argued—think in terms such as not being able to control thought processes affecting cognition and when in this state cannot work out where to go.

The Sept 16 guidance states that Descriptors C, D and F are most likely to apply to people with cognitive, sensory or developmental problems. These descriptors have changed and it is no longer possible for these descriptors to apply when the reason you need someone with you is due to psychological distress, i.e. needing someone with you due to anxiety or panic attacks.

The guidance claims that Descriptor C applies to people who, due to cognitive or developmental impairments, cannot plan a journey using maps, phone apps or timetables but could follow a route planned by someone else on their own and ask for help if the 'bus is diverted', if this applies consider whether you could realistically and reliably cope with unexpected changes and whether help to follow a journey is more appropriate.

Descriptors D and F are described in the Sept 16 guidance as applying to people with cognitive, sensory or developmental impairments who cannot work out where to go, follow directions or deal with unexpected changes. 'Follow' is described as meaning to 'the visual, cognitive and intellectual ability to reliably navigate a route' and that any accompanying person should be 'actively navigating' for the descriptors to apply, not if they are there for any other reason. Although the descriptors have changed, the caselaw that caused this also looked at the meaning of 'follow' and stated *'the phrase 'follow the route', when given its natural or ordinary meaning, clearly includes an ability to navigate but we do not consider that it is limited to that. Navigation connotes finding one's way along a route, whereas 'follow a route' can connote making one's way along a route or… 'to go along a route' which involves more than just navigation.'* Although you are now prevented from scoring points due to needing someone with you to keep going along the route due to anxiety or panic, this wider meaning of follow currently still stands although the DWP have announced the intention to appeal against this decision.

The guidance says that needing assistance to deal with unexpected changes to a journey, e.g. roadworks or changed bus stops, should be taken into account when assessing whether someone can follow a journey reliably and whether this prevents you from completing the journey. The guidance also states you should only be considered able to follow an unfamiliar journey if you are capable of using public transport out of ability rather than choice, implying if your health prevents you from using public transport then Descriptor D could apply, but no longer if this is only due to psychological distress.

In a change from the rules for DLA if someone suffering from conditions such as severe agoraphobia causing 'overwhelming psychological distress' is unable to leave their house at all, the guidance states they can still qualify for the standard mobility component. The HP guidance states that if even with prompting you are unable to go out most days, then Descriptor E will apply.

Since the regulations for new descriptors came out, the DWP have said that people with mental conditions can still qualify for an award of the enhanced rate of mobility and the DWP have set out a 'non-exhaustive' list of situations where a person with a mental condition (unaccompanied by a physical condition) could meet the necessary criteria:

- a person with a cognitive impairment who cannot, due to their impairment, work out where to go, follow directions or deal with unexpected changes in their journey, even when the journey is familiar, would score 12 points under Descriptor F and hence be entitled to the enhanced rate of the mobility component - examples of such conditions could include dementia, or a learning disability such as

Down's Syndrome.

- a person with a developmental disorder could qualify if the disorder affects their ability to work out where to go, follow directions or deal with unexpected changes in their journey, and they have difficulty assessing and responding to risks, or in impulsivity, as they could also score 12 points under Descriptor F on the basis that they need to be accompanied for their own safety - examples of developmental disorders which could have these effects include Autistic Spectrum Disorder and Attention Deficit Hyperactivity Disorder.
- a person who suffers psychosomatic pain could qualify for the enhanced rate through satisfying Descriptors E or F in moving around.
- a person who has chronic fatigue syndrome and experiences symptoms including significant fatigue following physical exertion, muscular and joint pain and balance problems, together with psychological difficulties which manifest as depression and panic attacks, could qualify for the enhanced rate under moving around, or by scoring points on a combination of planning and following journeys (4 points under Descriptor B, for requiring prompting to avoid psychological distress when undertaking any journey) and moving around (8 points under Descriptor C, for being able to stand and then move unaided more than 20m but no more than 50m).

This list is very narrow, however it is supposedly non-exhaustive and therefore there is no reason why someone with mental health problems who needs someone with them to follow the route to an acceptable standard, safely, in a reasonable time period and repeatedly as long as the reason is not only due to psychological distress. It is important to be careful of your wording in explaining why you cannot follow the route without another person due to your mental health.

Some examples of how mental health could affect the ability to follow a route could include, being too distracted by voices, delusions, thoughts, altered awareness, psychosis, perception etc, which then affect your mental processes and resulting in this affecting your cognition and navigation skills. Someone with OCD may not be able to follow the route in a reasonable time period if they have to go back to start due to something on the route and try again, try arguing that this is not due to psychological distress but due to the OCD affecting your cognition, how is this different from someone with learning difficulties not being able to deal with unexpected changes?

As this change is still new, there is not yet any caselaw to back up any of the ways we have described to help people with mental health problems qualify for an award of the mobility component of PIP. Our advice is to try putting these arguments if they apply, we don't yet know what will work and get advice if you require any help.

For people who were awarded the mobility component under Descriptors C, D and F prior to the descriptors changing and people awarded the daily living component prior to the changes to the activity managing medication and therapy the Work and Pensions Parliamentary Under Secretary of State Lord Henley has said:

'No PIP claimants will see a reduction in the amount of PIP previously awarded by the DWP as a result of the regulations being introduced, including the point at which their claim is next reviewed.

We are aware of a small number of cases, where people may have been awarded a higher level of PIP by a tribunal. This could occur if their case was heard at appeal and a tribunal made a higher award, applying the rulings of the Upper Tribunal. We will not be claiming back the money these individuals received during the period before the new regulations came into force and are considering whether to adjust their payments to bring them in line with the amended PIP regulations.'

So if you were awarded your PIP by the DWP's decision maker, this is likely to have been awarded using the DWP's guidance and therefore unlikely to be affected, but if you were awarded at a tribunal, your payments may be adjusted. We are sorry to say that it is our belief that when your claim is reviewed it will be under the new regulations and it is unfortunately common for people who were awarded PIP on their first claim, to get a reduced or nil award when the claim is reviewed.

Reliably:

Safely:

- Injury as a result of being unaware of obstacles, e.g. due to visual impairment.
- Lacking a perception of danger which may present a risk of injury to themselves or others, e.g. running into the road.
- Getting into an unsafe situation as a result of getting lost due to a health condition or impairment and being unable to resolve being lost.

Standard Rate – 8 points; Enhanced Rate – 12 points