Department for Work & Pensions

Equality Analysis
PIP assessment criteria

Upper Tribunal judgments on daily living activity 3 and mobility activity 1

February 2017

A. The public sector equality duty

1. This document records the analysis undertaken by the Department for Work and Pensions to enable Ministers to fulfil the requirements placed on them by the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010.

2. The PSED requires the Minister, before making a decision, to have due regard to the need to:

   (a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

   (b) advance equality of opportunity between people who share a protected characteristic and those who do not, by having due regard, in particular, to the need to:

   - remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
   - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it. For disabled persons it includes, in particular, steps to take account of their disabilities;
   - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low; and

   (c) foster good relations between people who share a protected characteristic and those who do not.

3. The protected characteristics are: age, disability, sex, race, sexual orientation, gender reassignment, pregnancy and maternity, marriage and civil partnership, religion or belief.

4. In undertaking the analysis that underpins this document, where applicable, the Department has also taken into account:

   4.1 rights under the European Convention on Human Rights (ECHR), including the right to respect for family life under Article 8, respect for property under Article 1 of Protocol 1, and to freedom from discrimination in the exercise of Convention rights under Article 14;

   4.2 the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), including in particular:

   - Article 3 which sets out general principles including “respect for inherent dignity, individual autonomy including the freedom to make one’s choices, and independence of persons; non-discrimination; full and effective participation and inclusion in society; …equality of opportunity; accessibility; and equality between men and women”;
   - Article 4 which sets out general obligations “to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability”, “to adopt all appropriate legislative, administrative and other measures” to that end, “to take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes”, and to “closely consult with and actively involve persons with disabilities” in the development and implementation of legislation and policies;

- Article 9 which provides that “to enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, …and to other facilities and services open or provided to the public, both in urban and in rural areas”;
- Article 19 which requires states to take effective and appropriate measures to facilitate full inclusion and participation in the community for persons with disabilities, including “access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community”;
- Article 20 which requires states to “take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities”, including by facilitating personal mobility and access to (among other things) mobility aids and live assistance at affordable cost, and training in mobility skills;
- Article 25 which affords persons with disabilities “the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability” requiring states to take all appropriate measures to ensure persons with disabilities have access to the full range of health services and programmes, including health-related rehabilitation, health services specifically needed because of disabilities, and early identification and intervention;
- Article 26 which provides that there should be “effective and appropriate measures … to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life”, including “comprehensive habilitation and rehabilitation services and programmes”, and requiring states to promote the availability and use of assistive devices and technologies”;
- Article 27 which requires states to safeguard and promote realisation of the right to work by persons with disabilities;
- Article 28 which requires states to safeguard and promote realisation of “the right of persons with disabilities to an adequate standard of living for themselves and their families” and to social protection, including through measures to ensure “access to appropriate and affordable services, devices and other assistance for disability-related needs, … social protection programmes and poverty reduction programmes; [and] assistance from the State with disability related expenses”.

5. The Department has also considered the Family Test and set out its conclusions at **Annex A**.

B. Background

Personal Independence Payment

6. As of April 2013, new legislation came into force, which introduced Personal Independence Payment (PIP), a new disability benefit that is intended to replace Disability Living Allowance (DLA) for claimants of working age. PIP is a payment that is intended to be broadly proportionate to the overall need of a claimant. The greater someone's need, all else being equal, the greater the cost they will face as they go about their daily lives. Obviously the specific costs are dependent on a vast number of factors, such as whether someone lives alone, whether someone has family support, whether they live in an urban setting or a rural one. Some of these cost factors are objective (e.g. whether someone has access to public transport) while others are subjective (e.g. how often someone feels they need to socialise in order to live a fulfilled life). That is why rather than compensate claimants for specific costs, when introducing PIP the decision was made that the fairest approach would be to link PIP to the overall level of need so that people with a similar level of need are treated in the same way.

7. While the level of need was judged to be the fairest determinant of PIP entitlement it is not entirely straightforward to compare need across all different kinds of health conditions. In order to standardise the assessment, the approach adopted was to identify certain activities involved in day to day life, and levels of support which people need with those activities. These could then be described in standardised terms and used as a proxy for their overall need. This enables a more accurate, objective, consistent and transparent consideration of individuals, to identify those with the greatest need.

Development of the PIP assessment and the standardised descriptors

8. The Department consulted on PIP generally from December 2010 onwards[1] and the design of the PIP assessment was subject to extensive consultation between 2011 and 2012. As part of this process, the Department set up an independent Assessment Development Group ("the Group") to advise policy makers on the development of the PIP assessment activities and descriptors. Members were chosen to encompass a wide variety of relevant expertise and included individuals from the fields of occupational therapy, psychiatry, physiotherapy, social work, general practice and community psychiatric nursing, as well as representatives from RADAR (Royal Association for Disability Rights), an umbrella organisation working with and for disabled people, and Equality 2025, a non-departmental public body set up to advise the government on disability equality.

9. Selecting experts from a range of backgrounds was intended to ensure the assessment reflected a holistic view of the wide range of impacts that health conditions and impairments have on individuals in their daily lives.

10. Throughout the development of the assessment, the Department and the Group considered various options for determining entitlement, including whether it would be feasible to assess the actual extra costs incurred by individual claimants as a result of their health condition or

[1] www.gov.uk/government/consultations/disability-living-allowance-reform

impairment. As explained above this approach was not deemed to be fair or practical as it would not only lead to inconsistent outcomes but would also be expensive and difficult to administer. The Government therefore proposed a new assessment for PIP, looking at an individual's ability to carry out key day-to-day activities. The assessment was intended to meet "the aims of prioritising support to individuals who face the greatest challenges and expense".[2]

11. In May 2011 the Department published an initial draft of the assessment criteria, and over the summer of 2011 informally consulted on this draft[3], undertaking meetings and seeking written feedback, to hear the views of disabled people and their organisations on these early proposals. The Department published a second draft of the assessment criteria in November 2011[4], and launched a 15-week formal consultation on it on 16 January 2012.[5] The consultation ran until 30 April 2012 and received over 1,000 responses, with the final assessment criteria and the thresholds for entitlement published on 13 December 2012[6]. The assessment criteria were set out in Schedule 1 to the PIP Regulations, which were subject to affirmative resolution debate in the House of Commons on 5 February 2013[7] and House of Lords on 13 February 2013.[8]

12. The assessment criteria are by no means able to perfectly predict an individual's exact needs and costs. An assessment into each individual's exact costs and needs would be prohibitively expensive. Instead, the criteria are used as proxy, providing an assessment that aims to be as accurate, fair and administratively feasible as possible.

The PIP assessment criteria

13. The final assessment criteria focus on a claimant's ability to carry out twelve key activities which are fundamental to everyday life. The first ten are "daily living activities" (which determine a claimant's eligibility for the daily living component of PIP) and the last two are "mobility activities" (which determine a claimant's eligibility for the mobility component of PIP). These activities have been chosen to keep a strong focus on care and mobility while also providing a more holistic assessment of the impact of a health condition or impairment on an individual's ability to participate.

14. Each activity in the assessment is underpinned by 'descriptors' which set out varying degrees of ability to carry out the activity. Each descriptor has a points score allocated to it. The first (lowest scoring) descriptor in each activity describes an individual being able to complete an activity unaided, which means without the need of an aid or appliance or help from another person. The remaining (progressively higher scoring) descriptors consider other ways in which an individual might be able to complete the activity – for example, with the use of aids and appliances or with supervision, prompting or assistance from another person etc. The scores reflect both the level of ability the descriptor represents and the overall importance of that activity within the criteria as

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[2] www.gov.uk/government/uploads/system/uploads/attachment_data/file/181637/dla-reform-response.pdf – see summary of response to Question 3, paragraphs 8-11

[3] https://www.gov.uk/government/publications/personal-independence-payment-initial-draft-assessment-criteria

[4] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/153762/pip-second-draft-assessment-regulations.pdf

[5] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/181178/pip-assessment-thresholds-and-consultation.pdf

[6] https://www.gov.uk/government/consultations/personal-independence-payment-assessment-thresholds

[7] https://www.publications.parliament.uk/pa/cm201213/cmgeneral/deleg11/130205/130205s01.htm

[8] https://www.publications.parliament.uk/pa/ld201213/ldhansrd/text/130213-0002.htm#13021378000090

a whole, with the higher scores indicative of higher levels of need. The further down the scale a descriptor is within an activity, the more likely it is that the circumstances captured by that descriptor indicate that the claimant has a greater level of need (and a greater exposure to additional costs arising from disability) more generally across a range of activities. The final descriptor is generally where an individual cannot complete the activity at all and/or needs to have someone else to complete the activity for them.

15. Entitlement is determined by selecting, for each activity, the descriptor which best applies to the individual. Only one descriptor can be selected for each activity. In determining which descriptor is appropriate, consideration is given to a range of issues, such as whether the individual can complete the activity safely, repeatedly, within a reasonable time period and whether the impact of their disabilities fluctuates. The claimant is assessed on the basis of their ability when wearing or using any aid or appliance which they normally wear or use or can reasonably be expected to wear or use.

16. An individual's total scores are added up, in relation to the daily living activities and in relation to the mobility activities, and if they reach or exceed the set threshold they receive entitlement to the corresponding component of PIP, at either the standard or enhanced rate.[9]

17. Although there are differing numbers of activities related to the two components of PIP, the same entitlement thresholds for both components were set as follows:

    - Standard rate – 8 points
    - Enhanced rate – 12 points

18. This EA is concerned with PIP daily living activity 3 and mobility activity 1 as set out in Schedule 1 to the PIP regulations[10]. Each of these two activities has recently been the subject of an Upper Tribunal (UT) judgment, which interprets the descriptors in a way which the Department did not intend when developing and consulting on the assessment criteria. The remainder of this Equality Analysis mainly deals with these two activities separately. In each case the purpose is to enable Ministers to comply with the public sector equality duty before making a decision on whether to make regulations reversing the effect of the UT judgment, by ensuring they are fully aware of the actual or potential impact of their decision on claimants, both in general terms and by reference to the protected characteristics set out in paragraph 3 above (and making reference to the datasets held by the Department for the protected characteristics of age, disability and sex). Finally this EA considers the cumulative impact if the effect of both UT judgments was reversed.

19. Any amending regulations would be precisely targeted upon reversing the effects of the UT judgment(s), and would not make any wider change. So the only claimants affected are those who would, under the UT judgment(s), obtain benefits which they would not have received but for the judgment(s), and the only impact on these claimants would be to prevent these increased or additional entitlements. These could include an award or higher level award of PIP (as set out in Tables 3 and 8 below), but also entitlement to any other benefit or premium which flows from this (eg. the disability premiums in Employment Support Allowance, Jobseekers Allowance, Income Support or Universal Credit), exemption from the Benefit Cap, access to Carer's Allowance for a carer (who may for example be a family member), and access to the Motability Scheme in cases where entitlement to enhanced rate mobility component is affected.

[9] Current PIP rates as of February 2017: daily living rates: standard £55.10; enhanced £82.30. Mobility rates: standard £21.80; enhanced £57.45

[10] The Social Security (Personal Independence Payment) Regulations 2013 (SI 2013/377).

C. Daily Living Activity 3 – Managing therapy or monitoring a health condition

Legislation and policy

20. This activity was designed to assess an individual's ability to manage any medication; to monitor their health condition (for example, for diabetic claimants, checking their blood sugar levels and then adjusting their insulin dose); and to manage therapy.

21. The activity and its descriptors, together with the points available, are reproduced below:

Managing therapy or monitoring a health condition		
	Descriptor	*Points*
a.	Either – (i) Does not receive medication or therapy or need to monitor a health condition; or (ii) can manage medication or therapy or monitor a health condition unaided.	0
b.	Needs either – (i) to use an aid or appliance to be able to manage medication; or (ii) supervision, prompting or assistance to be able to manage medication or 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

22. Certain of the terms used in the descriptors above are further defined:

- "assistance" means physical intervention by another person and does not include speech;
- "manage medication or therapy" means take medication or undertake therapy, where a failure to do so is likely to result in a deterioration in C's health;
- "medication" means medication to be taken at home which is prescribed or recommended by a registered –

  (a) doctor;

(b) nurse; or

(c) pharmacist;

- “monitor health” means –

  (a) detect significant changes in C's health condition which are likely to lead to a deterioration in C's health; and

  (b) take action advised by a –

  (i) registered doctor;

  (ii) registered nurse; or

  (iii) health professional who is regulated by the Health Professions Council,

  without which C's health is likely to deteriorate;

- “prompting” means reminding, encouraging or explaining by another person;
- “supervision” means the continuous presence of another person for the purpose of ensuring C's safety;
- “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;

- “unaided” means without –

  (a) the use of an aid or appliance; or

  (b) supervision, prompting or assistance.

Upper Tribunal judgment

23. In the case of *Secretary of State for Work and Pensions v LB (PIP)* [2016] UKUT 0530 (AAC), the UT decided that where a claimant needed supervision, prompting or assistance **both** to take medication **and** to monitor a health condition, this should not be considered under descriptor b(ii) (with a score of 1 point), but should instead be considered support to manage therapy (attracting a score of 2, 4, 6 or 8 points, depending on the number of hours supervision, prompting or assistance involved per week, under descriptors c, d, e or f). The UT also held that support to manage medication or monitor a health condition could in certain circumstances also count as support to manage therapy, and could therefore again score 2 or more points depending on the number of hours involved per week, rather than being limited to a score of 1.

24. This is contrary to the intention of the Department when developing and consulting on the PIP assessment. As explained above, the descriptors are a proxy for overall need and the policy was based on the judgement that someone who is receiving support in order to manage medication, monitor a health condition, or both combined, is likely to have a lower level of need across all daily living activities than someone who needs support with therapy. For that reason it was intended that support with managing medication or monitoring a health condition (or both) should only be relevant to descriptor b and should only ever score a maximum of 1 point. The

difference between being awarded 1 point, or being awarded 2 or more points, may in some cases (depending on how any points the claimant has scored on other daily living activities) determine whether an individual claimant is entitled to the PIP daily living component at the enhanced rate, or at the standard rate, or is not entitled to it at all. Table 3 in this document provides more detailed analysis about the financial impact on the PIP awards of individuals affected by the judgment on daily living activity 3. However this change may also impact on other benefits or premiums – see paragraph 19 above.

25. The initial draft of the assessment criteria[11] included two activities (managing medication and monitoring health conditions, and managing prescribed therapies other than medication). The Group was keen to ensure that they reflected the need someone had for support, and believed that looking at the frequency of need, as originally proposed for the first of these activities, was not appropriate. This activity was therefore merged with managing prescribed therapies in the second draft of the assessment criteria following additional consultation feedback that they covered similar activities. The Group also considered whether monitoring should be dealt with in the same way as therapy, by looking at the hours of monitoring needed, but their view was that it should not.

26. Therapies represent a significant step up in terms of treatment for many. The Group identified tablets, inhalers, nasal sprays and creams as examples of managing medication whilst home oxygen, domiciliary dialysis, nebulisers and exercise regimes were all examples of home therapies. The PIP assessment uses a series of proxies to measure an individual's overall level of need and a step up to therapies is likely, for many, to be associated with a more severe underlying condition and higher level of need. In order to test the assumptions and expert opinion on which the PIP assessment was based, it was subject to rigorous testing. The results of this demonstrated that the assessment was both reliable (i.e. delivered consistent results across multiple assessors) and valid (accurately identified individuals for appropriate levels of award)[12]. See for example paragraphs 3.4 and 3.5 and section 8.

27. The following case studies are purely illustrative, but broadly representative of the claimants and conditions that would be affected by proposed changes to activity 3. They have been developed in conjunction with DWP doctors, to help illustrate the scores that claimants receive depending on their assessed level of need.

Managing medication and monitoring health conditions – illustrative examples created by created by Departmental Physicians based on possible scenarios

28. These examples have been created to demonstrate how managing medication and monitoring health conditions should be assessed based on the policy intent. All these cases would be expected to be given descriptor b under activity 3.

[11] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/153719/pip-draft-assessment-criteria-note.pdf

[12] https://www.gov.uk/government/consultations/personal-independence-payment-assessment-thresholds

An 18 year old woman has poorly controlled type 1 diabetes. She has a blood glucose meter and should check her blood sugar levels 4 times a day. She sometimes doesn't do this so her family check her blood sugar levels for her and sometimes have to tell her what dose of insulin to inject. Her family sometimes supervise her injecting the required dose. She has a diabetic nurse who she speaks to by phone once a week (or more often if the numbers are very high or low) and she attends the hospital clinic once a month. Her family are intermittently supervising her medications and supporting her in monitoring her health condition.

A person with epilepsy takes medications twice a day. They sometimes have seizures which are unpredictable and the person gets no warning that they are about to happen. They therefore try to ensure someone is around in case one happens and wear an epilepsy alert bracelet. If they do have a seizure then an experienced friend or family member, if around, will make sure they are safe and occasionally administer medicine absorbed by the gums in order to stop the seizure. Monitoring to ensure safety, such as when cooking or bathing, is clearly considered within other activities.

A person with schizophrenia takes medications and gets an injection every 2 weeks from the nurse. Their mental health can deteriorate and their family speak to them every day and see them a couple of times a week to make sure that their health is stable. If they spot a deterioration, they have a care plan which involves contacting the nurse at short notice for medication review and to assess whether they need more support. The family therefore prompt them to manage medication and help monitor their health.

Illustrative examples of managing therapy created by Departmental Physicians based on possible scenarios

29. These examples have been created to demonstrate how managing therapy should be assessed based on the policy intent. All these cases would be expected to be given descriptor c, d, e or f under activity 3 based on the number of hours support required.

A person with cystic fibrosis receives domiciliary chest physiotherapy. The physiotherapist attends their home once a month to assess their lungs and go through the breathing exercise regime with them. When the therapist is not there they do the exercises with the help of a family member. The therapy takes 20 minutes and is done 4 times a day to help keep the chest clear.

A person with a lung condition uses oxygen at home. Canisters are delivered and their family help set up the tubing and equipment. They wear the oxygen mask for 16 hours a day but need help with it several times a day when they move from room to room. They also need a nebulizer 4 times a day and their family have to help set this up as they are too fatigued to manage this and they struggle with the small nebulizer capsules.

A claimant with chronic back pain has been advised by their GP that although they cannot have their pain relief medication increased, complementary TENs therapy will help them to manage their pain. They purchase a TENS machine and their partner spends 10 minutes every day helping them to set up the machine to give them maximise pain relief. The claimant is awarded 3c, scoring 2 points on the basis that they receive assistance every day with therapy – this being the time taken to help them set up the machine

30. As set out above, PIP was not designed to identify and pay for specific additional costs faced by claimants. Instead, payments were intended to be a contribution towards the extra costs of disability for those with the greatest level of need determined by a number of different proxies related to aspects of daily living. The assessment assumes that someone receiving therapy is more likely to have a greater level of need than someone receiving support to take medication – a principle that was tested and validated.

Possible legislative change

31. Regulations could reverse the effect of the UT judgment by making it clear that needing support to manage medication, monitor a health condition, or both, only scores 1 point under descriptor b. The next section looks at the impacts which this would have.

Evidence and analysis

Summary of impacts

32. Introducing amending regulations to reverse the effect of the UT judgment for daily Living Activity 3 would, we estimate, result in a small proportion of individuals not receiving the award or higher award which would result if the judgment is allowed to stand (and is not overturned on any appeal, or through subsequent case law). The same would apply to any other benefit or disability which flows from this, as explained at paragraph 19 above. The number of individuals we estimate likely to be affected in this way is illustrated in the tables below, although the impact of the judgment is complex to predict and so there is a significant risk that the numbers affected could be much higher. However this impact would be the result of restoring the policy originally intended when the Government developed the PIP assessment. Whilst it is true that there will inevitably be some claimants whose circumstances are different, and whose needs and costs are greater, the original policy was designed to reflect the general or typical position in order to enable a standardised assessment.

Protected characteristics

(a) Disability

33. Since PIP is a benefit for people with a disability, impairment or long-term health condition, any changes will have a direct effect on disabled people. The vast majority of people receiving PIP are likely to be covered by the definition of “disability” in the Equality Act 2010. By definition, therefore, the UT judgment results in higher payments to disabled people, and reversing its effect will prevent that and keep payments at the level originally intended. The difference in income will clearly make a real practical difference to most affected claimants, and (depending on factors such as their other resources) is capable of affecting their ability to be independently mobile, access services etc – all matters covered by the UN Convention on the Rights of Persons with Disabilities as set out at the start of this Analysis. However, this does not necessarily mean that the increased payments that would result from the judgment are a fair reflection of the costs faced by those affected, or represent a fair approach as between different groups of PIP claimants.

34. It is of course not possible to provide precise data on the disabilities and health conditions experienced by those who stand to benefit from the judgment (or not benefit if the effect of the

judgment is reversed), since the precise impact of the judgment on any individual claimant will depend on the assessment of that individual by the health professional who undertakes their PIP assessment, and on subsequent decisions by DWP decision makers and by tribunals on appeal. However for the purpose of this Equality Analysis, the Department has sought to identify the most likely primary disability or health condition experienced by those who would be affected by the UT judgment (or any decision to reverse its effect). We expect that this would predominantly affect claimants with health conditions such as diabetes, epilepsy and dizziness. Table 1 provides further details of the range of conditions most likely to be affected.

Table 1: Conditions most likely to be affected by reversing effect of UT judgment on daily living activity 3.

Diabetes mellitus (category unknown)	Diabetes mellitus Type 1 (insulin dependent)
Diabetes mellitus Type 2 (non-insulin dependent)	Diabetic neuropathy
Diabetic retinopathy	Disturbances of consciousness - Non-epileptic - Other / type not known
Drop attacks	Generalised seizures (with status epilepticus in last 12 months)
Generalised seizures (without status epilepticus in last 12 months)	Narcolepsy
Non epileptic Attack disorder (pseudoseizures)	Partial seizures (with status epilepticus in last 12 months)
Partial seizures (without status epilepticus in last 12 months)	Seizures – unclassified
Dizziness - cause not specified	Stokes Adams attacks (cardiovascular syncope)
Syncope - Other / type not known	

35. Of the total PIP caseload, approximately 1.2 percent have been assessed as meeting descriptor b for this activity, and have one of the conditions likely to be affected. Table 2 sets out the estimated proportion of these for whom the judgment is likely to mean the difference between descriptor 3b and descriptor 3c, d, e or f, or no difference. This is about 20 percent of the 1.2 percent therefore 0.24 percent of the total PIP caseload. The estimated change in score is based on medical and policy expert advice, as well as a small in-depth exercise to look at actual cases where the claimant was assessed as meeting descriptor 3b prior to the UT judgment and has one of the conditions identified above as likely to be affected by the judgment.

Table 2: Estimated change in score for PIP entitled claimants affected by reversing effect of the UT judgment (on 3b with a condition listed above).

Effect of UT judgment	Position if effect of UT judgment reversed	%
Remain on 3b	Remain on 3b	80%
Move from 3b to 3c	Return from 3c to 3b	5%
Move from 3b to 3d	Return from 3d to 3b	5%
Move from 3b to 3e	Return from 3e to 3b	5%
Move from 3b to 3f	Return from 3f to 3b	5%

36. Table 3 shows the estimated impact of these changes on PIP award rates – how many claimants' awards would change as a result, and by how much. Of the 0.24 percent whose score changes, only about half are likely to see a change in their award (and any knock-on changes to other benefits and premiums as a consequence). However as mentioned at paragraph 32 the impact of the judgment is complex to predict and so there is a significant risk that the numbers affected could be much higher.

Table 3: Estimated change in award

Change in PIP daily living component	Change in weekly amount	Estimated % affected (out of PIP caseload)	Estimated no. of current caseload (nearest 500)	Estimated no. of 2020/23 caseload (nearest 500)
Enhanced to Standard	-£27.20	<1%	500	1,000
Enhanced to Nil	-£82.30	<1%	<500	500
Standard to Nil	-£55.10	<1%	500	1,500
No change	£0	100%	1,166,000	2,504,000

Source: September 16 analysis calibrated to December 2016 and forecast March 2023 caseloads

(b) Age

37. Both the UN Convention on the Rights of Persons with Disabilities and the UN Convention on the Rights of the Child require the interests of children (in the case of PIP, those aged 16 and 17) to be treated as a primary consideration in policy making. PIP focuses on an individual's ability to undertake the range of activities assessed as part of eligibility to PIP. Where a child's age has a direct impact on their ability to undertake an activity reliably and safely we would expect that to be reflected in their assessment and therefore in their award.

38. Table 4 shows the proportion of each age group in the existing PIP caseload who have been assessed as meeting descriptor 3b prior to the UT judgment and have one of the conditions which we expect to be affected by the judgment (or by any decision to reverse its effect). It shows that the proportion is broadly stable across age groups.

Table 4: Existing PIP caseload with conditions affected by the UT judgment and scoring 3b pre judgment, by age

Age Group	Number with affected condition and scoring 3b pre-judgment	% of Age Group with affected condition and scoring 3b pre-judgment
16-24	1,500	1.2%
25-34	1,500	1.4%
35-44	2,000	1.2%
45-54	3,000	1.2%
55-64	3,500	1.2%
65+	500	0.9%
Total	12,000	1.2%

(c) Sex

39. Table 5 shows proportion of each gender in the existing PIP caseload who have been assessed as meeting descriptor 3b prior to the UT judgment and have one of the conditions we expect to be affected by the UT judgment on activity 3. It shows that the incidence of cases likely to be impacted is roughly the same for males and females. Males are slightly more likely to be affected than females, as a higher proportion of males have conditions likely to be affected (1.4% to 1.1%).

Table 5: Existing PIP caseload with conditions affected and scoring 3b pre judgment, by gender

Gender	Number with affected condition and scoring 3b before judgment	% with affected condition and scoring 3b before judgment
Male	6,500	1.4%
Female	6,000	1.1%
Total	12,000	1.2%

(d) Other protected characteristics: race, sexual orientation, gender reassignment, pregnancy and maternity, marriage and civil partnership, religion or belief

40. The information which the Department holds about those in receipt of PIP does not include information about these protected characteristics. For characteristics other than race we are not aware of any evidence to suggest that the UT judgment, or any decision to reverse its effect, would have a greater impact on persons defined by reference to these characteristics.

41. For race, published studies[13] indicate that people from South Asian and Black communities are more likely to develop Type 2 diabetes than those from White backgrounds, with estimates ranging from two to four times more at risk. Though we do not hold information about the race of

13 https://www.diabetes.org.uk/Documents/Position%20statements/DiabetesUK_Facts_Stats_Oct16.pdf

specific claimants, it is reasonable to assume that one of the conditions affected by the *LB* case ('Diabetes mellitus Type 2 (non-insulin dependent')) would contain proportionately more people from South Asian and Black backgrounds than the population as a whole.

42. We are committed to monitoring the impacts of our policies and use evidence from a variety of sources to monitor experiences and outcomes for protected groups. In particular we use survey data, such as the Family Resources Survey (FRS) and Labour Force Survey (LFS), to assess trends in outcomes for protected groups. These surveys collect information on age, disability, gender, ethnicity, sexual orientation, marriage and civil partnership, and religion.

Cost implications

43. The potential financial impact (Annually Managed Expenditure) of this UT judgment based on the annual costs is estimated to be (rounded to nearest £10 million): £10m for 2017/18; £10m for 2018/19; £10m for 2019/20; £10m for 2020/21; and £10m for 2021/22[14], if the effect of the judgment is not reversed (whether by regulations or on appeal or through subsequent case law). However, the impact of this judgment is complex to predict and so there is a significant risk that these costs could be much higher than estimated, posing a substantial fiscal risk. This cost includes the impact on disability premiums in Employment and Support Allowance and on Carer's Allowance, explained at paragraph 19 above, but does not include any impact on other disability premiums or exemption from the Benefit Cap.

D. Mobility Activity 1 – Planning and following a journey

Legislation and policy

44. This activity was designed to assess the barriers to mobility that individuals may face, which are associated with mental, cognitive, intellectual or sensory ability, as opposed to physical ability – looking at whether people can plan and follow the route of a familiar or unfamiliar journey.

45. The activity and its descriptors, together with the points available, are reproduced below:

Planning and following journeys		
	Descriptor	*Points*
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.	Cannot plan the route of a journey.	8
d.	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

[14] These figures reflect costs for Great Britain

f.	Cannot follow the route of a familiar journey without another person, an assistance dog or an orientation aid.	12

46. Certain of the terms used in the descriptors above are further defined:

- "assistance dog" means a dog trained to guide or assist a person with a sensory impairment;
- "orientation aid" means a specialist aid designed to assist disabled people to follow a route safely;
- "prompting" means reminding, encouraging or explaining by another person;
- "psychological distress" means distress related to an enduring mental health condition or an intellectual or cognitive impairment;
- "unaided" means without –

  (a) the use of an aid or appliance; or

  (b) supervision, prompting or assistance.

47. Environmental factors can be considered in this activity if they prevent an individual from reliably completing the activity. For example, if an individual is unable to complete the activity because of being unable to cope with crowds or loud noises, this would be taken into account in the assessment.

Upper Tribunal judgment

48. In the case of *MH v Secretary of State for Work and Pensions (PIP)* [2016] UKUT 0531 (AAC), the UT decided that a claimant who has to be accompanied on journeys, in order to avoid suffering overwhelming psychological distress, can satisfy higher scoring mobility descriptors d or f (resulting in a score of 10 or 12 points), whereas the Department's intention when developing and consulting on the assessment was that psychological distress should be relevant only to descriptors b or e (scoring 4 of 10 points) which expressly refer to overwhelming psychological distress (whereas descriptors d and f were focused on cognitive or sensory impairments affecting a claimant's navigational ability). By analogy, the UT judgment may leave open the possibility that psychological distress is also a basis on which to award 8 points under descriptor c, which again was not the Department's intention. The difference between being awarded 4 points and 8 or 10 points, or between being awarded 10 points and 12 points, may in many cases (depending on how many points the claimant has scored for mobility activity 2) determine whether an individual claimant is entitled to the PIP mobility component at the enhanced rate, or at the standard rate, or is not entitled to it at all. Table 8 below provides more detailed analysis about the financial impact on the PIP awards of individuals affected by the judgment on mobility activity 1. However this change may also impact on other benefits or premiums – see paragraph 19 above.

49. Throughout each draft and final version of the assessment criteria, the Department was clear that mobility activity 1 was designed to assess the impact of mental, intellectual, cognitive and sensory impairments on the ability to plan and follow a journey. When talking about this activity (which was known as activity 10) the consultation on the initial assessment criteria[15] stated:

[15] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/153719/pip-draft-assessment-criteria-note.pdf

"*For **those** descriptors which refer to overwhelming psychological distress, there must be evidence of an enduring mental health condition…."*

50. This illustrates that overwhelming psychological distress was intended to be considered only within those descriptors which expressly referred to it. PIP is not intended to compensate claimants for specific costs, such as the costs involved with having support to go on a journey. Instead the assessment considers activities that are likely to be associated with varying levels of need and attempts to quantify this. Psychological distress fluctuates and may be amenable to treatment. Conditions such as visual impairment, learning disability and developmental disorders, where the impairment is severe and enduring, are much less likely to fluctuate as significantly. In addition, the needs associated with psychological distress are likely to relate to reassurance and prompting whilst conditions such as a severe learning disability can lead to the need for supervision, physical intervention and support above and beyond simply reassurance or prompting and are therefore likely to be higher. This is what the assessment seeks to differentiate between and making a distinction in this area has been a core part of the assessment since planning and following a journey was first proposed by the assessment development group[16].

51. In the case of mobility activity 1, the assessment targets support on those claimants who, with respect to getting around as a core component of participating in day to day life, have the greatest need, by considering their ability to undertake a journey. It recognises that for many of those suffering from overwhelming psychological distress the effects are more likely to fluctuate, the type of need lower and therefore the overall level of need is likely to be similarly lower. Overwhelming psychological distress is still therefore recognised within the assessment but afforded a lower score. The point's scores and thresholds were consulted on and, as above, the assessment was tested and found to be both a reliable and valid indicator.

Illustrative examples – planning and following a journey created by Departmental Physicians based on possible scenarios

52. These examples have been created to demonstrate how overwhelming psychological distress should be assessed based on the policy intent. All these cases would be expected to be given descriptor b or e under mobility activity 1

A 17 year old man suffers from a social phobia. On most days he will not go out because he suffers overwhelming psychological distress when he goes out unless he is accompanied by a family member. He will not use public transport. When at home he remains largely symptom-free and functions well. Every month he attends his local mental health centre for counselling, but the journey is too far to walk and he would not be able to cope with being in a waiting room with other people on his own. On these occasions his mother takes him to the appointment in her car and waits with him for the duration of his appointment. The claimant is entitled to the PIP daily living component because his condition means he has difficulty communicating verbally and engaging with others. He scores Mobility 1b, so would not be entitled to the mobility component of PIP.

[16] 6th meeting of the development group on 10.1.2014

A 45 year old woman suffers from a social phobia. She has not left her house for several years and she gets home visits by the GP and hairdresser. She tried counselling and mental health therapies in the past but they didn't help. She gets online shopping and her family bring other things if she needs them. They've tried to get her to go out but she becomes distressed and agitated to such an extent that she now just continues her reclusive lifestyle. She scores Mobility 1e, so would be entitled to the standard rate mobility component of PIP.

53. The examples below have been created to demonstrate the how individuals with severe and enduring conditions should be assessed based on the policy intent. All these cases would be expected to be given descriptor c, d or f under mobility activity 1

A 34 year old man has Down's syndrome. He lives in supported accommodation and has a job at the local supermarket where he has a work buddy and the same tasks each day. He has a support worker who helps with all his forms and paperwork and they will go to any appointments with him. He has some cognitive impairment but manages to go to familiar places such as the shop, his local takeaway and a friend's house. If he had any other places to go he would not understand how to get there. He meets the criteria for Mobility 1d and would be entitled to the standard rate mobility component of PIP.

A 62 year old woman has dementia. She lives in a care home and needs support with many aspects of life due to her loss of memory. She cannot read and cannot understand TV programmers or have conversations. She is physically well but never goes out alone as she would never find her way home or to anywhere she decided to go. She meets the criteria for Mobility 1f and would be entitled to the enhanced rate mobility component of PIP.

A 25 year old woman is visually impaired and cannot go out unless accompanied by her assistance dog. This is because she could not work out where to go, follow directions or deal with unexpected changes in the journey, even when the journey is familiar. Being accompanied by her assistance dog enables her to go out and undertake journeys safely, managing the small disruptions and unexpected changes, such as road works and changed bus-stops, that are commonplace when following journeys.

Without this help she is at high risk of getting lost, and being unable to recover from getting lost, and therefore would be unable to go out safely. She scores Mobility 1f and receives the enhanced rate of the PIP mobility component.

Possible legislative change

54. If amending regulations were to be introduced to reverse the effect of the UT judgment, they would make it clear that psychological distress can only be relevant to descriptors b and e of mobility activity 1, and can therefore only result in a score of 4 or 10 points. The next section looks at the impacts which this would have.

Evidence and analysis

Summary of impacts

55. Introducing amending regulations to reverse the effect of the UT judgment would result in a significant number of individuals not receiving the award or higher award which would result if the judgment is allowed to stand (and is not overturned on any appeal, or through subsequent case law). The same would apply to any other benefit or disability which flows from this, as explained at paragraph 19 above.

56. The number of individuals we estimate likely to be affected in this way is illustrated in table 8 in this document.

Protected characteristics

(a) Disability

57. As explained at paragraph 55 above, since PIP is a benefit for people with a disability, impairment or long-term health condition, any changes will have a direct effect on disabled people. By definition, therefore, the UT judgment results in higher payments to disabled people, whereas reversing its effect will prevent that and keep payments at the level originally intended. The difference in income will clearly make a real practical difference to most affected claimants, and (depending on factors such as their other resources) is capable of affecting their ability to be independently mobile, access services etc – all matters covered by the UN Convention on the Rights of Persons with Disabilities as set out at the start of this Analysis. However, this does not necessarily mean that the increased payments that would result from the UT judgment are a fair reflection of the costs faced by those affected, or represent a fair approach as between different groups of PIP claimants.

58. It is of course not possible to provide precise data on the disabilities and health conditions experienced by those who stand to benefit from the UT judgment (or not benefit if the effect of the judgment is reversed), since the precise impact of the judgment on any individual claimant will depend on the assessment of that individual by the health professional who undertakes their PIP assessment, and on subsequent decisions by DWP decision makers and by tribunals on appeal. However for the purpose of this Equality Analysis, the Department has sought to identify the most likely primary disability or health condition experienced by those who would be affected by the judgment.

59. PIP was always intended to result in a fairer and more equal treatment than was the case in DLA, as between those with physical impairments and those with other types of impairment. In general terms, mobility activity 1 (planning and following journeys) was therefore designed to assess the difficulties faced in planning and following a journey by those with mental, intellectual, cognitive and sensory impairments, whilst mobility activity 2 (moving around) was designed to assess a claimant's physical ability to move around. It is therefore inherent in the design of these two activities that changes in activity 1 are more likely to affect those whose primary condition is a non-physical disability (whether to increase their benefit payments, if the UT judgment is left to stand, or to prevent that increase, if its effect is reversed). However this is simply an inherent feature of the design, and cannot in itself lead to any conclusion as to whether it is fair or justified to increase or decrease point scores under mobility activity 1.

60. Within the group of claimants who gain points under mobility activity 1, there are likely to be further differences in impact as between different types of condition. In particular we expect that the UT judgment (or any decision to reverse its effect) will predominantly affect those

claimants whose conditions make it stressful for them to plan and follow a journey – who cannot go out unless they are accompanied. These are mainly psychiatric disorders such as schizophrenia, anxiety conditions, social phobias and early dementia, and make up just under 25% of claims. The data we collect includes information on claimants' main disabling condition only, we do not collect information on secondary or other conditions. A more detailed evaluation of the conditions most likely to be affected is provided in table 6 below.

Table 6: Conditions most likely affected by reversing effect of UT judgment on mobility activity 1.

Mood disorders - Other / type not known	Psychotic disorders - Other / type not known
Schizophrenia	Schizoaffective disorder
Phobia - Social	Panic disorder
Learning disability - Other / type not known	Generalized anxiety disorder
Agoraphobia	Alcohol misuse
Anxiety and depressive disorders - mixed	Anxiety disorders - Other / type not known
Autism	Bipolar affective disorder (Hypomania / Mania)
Cognitive disorder due to stroke	Cognitive disorders - Other / type not known
Dementia	Depressive disorder
Drug misuse	Stress reaction disorders - Other / type not known
Post-traumatic stress disorder (PTSD)	Phobia – Specific
Personality disorder	Obsessive compulsive disorder (OCD)

61. The affected group is approximately 16% of the PIP caseload who both have an affected condition **and** scored **mobility** 1b pre judgment).Table 7 sets out the estimated proportion of these for whom the judgment is likely to mean the difference between descriptor 1b and descriptor 1d or 1f, or no difference. Table 8 shows the impact of these changes on award rates – showing how many people will move award as a result of these changes and by how much.

Table 7: Estimated change in score for PIP entitled claimants affected by reversing effect of the UT judgment (on mobility 1b with a condition listed above).

Effect of UT judgment	Position if effect of UT judgment reversed	%
Remain on 1b	Remain on 1b	20%
Move from 1b to 1d	Return from 1d to 1b	40%
Move from 1b to 1f	Return from 1f to 1b	40%

62. The estimated change in score is based on medical and policy expert advice, as well as a small in-depth exercise to look at actual cases where the claimant was assessed as meeting mobility activity descriptor 1b prior to the UT judgment and has one of the conditions identified above as likely to be affected.

Table 8: Estimated change in award

Change in mobility	Change in weekly amount	Estimated % affected (out of PIP caseload)	Estimated No. of current caseload (nearest 500)	Estimated No. of 2020/23 caseload (nearest 500)
Enhanced to Standard	-£35.65	2%	21,000	44,000
Enhanced to Nil	-£57.45	6%	71,500	146,500
Standard to Nil	-£21.80	6%	71,500	146,000
No change	£0	86%	1,003,500	2,171,000

Source: September 16 analysis calibrated to December 2016 and forecast March 2023 caseloads

(b) Age

63. Both the UN Convention on the Rights of Persons with Disabilities and the UN Convention on the Rights of the Child require the interests of children (in the case of PIP, those aged 16 and 17) to be treated as a primary consideration in policy making. PIP focuses on an individual's ability to undertake the range of activities assessed as part of eligibility to PIP. Where a child's age has a direct impact on their ability to undertake an activity reliably and safely we would expect that to be reflected in their functional assessment and reflected in their award.

64. Table 9 shows the proportion of each age group in the existing PIP caseload who have been assessed as meeting mobility descriptor 1b prior to the UT judgment and have one of the conditions which we expect to be affected by the UT judgment (or by any decision to reverse its effect). It shows that the incidence of cases is greatest in the 25-34 age group with claimants under 45 being more likely to benefit from the UT judgment.

Table 9: Existing PIP caseload with conditions relating to mobility 1 judgment and scoring mobility 1b pre judgment, by age

Age Group	Number with affected condition and scoring mobility 1b pre-judgment	% of Age Group with affected condition and scoring mobility 1b pre-judgment
16-24	20,000	16.9%
25-34	33,000	30.2%
35-44	39,500	25.0%
45-54	43,000	16.7%
55-64	22,000	7.8%
65+	2,000	3.3%
Total	159,500	16.2%

(c) Sex

65. Table 10 shows the proportion of each gender in the existing PIP caseload who , have been assessed as meeting descriptor b for this activity prior to the UT judgment and have one of the conditions we expect to be affected. Though more women are affected in absolute numbers, men and women on PIP are equally likely to be affected by this change when looking at proportion of the gender specific caseload.

Table 10: Existing PIP caseload with conditions affected and scoring mobility 1b pre judgment

	Number	% of gender Group with Conditions of Entire Caseload
Male	73,500	16.2%
Female	86,000	16.2%
Total	159,500	16.2%

(d) Other protected characteristics: race, sexual orientation, gender reassignment, pregnancy and maternity, marriage and civil partnership, religion or belief

66. The information which the Department holds about those in receipt of PIP does not include information about these protected characteristics. Other than race we are not aware of any evidence to suggest that the UT judgment, or any decision to reverse its effect, would have a greater impact on persons defined by reference to these characteristics.

67. On race, there is mixed evidence about the prevalence of different mental health conditions. The Mental Health Foundation's *Fundamental Facts About Mental Health* summarised that 'limited research has been conducted in this area within the UK, which translates into little being known as to the impact of mental health on black, Asian and minority ethnic (BAME) communities'. The *Adult Psychiatric Morbidity Survey (2014)* conducted for the NHS found the prevalence of mental health conditions by race was mixed depending on type. For common mental disorders (which includes depression and anxiety) they found prevalence did not vary significantly by race for men, but for women 'CMDs were more common in Black and Black British women'. Conversely Psychotic disorders (including schizophrenia) 'did not vary significantly in rate between ethnic groups among women' but rates were found to be higher in

black men. For alcoholism it found 'White British men and women were more likely to drink at hazardous, harmful or dependent levels'.

68. Although we do not hold information about the race of specific claimants, it is reasonable to assume that the different conditions affected by the *MH* case will contain varying proportions of people by race in line with the varying risk of having these conditions in the population as a whole.[17]

69. We are committed to monitoring the impacts of our policies and use evidence from a variety of sources to monitor experiences and outcomes for protected groups. In particular we use survey data, such as the Family Resources Survey (FRS) and Labour Force Survey (LFS), to assess trends in outcomes for protected groups. These surveys collect information on age, disability, gender, ethnicity, sexual orientation, marriage and civil partnership, and religion. While we can use these sources to look at the caseload as a whole, it would not be possible to identify the specific cases affected by these judgments.

Cost implications

70. The potential financial impact (Annually Managed Expenditure) of this UT judgment (mobility 1) is estimated to be (rounded to nearest £10 million): £550m for 2017/18; £640m for 2018/19; £750m for 2019/20; £820m for 2020/21; and £900m for 2021/22[18], if the effect of the judgment is not reversed (whether by regulations or on appeal or through subsequent case law). These costs do not include the cost impacts on other benefits. This is because the primary gateway to disability premiums in those other benefits is via the daily living component of PIP. These costs also do not include any impact on exemption from the Benefit Cap.

[17] http://content.digital.nhs.uk/catalogue/PUB21748/apms-2014-full-rpt.pdf (ADMS 2014)

http://www.mentalhealth.org.uk/sites/default/files/fundamental-facts-about-mental-health-2016.pdf

[18] These figures reflect costs for Great Britain

E. Cumulative impact if effect of both UT judgments is not reversed

71. The potential financial impact (Annually Managed Expenditure) of both judgments together is estimated to be (rounded to nearest £10 million): £560m for 2017/18; £650m for 2018/19; £760m for 2019/20; £830m for 2020/21; and £910m for 2021/22,[19] if the effect of the judgments is not reversed (whether by regulations or on appeal or through subsequent case law). These figures include the impacts on disability premiums and Carer's Allowance mentioned in paragraph 43 above, but do not include any impact on exemption from the Benefit Cap.

72. Tables 1 and 6 above, which list the conditions we think are most likely to be affected by each measure, do not contain any conditions in common. However in practice there will be some claimants who have one condition from each table, and who may therefore be affected by both measures. For example, someone with both diabetes and an anxiety condition, who was assessed prior to the UT judgments as meeting both daily living descriptor 3b and mobility descriptor 1b, might find that the UT judgments (or a decision to reverse the impact of those judgments) would affect their scores on both activities. It is also possible that in some such cases the financial effect could extend to both the daily living and the mobility component of PIP (as well as any other benefits or premiums which flow from this) and could therefore be a very significant amount per week. Because the data we hold only captures each individual's main condition at the time of their PIP claim, it is not possible for us to identify the number of individuals affected by both changes. However the number of such individuals will, by definition, be a smaller subset of those identified as being affected in relation to daily living activity 3 (as to which see paragraph 36 and Table 3 above), and a very small proportion of the total PIP caseload. And, as explained at paragraph 19, the effect will only be to prevent money being payable as a result of the UT judgments, which would not be payable but for those judgments, and to return the position to the originally intended policy.

F. Monitoring and evaluation

73. We use administrative datasets, including our Work and Pensions Longitudinal Study (WPLS), to monitor trends in benefit caseloads for the protected groups and in the level and distribution of benefit entitlements. This data will provide robust information about age and sex although not, as a rule, for the other protected characteristics. While we can use these datasets to analyse the caseload as a whole, it is not possible to identify specific cases affected by these judgments.

74. We will continue to monitor feedback from customers through our normal feedback channels to assess whether there are unintended consequences or adverse consequences for protected groups and assess the broader impact of the policy.

75. The Department is looking across its activities to identify and address further gaps in data provision, for protected groups, wherever reasonable.

[19] These figures reflect costs for Great Britain

G. Sign off

76. James Bolton, Deputy Director

Annex A: The Family Test

Brief description of your policy/issue: The issue is about clarifying the legislation relating to the way in which Personal Independence Payment (PIP) claimants are assessed against two of the 12 activities such that it restores the original policy intention and reverses the effect of two recent Upper Tribunal judgments. The two activities relate to "Managing therapy or monitoring a health condition" and "Planning and following journeys". Restoring the policy intent, to either or both, would have the potential effect of restricting the level of support from the Daily Living component and/or the Mobility component that might otherwise have applied if the terms of the Upper Tribunal judgments had been followed.		
Policy lead contact details: Jane Porter. jane.porter1@dwp.gsi.gov.uk 020 7449 5663		**Division:** Disability Benefits, Decisions and Appeals Division
Date impacted: 7 February 2017		**Review date (if appropriate):**
If this test does not apply please state why not: *for example the policy is still being developed so you may need to keep under review or has no impact*		
Family Test Questions – please tick those that are appropriate for your policy		
	Yes	**No**
1. What kinds of impact might the policy have on family formation?	X Unlike many social security benefits, PIP is paid on the basis of individual, rather than household characteristics. Nevertheless, research evidence suggests that the income from disability benefits may form part of a family's household income and/or contribute to an individual's or family's wellbeing[1]. Consequently, a reduction, or failure to implement an increase, in income may impact negatively on family formation. The potential loss of passported benefits such as Carer's Allowance (CA) for a carer (who may be a family member) or the use of a Motability vehicle may put further constraints on family formation by restricting choice and control.	
2. What kind of impact will the policy have on families going through key transitions such as	X	

becoming parents, getting married, fostering or adopting, bereavement, redundancy, new caring responsibilities or the onset of a long-term health condition?	A reduction, or failure to implement an increase, in income may impact negatively on individuals who have developed a long-term health condition or disability and for members of the family who provide informal care.	
3. What impacts will the policy have on all family members' ability to play a full role in family life, including with respect to parenting and other caring responsibilities?	X There may be a negative impact on a family member who is providing informal care to another family member with a long-term health condition or disability if they cannot access CA (through the disabled person not having been awarded the daily living component of PIP). Lack of access to CA may further impact on household income through the loss of the care premium/additional amount paid within the income-related benefits.	
4. How does the policy impact families before, during and after couple separation?		X We did not identify an effect of the policy relating to this question.
5. How does the policy impact those families most at risk of deterioration of relationship quality and breakdown?	X The loss of income and wider support, whether through a reduction in PIP or associated benefits/schemes, may put pressure on family members to balance work with family life and caring responsibilities.	
Overall summary of positive/negative impacts (Consider the nature of those impacts, positive and negative, more carefully. Policy makers should think about family impacts in a similar way to how they consider impacts on equality as required by the Public Sector Equality Duty, considering impacts at each stage of the process.)	Overall, there may be a negative impact on families which have one or more disabled family members through not applying the terms of one or both the judgments as a consequence of reduced household income.	
Provide details of where you flagged up the impacts of the	The Family Test has been referenced in the Equality Assessment (EA). The EA has been prepared with the	

Family Test on your policy (for example, in a submission, EA or in meetings etc)	purpose of allowing Ministers to consider whether or not to legislate to restore the original policy intent, taking account of their responsibilities under the Public Sector Equality Duty.

[1] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/214418/rrep649.pdf