

Personal Independence Payment Independent Review: Call for Evidence

Question 2: Consider the PIP process. This includes making a claim, the daily living and mobility criteria used in the PIP assessment and getting a decision. Please describe:

a) How easy is it for people to understand the whole process?

1. CPAG believe the following factors have made the process of claiming PIP difficult to understand:

Varying timescales

2. Multiple changes have been made to the timeline for the introduction of Personal Independence Payment (PIP), leading to a great deal of confusion. Repeated rescheduling has left people very uncertain as to when, if at all, they should make a claim for PIP. Originally, the DWP planned to begin 'natural reassessment' of working age disability living allowance (DLA) claimants across the country from 7 October 2013. However, this date was postponed to 28 October 2013, and was limited to areas for which a 'relevant date' had been specified. Even more confusingly, the DWP has the *discretion* to invite any eligible DLA claimant to claim PIP, wherever s/he lives.

Administrative error

3. Administrative errors are also making the process of claiming PIP increasingly difficult to understand, both for claimants and their advisers. In some cases this confusion is having a negative impact on the outcome of individual claims.

- A woman in Dumfries and Galloway (a PIP reassessment area) reported a change of circumstances due to deterioration in her condition. The DWP sent her a DLA form (rather than a PIP form) in error. When she alerted them to this mistake they advised her to complete it and send it in as they would treat it as a claim for PIP. This clearly increased the risk of her omitting information that would have been vital to her PIP claim.

4. Cases received through CPAG's advice line also suggest that DWP staff are confused about the process of claiming PIP:

- A woman living in a PIP reassessment area notified the DWP of an improvement in her condition which she thought might affect her DLA award. Instead of being invited to claim PIP she was sent DLA supersession forms and her DLA was suspended without a reason being given.
- Another client was awarded DLA for 2 years from 12/3/14. In June 2014 she received a letter notifying her that she has an ATOS medical in relation to a PIP claim, despite the fact she had not claimed PIP and does not live in a transfer postcode.
- A 62 year old woman moved to France and was diagnosed with terminal lung cancer within a year. She received the state pension and attempted to claim PIP. She was incorrectly refused on the basis that she was living outside the UK. It is possible to export the daily living component outside the UK, but this was not considered.

5. These avoidable errors make understanding and following the process of claiming PIP significantly more difficult for claimants. They often cause uncertainty and distress and must be addressed as a matter of urgency.

b) How easy it is for people to make a claim?

6. CPAG believe there are many barriers preventing people from making a claim for PIP.

Difficulties experienced by vulnerable claimants

7. In particular CPAG has concerns about how claims from individuals with certain disabilities, including those with learning disabilities, mental health problems and/or sensory impairments are being handled. Cases received through CPAG's advice line suggest that claimants are being told that there is no alternative to making their claim over the phone. This is clearly problematic for those who are either uncomfortable with using the phone or completely unable to do so.

8. Cases also suggest that there is a need for clarification as to the role that appointees and/or advisors can take in initiating a claim for PIP. CPAG has taken at least three calls from advisers working with appointees who have been told that the PIP telephone claim service cannot deal with the appointee and that they will only take details from the claimant themselves. This can have an extremely negative impact on the individual concerned.

- In one case a client's advisor had contacted the DWP in order to initiate a claim for PIP. The DWP refused to speak to the advisor about the claim, stating they would only speak to the individual concerned (who in this case had severe mental health problems). By the end of the telephone call both the individual and the advisor believed that a claim for PIP had been initiated. However, the claimant subsequently received a PIP1 (rather than a PIP2) through the post, indicating that his claim had not in fact started. He did not submit the PIP1 form because, as a result of his mental health problems, he was reluctant to open his mail. When the client finally received support to make a claim for PIP his claim was successful and was awarded both enhanced daily living component and standard rate mobility. However, the DWP would only backdate his claim to the date on which the paper form was submitted, more than four months after the date on which the client believed he had made an application. This case demonstrates poor communication on the part of the DWP and a failure to properly understand and consider the applicant's vulnerabilities.

9. Lack of support and consideration of the requirements of vulnerable claimants is also resulting in people claiming PIP who might otherwise not be required to do so.

- One client requested assistance to complete DLA renewal because of his literacy problems. The form was completed on 20th February and the DWP staff member took the form away to hand in. The client's DLA subsequently stopped and when he phoned the DWP on 18th March he was advised that there was no trace of the form. The DWP accepted that the staff member had taken the form and advised the client complete another DLA form and his DLA would be backdated. When the client submitted the second form he was advised that the form would not be looked at under the DLA rules and that he would have to make a claim for PIP.

Delay sending out PIP2 forms

10. CPAG is also concerned that there are delays between a claim being initiated and PIP2 forms being sent out. Frontline advisors report that it can take up to two weeks from the date of the claim for the PIP2 form to arrive, even though it is stamped as having been issued on the date of the

telephone call. Advisors are concerned that this is a result of systematic problems with the DWP's mail-handling system. Other areas of concern which CPAG has identified include the fact that the DWP is not sending DLA renewal forms to claimants who are reaching the end of their claim. The DWP is not legally obliged to issue these but have traditionally done so, creating an expectation amongst claimants that they will receive forms before their award comes to an end. This failure to send out renewal forms is resulting in confusion, stress and in a significantly reduced income for some disabled people.

- In one case, an appointee did not receive notification that her 21 year old son's DLA award (higher rate care and lower rate mobility) was about to end and no renewal forms were sent. This meant he had to claim PIP instead of DLA. His mother (who was also his carer and appointee) was only alerted to this state of affairs by a letter notifying her that her carers allowance was to stop. As well as her son losing income from DLA, the claimant's mum has lost her carers allowance and will lose the carer's premium of her income support after 8 weeks. Furthermore, if the PIP decision is not made within 26 weeks of PIP claim being submitted this woman will also lose her entitlement to income support as a carer and may have to sign on for job seekers allowance instead.

Interim reviews of fixed awards

11. Further confusion is also being caused by the DWP's practice of issuing PIP2 forms to claimants approximately a year before their fixed term PIP award comes to an end. The DWP appears to be sending out the forms in order to gather information to allow it to conduct an interim review of the individual's claim. In some cases it is likely that this interim review will involve a face to face assessment and withdrawal of PIP. The DWP also have the power to withdraw PIP from the claimant if s/he fails to return the PIP2 form. This is causing a great deal of confusion, in part because the DWP is not making it clear that it is conducting an interim review of claims. Many claimants and advisors who are in contact CPAG are mistakenly under the impression that clients are being sent a PIP2 form to allow them to apply for renewal of their claim early. As a result, many claimants will not return these forms and there is a risk that their PIP will be unfairly withdrawn as a result.

Qualifying and passported benefits

12. Another major concern in relation to the process of claiming PIP is the limited extent to which related benefits can be backdated in the event of PIP being awarded. In particular, there is a problem with backdating *new* claims for means-tested benefits under the 'qualifying benefit' rule (where the would-be qualifying benefit is PIP). PIP is not currently listed as a 'relevant benefit' that can allow extra backdating of a new claim. This means that claimants whose income is just too high to qualify for income support (IS), income-based jobseeker's allowance (JSA) or pension credit (PC) before PIP is awarded cannot secure backdating of one of these benefits to their PIP date of claim if the decision takes over three months.

13. Problems with the transition from DLA to PIP are also having a knock on impact on passported benefits as illustrated by the following cases:

- A client was invited to claim PIP when her DLA award expired. She was then awarded PIP at standard rate mobility having been previously awarded DLA at high rate mobility. The client was only made aware of this when she received a phone call on a Friday notifying her that she would have to return her mobility car by Monday. The client was very distressed to be notified in this manner and also very upset because she used the car to take her disabled child to school and this did not allow her any time to make alternative arrangements. The adviser complained to the DWP who advised that Motability are notified of any change in award electronically and that the client's letter had been delayed.

- In one case a man was unable to renew his concessionary bus pass until his PIP claim had been decided. Up until recently he has also paid a financial contribution to support costs (based on income from the case component of his DLA). He is no longer in a position to pay this contribution and while the social work department has agreed to continue providing support, they have made it clear that if the PIP is backdated they may ask for a back payment. The client finds dealing with money upsetting and this episode has caused him a great deal of confusion and distress.

14. The knock on effect that problems with PIP are having on other benefits is a huge concern. Indeed, the fact that PIP acts as a passport to increased means-tested benefits and tax credits can make more difference to household income than PIP itself for claimants on low incomes.

Question 3: Please tell us about the experience of having a face to face consultation with an Atos or Capita health professional.

15. CPAG has limited information on the experience of individuals who have gone through assessment consultations. This is largely because of the delayed roll out of PIP and the long wait claimants are facing before they are assessed. As noted below (under Question 8) , there is evidence that claimants are waiting between five months and a year between applying for PIP and receiving an assessment.

16. We would, however, direct the reader to the National Association of Welfare Rights Advisors (NAWRA)'s response to this consultation. The organisation (of which CPAG is a member) presents evidence that ATOS and Capita often call off assessments at the last minute. They also claim that home visits are not routinely being offered to claimants who are unable to leave their homes.

Question 4: Consider how further evidence is used in the PIP process. Please provide information about whether further evidence is being:

- a) Requested appropriately by Atos or Capita?**
- b) Provided on time?**
- c) Used appropriately and fairly to inform decisions?**

17. CPAG has very little information on the use of evidence in the PIP process. Again, this is largely because very few people have received requests for further evidence as a result of long delays.

18. We are aware, however that NAWRA (of which CPAG is a member) has gathered evidence demonstrating that further evidence is not routinely being asked for and, when it is asked for, is not being used appropriately. (see NAWRA's response for further information)

Question 5: Where you have evidence of any of the following, please describe how effective the PIP assessment is: a. For people with one condition? b. For people with more than one condition? c. For people with conditions that change (fluctuating conditions)? d. For terminally ill people? e. In identifying whether someone is eligible for the standard rate or the enhanced rate? f. In identifying those eligible for the mobility component of PIP as a result of needs arising from their condition?

19. Cases referred to CPAG have highlighted concerns about the quality of PIP assessments and the degree to which those performing the assessments understand the criteria they are applying. In one case, a claimant had serious spinal injuries and nerve damage but was not awarded any points at all under the '*washing and bathing*' descriptor for PIP. This was because, despite the fact the man was unable to wash himself, the assessor felt that no aids or adaptations would make any difference to

his ability to do so. This was erroneously used as a reason for awarding the man zero points under this descriptor.

20. CPAG is also concerned that neither legislation nor guidance provide clear and adequate definitions of many of the terms which are used repeatedly throughout the descriptors. It is not clear, for example, to whom the claimant is to be compared with in deciding whether s/he can manage an activity in a 'reasonable' time. The examples given in guidance are so extreme (taking all morning to prepare breakfast, or two hours to wash and dress are stated to be an unreasonable length of time), that they are little help in deciding where this line should be drawn.

Question 7: In your experience what are the reasons for people making an appeal to Her Majesty's Courts and Tribunals Service (HMCTS)

21. Again, CPAG has limited information on the appeals process because so few PIP claims have reached the point of assessment. The few cases received through CPAG's advice line suggest that error on the part of the DWP is regularly a reason that people choose to make an appeal against PIP decision. In one case, for example, a profoundly deaf client applied for PIP. She was awarded 4 daily living points, but this was increased to 6 at mandatory reconsideration. The client appealed to HMCTS. Looking at the DWP's submission, the client's adviser discovered that the client's score had been wrongly calculated and that she had in fact scored 8 points (rather than 4) at her original assessment and 10 (rather than 6) at the subsequent mandatory reconsideration. The DWP admitted that they had miscalculated the score and allowed the appeal to lapse.

Question 8: What has been your experience of the time it takes from making a claim to getting a decision?

22. CPAG has come across numerous cases where people are waiting upwards of 5 months (and in some cases up to 7 months) for a PIP assessment. Anecdotally, welfare rights workers have informed us that they have clients who have told they can expect to wait up to a year for a PIP assessment.

23. This appears to be a particular problem in remote and rural areas. One advisor operating in a remote part of Scotland received a call in March of this year from a contact at the DWP who told her it was normal practice for ATOS to stockpile requests for assessments from rural areas until there were enough to make a visit from the visiting assessor 'worthwhile.' The contact said that she had recently taken a claim and that she didn't expect to be able to issue a decision until December.

24. The National Audit Office and the Work and Pensions Select committee have both recently produced scathing reports about delays in processing PIP claims. This seems to be an issue with processes within both DWP and the assessment providers. At the time of writing, the only concrete improvement made to the nationwide claims' process appears to be an automated message on the PIP enquiry line advising callers not to expect a decision within six months, and a text message reinforcing this once the PIP2 has been returned. We do not believe this is sufficient.

Question 9: What have been the impacts of this?

25. People have experienced upset and distress as a result of delays to PIP. They have also lost out on significant sums of money to which they were entitled. This is clearly illustrated by the following cases.

- One client in receipt of DLA (low rate mobility and low rate care) reported a change of circumstances in January 2014. She was awarded PIP at the enhanced rates of both mobility and daily living component in July 2014. Because the process of claiming PIP took so long,

the client missed out on the increased amount she would have received had she been awarded PIP from the date that the change of circumstances was reported. She also missed out on corresponding disability premiums applied to other benefits from the date that the change was notified. Her carer lost out on caring benefits for the intervening period. In all, it is estimated that the claimant lost out on at least £156.05 for a 7 month period, losing more than £4,000 overall.

- In another case, the delay of claiming PIP caused significant distress to a client who was undergoing chemotherapy and suffering from severe fatigue claimed. He had claimed PIP in October 2013 and the assessment was not carried out until March 2014. While waiting for his assessment, the client had complained to his MP because he was extremely upset and anxious about how he would manage financially. He was already struggling with his heating bills and had had to be referred for energy advice and a MacMillan Grant.
- Another individual was contemplating giving up chemotherapy and returning to work as a result of delays to his PIP claim. The gentleman had throat cancer and receiving treatment when he was notified that it takes up to 28 weeks to process a claim. His income had dropped from £300 a week in wages to £87.55 a week from statutory sick pay and he was so concerned about how he was going to manage financially during his treatment that he considered giving up his treatment so he could return to work.
- Another client died whilst awaiting an assessment for PIP. He was in his mid-50s and had to stop work when he became ill. He claimed PIP in September 2013 but an assessment had not been carried out by the time he passed away in April 2014. The delay meant that the client did not have the financial resources he needed to pay for new clothes when his illness caused him to lose a lot of weight. It also meant that his wife was not able to claim carer's allowance, placing the couple in real financial hardship.
- One disabled man had a fixed term award of DLA and - because of the delays in reassessment for PIP - got a short term extension of his award until January 2015. He was told it may have to be extended to the summer 2015. He has a blue badge which needed to be renewed and because his DLA award is only for 6 months, Edinburgh council would only issue him a blue badge for 1 year. He has still had to pay the administration fee of £20 and will have to pay £20 when this blue badge needs to be renewed

Question 10: Consider the whole PIP process. This includes making a claim, going to a face to face consultation, the daily living and mobility criteria used in the PIP assessment and getting a decision. What improvements could be made? Please explain how these improvements would help.

26. Based on the evidence presented above, CPAG believes the DWP should take the following steps:

- Ensure that claimants have more choice as to the medium used to initiate a claim for PIP. The DWP's near exclusive reliance on telephone applications is causing difficulties for many vulnerable applicants.
- Issue guidance clarifying the extent to which advisors and/or appointees can assist with telephone claims.
- Invest in training to ensure DWP staff have a better understanding and awareness of claimant's vulnerabilities in order to avoid misunderstanding, error and inadvertent discrimination.
- Increase staff capacity to reduce administrative error and delay.
- Ensure all claimants are fully aware of the timescales for claiming PIP.

- Make interim payment to claimants who have to wait longer than expected according to government target (as is currently the case in relation to Employment Support Allowance).
- Prioritise clearing the backlog of claims for PIP before continuing the ongoing process of conducting interim reviews of fixed term awards.
- In order to clear the backlog of claims, Capita and ASOS should conduct assessment consultations only where there is a lack of written evidence.
- The operations of Capita and ATOS should be closely monitored to ensure that claimants in remote rural areas do not have to wait significantly longer for an assessment than claimants in more accessible areas.
- The DWP should amend regulations to ensure PIP is classed as a qualifying benefit for the purpose of backdating new means tested benefit claims.

Please do not hesitate to get in touch if you require any further information.

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The case study evidence in this response has come from CPAG in Scotland's:



<http://www.cpag.org.uk/scotland/early-warning-system>