**IMPORTANT:** the address for service changed in February 2024, as below.

Please send your letter by post to DWP and by email to the Treasury Solicitor.

Please seek advice from [JRProject@CPAG.org.uk](mailto:JRProject@CPAG.org.uk) if no response is received within 14 days, or consider referring to a solicitor to issue judicial review proceedings, see [this CPAG page](https://cpag.org.uk/welfare-rights/support-advisers/support-advisers-england-and-wales/support-judicial-review-process/pursuing-court-and) for more information.

Delete Box Before Posting

***This letter challenges*** *DWP’s failure to:*

* *exercise discretion and take into account relevant information in the claimant’s paperwork when assessing his/her eligibility for PIP.*
* *make reasonable adjustments to prevent disadvantage resulting from the claimant’s mental health disability.*
* *offer a home visit despite clear evidence of the claimant's mental health disability.*
* *follow DWP’s own policy when deciding if the claimant's had good reason for not attending the assessment.*

Please feel free to send your letter to [JRProject@CPAG.org.uk](mailto:JRProject@CPAG.org.uk) for review before emailing to DWP.

DELETE BOX BEFORE POSTING

**Only use this letter only if** your client:

* has a mental health disability (protected by the Equality Act 2010) which means s/he is not able to go to a centre for a face-to-face medical assessment.
* was not offered a home visit or allowed a paper-based assessment.

Please read whole letter carefully and change any text in red and/or [square brackets].

Delete all comments before sending and return text to black.

DELETE BOX BEFORE POSTING

[address your letter to either the:

address on your client’s decision letter,

address your client sent their claim to, or

address on relevant DWP correspondence; or

request an upload link to post it to your client’s online UC account]

**And by email to:** [thetreasurysolicitor@governmentlegal.gov.uk](mailto:thetreasurysolicitor@governmentlegal.gov.uk)

**Our Ref:**

**Date:**

**Judicial Review Pre-Action Protocol Letter Before Claim**

**Dear Sir or Madam,**

**Re: Proposed claim for judicial review against the Secretary of State for Work and Pensions by [full name]**

##### We are instructed by [name] **in relation to [her/his] claim for Personal Independence Payments (“**PIP**”). We write in accordance with the Pre-action Protocol for judicial review. Please note that we are requesting your response as soon as possible and in any event no later than by 4pm on [date] (14 days).**

**Proposed Defendant: Secretary of State for Work and Pensions (“D”)(“SSWP”)**

**Claimant:** [full name] (“**C**”)

**NINo:** [xxxx]

**Address:** [xxxx]

**Date of Birth:** [xxxx]

**Note on the address for Pre-action Protocol correspondence**

1. This letter is sent to you because in February 2024 a Senior Lawyer at Decision Making and Debt DWP Legal Advisers, Government Legal Department, Ground Floor Caxton House, Tothill Street, London, SW1H 9NA advised that:

*Pre-action correspondence should now be sent directly to DWP, not to DWP Legal Advisers. DWP Legal Advisers is part of the Government Legal Department, not DWP itself. Pre-action correspondence should be sent to the relevant section of DWP. This will normally be the section of DWP responsible for the decision which is the subject of the pre-action correspondence via their usual communication methods. For example if it relates to a particular benefit decision then the pre-action letter should be sent to the address at the top of that letter.*

1. **This letter is also sent by email to the Treasury Solicitor as** Cabinet Office practice direction ‘Crown Proceedings Act 1947’ (December 2023)[[1]](#footnote-1) requires:

*“****All documents*** *required to be served on the Crown for the purpose of or in connection with any civil proceedings by or against the Crown shall, if those proceedings are by or**against an authorised Government department,* ***be served on the solicitor****, if any, for that department”*

(Emphasis added)

1. The practice direction provides that the solicitor for service in connection with civil proceedings against the Department for Work and Pensions is “The Treasury Solicitor”.
2. **The Government Legal Department webpage**[[2]](#footnote-2) **further instructs:**

***[…]***

*The email addresses above are for the service of new proceedings only.  
They should not be used for letters before action, or pre action protocol correspondence. If sending such documents to GLD please email these to*[*thetreasurysolicitor@governmentlegal.gov.uk*](mailto:thetreasurysolicitor@governmentlegal.gov.uk)*.*

**The details of the matter being challenged**

1. **C is challenging SSWP’s:**
2. **failure to exercise the discretion available to SSWP to assess C’s eligibility for PIP on the basis of C’s paperwork when sufficient evidence was available to do so,**
3. **failure to make reasonable adjustments to prevent disadvantage resulting from C’s mental health disability;**
4. **failure to offer a home visit; and**
5. **failure to follow SSWP’s own policy when deciding whether C had ‘good reason’ for not attending an assessment.**

***Background facts* [edit whole section]**

1. **[Client details]**
2. **[household, family etc]**
3. **[disability and diagnosis]**
4. **[dates notified the defendant of mental health needs and what was said]**
5. **[dates requested contact in writing only and what was said]**
6. **[on date c was called for a medical assessment.]**
7. **[on date c notified SSWP s/he was unable to attend because …. And provided what evidence?]**
8. **[on date c received a decision that her/his ‘good reason’ had not been accepted for not attending the assessment and her/his pip had been disallowed between….]**
9. **Previous PIP award** (if relevant)
10. Contact with DWP and how have they responded
11. **C is suffering considerable financial hardship and has debts of…**
12. **Effect on health etc.**

**Note on D’s duty of candour**

1. As D will be aware, the duty of candour arises as soon as a public authority becomes aware that someone is likely to test or challenge a decision or action. The duty is engaged at every stage of the proceedings, including the pre-action stage, as confirmed in *R (HM, KH and MA) v Secretary of State for the Home Department* 3 [2022] EWHC 2729 (Admin).
2. If any guidance, policy or guidelines exists concerning any of the matters raised in the Background section above, we consider that compliance with the pre-action protocol and the duty of candour requires that it be i) disclosed and ii) provided in full for inspection, as part of the response to this letter.

***Legal background***

***Legislation***

1. **Under** sections 78 and 79 of **the** Welfare Reform Act 2012 (“**WRA**”) eligibility for PIP at either the standard or enhanced rate depends on a person’s ability to carry out prescribed daily living and mobility ‘activities’.
2. **The** Social Security (Personal Independence Payment) Regulations 2013 (“**SS (PIP)** **Regs**”) **are made under** powers conferred by the WRA.
3. **Under reg 4 of the** SS (PIP) Regs a person’s ability carry out prescribed activities is determined by an assessment:

***4.—****(1) For the purposes of section 77(2) and section 78 or 79, as the case may be, of the Act, whether C has limited or severely limited ability to carry out daily living or mobility activities, as a result of C’s physical or mental condition, is to be determined on the basis of an assessment.*

1. **Under reg 9 SS (PIP) Regs a claimant may (and may also therefore not), be called for a face-to-face assessment to determine** ability to carry out the prescribed activities**. If so called, a claimant must attend unless they have ‘good reason’ not to do so:**

***Claimant may be called for a consultation to determine whether the claimant has limited or severely limited ability to carry out activities***

***9.—(1) Where it falls to be determined whether* C *has limited ability or severely limited ability to carry out daily living activities or mobility activities, C may be required to do either or both of the following–***

***(a) attend for and participate in a consultation in person;***

***(b) participate in a consultation by telephone or by video.***

***(2) Subject to paragraph (3), where C fails without good reason to attend for or participate in a consultation referred to in paragraph (1), a negative determination must be made.***

**(Emphasis added)**

##### Under s.19 of the Equality Act 2010 (“EA 2010”) it is indirectly discriminatory to claimants with protected characteristics, which include disability, to apply a criterion or practice to all claimants, which places claimants with that protected characteristic at a disadvantage where that criterion or practice cannot be shown to be a proportionate means of achieving a legitimate aim.

##### 

##### *Indirect discrimination*

##### *19.- (1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.*

##### *(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—*

##### *(a) A applies, or would apply, it to persons with whom B does not share the characteristic,*

##### *(b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,*

##### *(c) it puts, or would put, B at that disadvantage, and*

##### *(d) A cannot show it to be a proportionate means of achieving a legitimate aim.*

##### *(3) The relevant protected characteristics are—*

##### […]

##### *disability;*

##### Under s.20 EA 2010 SSWP and SSWP’S contractors (here [Atos]) have a duty to make reasonable adjustments in the way contact is made and the way assessments for PIP are carried out to avoid disadvantage to claimants with disabilities, such as [name]:

##### *Duty to make adjustments*

***20****.- (2) The duty comprises the following three requirements.*

*(3) The first requirement is a requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.*

1. Under s. 21 EA 2010, failure to comply with the s.20 duty to make adjustments constitutes discrimination:

##### *Failure to comply with duty*

***21.-****(1) A failure to comply with the first, second or third requirement is a failure to comply with a duty to make reasonable adjustments.*

*(2) A discriminates against a disabled person if A fails to comply with that duty in relation to that person.*

1. Under s. 29 EA 2010 the duty to make reasonable adjustments applies to service providers and persons exercising public functions:

***29****.-(7) A duty to make reasonable adjustments applies to—*

*(a) a service-provider (and see also section 55(7));*

*(b) a person who exercises a public function that is not the provision of a service to the public or a section of the public.*

***Defendant’s Guidance***

**Issue 1: Paper Assessment**

**Advice for Decision Making: Chapter P2 ‘Assessment for PIP’**[[3]](#footnote-3) **(Assessment for PIP)**

1. **The information gathered by an assessment carried out under reg 9(1) SS (PIP) Regs informs the** Decision Maker’s (“**DM**’s”) decision on entitlement to PIP, as confirmed by **SSWP**’s guidance ‘Assessment for PIP’**, which also confirms the SSWP’s discretion (delegated to the Health Professional (“HP”)) to require, or not, a face-to-face assessment**:

***P2006 The assessment will be in the form of either1***

***1. a face-to-face consultation or***

***2. a telephone consultation or***

***3. a paper based assessment or***

***4. a video consultation or***

***5. fast track if under the special rules for terminally ill persons or***

***6. a combination of any of 1. – 5.***

***Once all the evidence is gathered the DM will also assess the claimant using the same criteria as the HP. The DM at this point may also ask the HP* for additional information if required, to help the DM make their decision.**

**1 SS (PIP) Regs, reg 9(1)**

**(Emphasis added)**

1. **Assessment for PIP** goes on to note when a paper based assessment will be appropriate at P2046:

***Note: A paper based assessment may be available for some claimants, and may be made where there is sufficient evidence for the HP to advise on all aspects of the claim.***

**(Emphasis added)**

**‘PIP Assessment Guide Part One - The Assessment Process’[[4]](#footnote-4) (“Part One”)**

1. **Under SSWP’s guidance ‘Part One’** the HP’s role incudes determining whether an assessment can be carried out on the papers alone:

*1.2 The Health Professional role*

*[...]*

*• Determine whether a claim can be assessed on the basis of a paper review and provide appropriate advice*

*[…]*

1. Part One goes on to provide as a default that HP’s should carry out paper based assessments (reviews) where possible, including where enough information is only held on “the majority of activities”:

***1.5 Paper-based reviews***

***1.5.1 HPs should carry out assessments using a paper-based review in cases where they believe there is sufficient evidence in the claim file,*** *including supporting evidence, to provide robust advice to the DWP on how the assessment criteria relate to the claimant. It is vital all advice is sufficiently evidenced.*

*[…]*

***Balance of probabilities***

***1.5.2*** *In some cases* ***there may be sufficient information to advise on the majority of activities, but which leaves small gaps that it has not been possible to fill through obtaining further evidence or by contacting the claimant. In such cases, where the available information is consistent, the HP should consider whether they can use their own expert clinical knowledge of the condition(s), its severity and known impact in other areas to determine, on the balance of probabilities, the likely impact in the remaining areas****. If they feel confident doing this and it would be in line with the consensus of medical opinion, then a paper-based review may still be possible, referring to such in the summary justification.*

*[…]*

***Cases that should not require a consultation***

*1.5.5 Although each case should be determined individually, the following types of case should not normally require a consultation:*

*[...]*

* *There is strong evidence on which to advise on the case and* ***a consultation is likely to be stressful for the claimant*** *(for example, claimants with autism, cognitive impairment or learning disability)*

*• The claimant questionnaire indicates* ***a high level of disability****, the information is consistent, medically reasonable and there is nothing to suggest over-reporting – (examples may include claimants with severe neurological conditions such as multiple sclerosis, motor neurone disease, dementia, Parkinson’s disease, severely disabling stroke)*

*•* ***There is sufficient detailed, consistent and medically reasonable information on function.***

(Emphasis added)

**Issue 2: Home visit**

1. SSWP’s guidance ‘Part One’ provides further guidance on when a home visit or home consultation should be considered in preference to an assessment centre:

***Home consultations***

*1.6.72 Consultations may potentially be carried out at a variety of locations and some will need to be carried out at the claimant’s home. Where a claimant indicates that they are unfit to travel to a consultation in a location other than their home, or where* ***travel would require high levels of support or cause significant distress to the claimant****, – for example where the claimant is autistic, has severe physical disability or severe agoraphobia – the HP should,* ***at a minimum, consider whether a home consultation is necessary.***

*1.6.73 When considering a request for a home consultation, HPs should consider:*

*• whether another assessment type is more appropriate*

*• whether the claimant has a medical condition that either precludes them from travelling, or makes it extremely difficult for them to travel*

*• the nature and severity of the condition*

*[…]*

*• any accessibility issues related to the planned location of consultations*

*…*

1. The decision on whether to undertake an assessment on a home visit is made by SSWP’s contractors’ Healthcare Professionals (**“HCPs”**)**.** In this case, [Atos]. Atos have confirmed such decisions are made with reference to Part One (above) in evidence to the Work and Pensions Committee[[5]](#footnote-5).Dr Barrie McKillop, Clinical Director for Atos, stated[[6]](#footnote-6):

*Q150: “In terms of our home assessment we recognise that the barriers to travelling to an assessment centre can be physical or mental health-related, sensory; there can be all sorts of issues. We do not require medical confirmation or proof, if you like, that an individual does require a home assessment, ... If an individual tells us that they are struggling and that they would be unable to travel to an assessment centre, then we would look to arrange a home assessment for them.”*

**SSWP’s Internal Guidance**

1. SSWP’s internal guidance, made available in response to a Freedom of Information request from John Slater,[[7]](#footnote-7) provides further guidance and states under “Vulnerable or special types of customers[[8]](#footnote-8) (in a document link titled only “Acrobat Document 1.pdf”)

*9. The following personal factors can be associated and identified with being vulnerable, however this list is not exhaustive:*

*[…]*

* + - ***mental health conditions***

***Providing extra support***

*24. Ensure that you take into account the individual needs of the claimant.* ***The claimant knows best what their needs* [sic]*. Ask claimant rather than assume what they might need.*** *It might be appropriate to offer or arrange another appropriate service.*

(Emphasis added)

1. Under SSWP’s internal guidance “Vulnerability Instructions” it further states:[[9]](#footnote-9)

*4. When making a judgment about whether an individual requires additional support,* ***it is essential that you communicate with them and record their additional requirements.*** *If, and what, support is required can only be determined as part of a measured assessment.*

*6. You should* ***use a flexible approach to put additional support/special arrangements in place that are tailored to the specific needs of the individual.*** *This will provide them with equal access to our products and services and enable them to follow the standard Customer Journeys.*

*7. This support may be put in place once; for a short, medium, long period of time; or recurring dependent upon their needs.*

*9.* ***All service providers, including DWP, have a legal duty to make ‘reasonable adjustments’ to ensure their services are accessible to disabled people****.*

(Emphasis added)

**Issue 3: Good Reason**

1. Assessment for PIP confirms non-attendance will not result in a “negative determination” when the claimant shows “good reason” for failure to comply with the request to attend:

***P2047 The claimant will be required to comply with the request to attend for a consultation. Failure to comply will result in the DM giving a negative determination1, unless the claimant shows good reason2 not to participate in the consultation (see P2058).***

**1 SS (PIP) Regs, reg 9(2); 2 reg 10**

**Advice for Decision Making: Chapter P6 Good Reason’[[10]](#footnote-10) ("Good Reason”)**

1. SSWP’s guidance ‘Good Reason’ provides the following:

***P6006*** *To determine if the claimant has good reason for non -compliance for either not providing the information required or not participating in a consultation, the DM should* ***in every case consider the individual facts and circumstances*** *and in particular the*

*1.* ***state of the claimant’s health*** *at the relevant time* ***and***

*2.* ***nature of any disability*** *the claimant has1*

***For example, a claimant suffering from depression may not to be able to manage their affairs effectively. The consideration is whether the depression has contributed to the claimant not complying with what we are expecting them to do****, i.e. provide information or participate in a consultation (also see P6073).*

***P6071*** *Claimants may have good reason if they fail to carry out tasks or participate in relevant consultations* ***if they were experiencing poor mental health which meant that***

***1.*** *they were not able to comply with a reasonable request* ***or***

***2.*** *complying with the request in question would put their mental health at risk* ***or***

***3.*** *complying with the request would have put the health of other people at risk.*

***Note:*** *The consideration at* ***3.*** *would apply to any situation where the claimant was involved with others,* ***for example their mental health*** *may involve unprovoked violent episodes or* ***may mean they cannot concentrate fully.***

(Emphasis added)

1. Good Reason also makes clear that previous failures to attend are to be taken into account:

***Previous failures***

***P6041*** *Each case should be looked at on its individual merits though past behaviour can be taken into account. If the claimant has a record of previous failures the DM should consider those failures as evidence of whether or not the evidence presented to support the claimant’s reasons for a current failure are credible or not. The DM should consider how likely is it that*

***1****. a claimant happens to have a problem coinciding with when they are required to attend for a consultation or provide further information* ***and***

***2****. it would happen twice or more than that.*

***Note 1:*** *It is for the DM to identify any patterns and trends in a claimant’s behaviour when considering a claimant’s reasons for a failure in consideration of all the facts of the individual case.*

**Grounds for judicial review**

**Ground 1: Failure to exercise discretion and/or take account of relevant information in not deciding C’s claim on the paperwork available when all the evidence needed to make an award was available**

1. SSWP’s discretion to require a face-to-face assessment, or not, is clear under r**eg 9 SS (PIP) Regs and throughout SSWP’s own guidance.**
2. C has provided the following evidence which confirms unequivocally that [s/he] has a “*high level of disability*” and details [her/his] ability to carry out prescribed daily living and mobility ‘activities’ in a “*sufficient(ly) detailed, consistent and medically reasonable*” way (as per Part One guidance):

* [what evidence?]
* [how does it show what points he/she scores? Detail points (in an appendix if very lengthy)]
* [when is it dated?]
* [where is it from?]
* [when was it provided to the defendant?]

1. In failing to exercise the discretion available under r**eg 9 SS (PIP) Regs, as elaborated on in SSWP’s own guidance,** to decide C’s claim on the paperwork available, SSWP necessarily appears to have unlawfully failed to take account of this wholly pertinent information and evidence.
2. SSWP is aware of C’s medical conditions, daily living and mobility needs, has been provided with evidence of these, and has previously made an award of PIP. C’s condition does not vary and SSWP has requested no further information or evidence (if this is needed) to enable a new paper assessment to be made and appears to have unlawfully operated a blanket policy of calling all claimants to a face-to-face assessment even in situations where “*a consultation is likely to be stressful for the claimant*” (as per Part One guidance).

**Ground 2: Failure to offer a home visit**

1. Without prejudice to the foregoing ground that an assessment should have been conducted solely on the papers, it is contended in the alternative that it was unlawful not to offer [name] a home visit. SSWP’s guidance is clear. As stated in Part One, where travel would “*cause significant distress to the claimant*”, the HP should “*at a minimum, consider whether a home consultation is necessary*”.
2. SSWP’s contractor, Atos confirmed to the Work and Pensions Committee:

“*we recognise that the barriers to travelling to an assessment centre can be physical or mental health-related... If an individual tells us that they are struggling and that they would be unable to travel to an assessment centre, then we would look to arrange a home assessment for them.”*

1. In C’s case, [s/he] informed SSWP on multiple occasions of [her/his] severe mental health problems and that this results in inability [to…] and therefore attend assessments, yet a home visit was not offered, and appears not even to have been considered.
2. In failing to offer a home visit when presented with clear evidence that to travel to an assessment centre would cause significant distress in consequence of C’s mental health disability, SSWP is in breach of SSWP’s own policy and has failed to follow its practice as stated to the Work and Pensions Committee.

**Ground 3: Failure to make reasonable adjustments and discrimination**

1. The duty to make reasonable adjustments applies to SSWP under s.29 EA 2010.
2. As above, SSWP is aware of C’s mental health condition and has been specifically advised of [her/his] needs. Further C has requested the reasonable adjustment of contact only in writing because of the severe anxiety and distress that other forms of contact cause.
3. In failing to take account of C’s mental health problems and needs and disregarding [her/his] request for contact to be made in writing to avoid significant and undue mental health distress, SSWP has failed to make reasonable adjustments and is in breach of SSWP’s own guidance which makes clear that the “*claimant knows best what their needs* [are]*[[11]](#footnote-11)*”.
4. SSWP has further breached SSWP’s own guidance in failing to “*use a flexible approach to put additional support/special arrangements in place that are tailored to the specific needs of the individual”[[12]](#footnote-12)* by requiring and arranging a face-to-face assessment without taking account of, or making any adjustments for, C’s individual needs.

##### In requiring face-to-face assessments at an assessment centre and insisting on communication by telephone [and/video] calls in all cases including for claimants such as C with mental health disability, when there are other readily available ways of assessing claimants ability to undertake prescribed activities and of obtaining such information or evidence as is required (assessing on the papers, offering a home visit and contacting in writing), SSWP has indirectly discriminated against C in breach of s.19 EA 2010.

1. In failing to take account of C’s preferred method of contact, calling [her/him] to a face-to-face assessment and failing to offer a home visit when aware of the psychological distress this would cause, with the result that **a negative determination was made when [s/he] was unable to attend the assessment scheduled because of [her/his] mental health disability (when a person without C’s mental health condition would have been able to attend),** SSWP has in breach of s.20 EA 2010 put “*a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled”* and has unlawfully failed to take *“such steps as it is reasonable to have to take to avoid the disadvantage”.* Non-compliance with the duty to make reasonable adjustments under s.20 EA 2010 amounts to discrimination under s.21 EA 2010 and SSWPhas therefore discriminated against C on the grounds of [her/his] mental health disability in breach of EA 2010.

**Ground 4: Failure to follow the law and own guidance in not accepting the Claimant’s ‘good reason’ for not attending the assessment on [date]**

1. **Without prejudice to the foregoing grounds that** C **should never have been required to attend a face-to-face assessment at all or, in the alternative, one that was not in [her/his] own accommodation, it is contended that** C **had good reason for not attending the face-to-face assessment.**
2. **Under reg 9 SS (PIP) Regs a claimant must attend an assessment unless they have ‘good reason’ not to do so.**
3. **Under** SSWP’**s guidance: Good Reason “***the DM should in every case consider the individual facts and circumstances and in particular the 1. state of the claimant’s health at the relevant time and 2. nature of any disability the claimant has”.* C’s individual facts and circumstances are that [s/he] has [Post Traumatic Stress Disorder] which affects [her/his ability to…*.*.].SSWP was informed of this and that this applied on the date of assessment [on date].
4. Good Reason provides examples of when good reason may be accepted which apply to C where it states at P6071 “*Claimants may have good reason if they fail to carry out tasks or participate in relevant consultations if they were experiencing poor mental health”… “for example their mental health …may mean they cannot concentrate fully*”.
5. Good Reason **gives the specific example of “***a claimant suffering from depression may not to be able to manage their affairs effectively. The consideration is whether the depression has contributed to the claimant not complying with what we are expecting them to do”.* This is analogous to Cs circumstances, yet SSWP found C not to have ‘good reason’.
6. Good Reason also makes clear that previous failures to attend are to be taken into account. In C’s situation, previous failures corroborate [her/his] inability to attend because of [her/his] mental health disability as [her/his] condition does not vary, yet this does not appear to have been taken into account when reaching the decision.
7. **In failing to accept the C’s good reason for failing to attend the face-to-face assessment, SSWP has unlawfully failed to follow SSWP’s own guidance.**

**The details of the action that the Defendant is expected to take**

**The Defendant is requested to:**

* Reinstate PIP between [date and date] without delay.
* Provide C with a written apology and compensation for the catalogue of failures by SSWP and or SSWP’s agents as detailed above which have resulted in a level of service which is far below that which should be expected and has resulted in C being without a significant amount of income for [number of] months and has caused [her//him] needless stress and anxiety further exacerbating [her/his] existing mental health issues.
* Ensure vulnerable claimants are identified, their needs recorded and this record is available to and referred to when both further contact is made by SSWP or SSWP’s agents (including Atos).
* **Accept that [name] has been unlawfully discriminated against on the grounds of [her/his] mental health disability contrary to the Equality Act and agree to pay [him/her] damages for the financial and non-financial loss, including injury to feeling, suffered as a result.**
* Ensure guidance to staff on seeking further evidence to support a paper assessment (if needed) where it is identified that a face-to-face assessment will cause severe distress to the claimant is followed.
* Ensure guidance to staff on offering assessment on home visit when aware that attending an assessment centre will severe distress to the claimant is and followed.
* Ensure internal monitoring of decisions over when to have paper based or home based assessments is carried out.

**The details of documents that are considered relevant and necessary**

**Please find enclosed copies of the following documents:**

* **Medical evidence**
* **Signed form of authority for** the Claimant

**ADR proposals**

**Please confirm in your reply whether SSWP is willing to consider alternative dispute resolution.**

**The address for reply and service of court documents**

[advice agency name

Address

Email]

**Proposed reply date**

We expect a reply promptly and in any event no later than [date] (14 days).

**If we not have received a reply by this time we will issue proceedings for judicial review without further notice to you.**

Yours faithfully

1. assets.publishing.service.gov.uk/media/657c891d83ba380013e1b66c/List-of-Authorised-Government-Departments-under-s.17-Crown-Proceedings-Act-1947-15.12.2023.pdf [↑](#footnote-ref-1)
2. gov.uk/government/organisations/government-legal-department [↑](#footnote-ref-2)
3. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment

   \_data/file/778281/admp2.pdf [↑](#footnote-ref-3)
4. https://www.gov.uk/government/publications/personal-independence-payment-assessment-guide-for-assessment-providers/pip-assessment-guide-part-1-the-assessment-process [↑](#footnote-ref-4)
5. [publications.parliament.uk/pa/cm201719/cmselect/cmworpen/829/82905.htm](https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/829/82905.htm) [↑](#footnote-ref-5)
6. [data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/work-and-pensions-committee/pip-and-esa-assessments/oral/75298.pdf](http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/work-and-pensions-committee/pip-and-esa-assessments/oral/75298.pdf) [↑](#footnote-ref-6)
7. [www.whatdotheyknow.com/request/esa\_pip\_uc\_internal\_dwp\_guidance#incoming-1239458](http://www.whatdotheyknow.com/request/esa_pip_uc_internal_dwp_guidance#incoming-1239458) [↑](#footnote-ref-7)
8. [www.whatdotheyknow.com/request/esa\_pip\_uc\_internal\_dwp\_guidance#incoming-1239458](https://www.whatdotheyknow.com/request/esa_pip_uc_internal_dwp_guidance#incoming-1239458) [↑](#footnote-ref-8)
9. [www.whatdotheyknow.com/request/810917/response/1932078/attach/html/5/Vulnerability%20instructions%20sub%20pages.pdf.html](http://www.whatdotheyknow.com/request/810917/response/1932078/attach/html/5/Vulnerability%20instructions%20sub%20pages.pdf.html) [↑](#footnote-ref-9)
10. assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_data/file/473399/admp6.pdf [↑](#footnote-ref-10)
11. Ibid note 6 [↑](#footnote-ref-11)
12. Ibid note 7 [↑](#footnote-ref-12)