Personal Independence Payment

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

Published by the Welfare Rights Team, Swansea Council, February 2019.

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

Cyngor Abertawe
Swansea Council

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

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

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

Do you have to complete and return the PIP2 form?:

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

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

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

The 'Point Score' and Fluctuating Conditions:

You should be awarded points in each activity provided the descriptor applies on over 50% of the days in the 'required period' (previous 3 months and following 9 months after claim date). The descriptors apply if you cannot manage the activity at the time of day it would be reasonable to do the activity; eg if after taking your painkillers it is still a couple of hours before you are able to get dressed without help then you should score points as you cannot reliably get dressed at the time you would normally want to. If more than one descriptor in an activity applies for at least 50% of that period the highest score should be awarded. If no descriptor applies for 50% of the days but a combination of descriptors add up to at least 50% of the days, points should be awarded for the descriptor that applies on most days. If a combination of descriptors adding up to at least 50% of the time apply on an equal number of days, the higher score should be awarded. Unfortunately the correct legal approach is not always followed in the HP's report or by the DWP decision maker and lower points are often given instead which can affect the level of award or getting any award at all!

Aids and Appliances:

All the daily living and mobility descriptors are considered on the basis of you wearing or using any aid or appliance, including artificial limbs, you either normally use or could reasonably be expected to use. Aid and appliances are described in the HP guidance as being '*devices which improve, provide or replace the claimant's impaired physical or mental function, for example walking sticks to enable a claimant to move reliably, grab rails to assist with balance, wheelchairs to replace mobilising or liquid level indicators to substitute for sight when pouring liquid*'.

If you do not use an aid or appliance, the guidance states it should be considered if you manage the activity reliably with an easily available aid or appliance instead of needing prompting, assistance or supervision, and the lower descriptor B awarded.

Aids and appliances can include things that are not specially designed for disabled people and can be 'everyday objects', e.g. an electric can opener. However the guidance states that '*whether they are considered as aids in any particular case depends on how the claimant uses the object compared to how (if at all) it might typically be used by someone with no relevant impairment. Where the object would usually or normally be used in the same way by someone without any limitation in carrying out the relevant activity, it is unlikely to be considered an aid or appliance, for example sitting on a bed whilst getting dressed or using a pan with a rubber-grip handle when cooking'.* Caselaw[1] has said it is dependent upon whether it has sufficient connection with the activity to count as an aid. It will depend on whether the 'aid' is being used in a usual or normal manner to complete the activity or is needed to assist with performing a function of the activity. So while it is normal to sit on a bed to get dressed, if you have to lie back on the bed to pull up your lower clothes, then it might count as an aid. Therefore you need to try to explain why you need this object to help you do the activity, how it is being used due to your functional difficulty with the activity and how this is more than a normal/usual way that someone with no impairments would use the item.

Night-time Care Needs:

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

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

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

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

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

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

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

The HP guidance says supervision is '*a need for the continuous presence of another person for the purpose of ensuring the claimant's safety to avoid a harm occurring. It is necessary to consider both the likelihood of a serious adverse event occurring, and the severity of the harm that might occur'* and '*must be required for the full duration of the activity.'*

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

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

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

Caselaw[2] (a three judge panel, which means it has more clout) has held that '*an activity that cannot be carried out safely does not require that the occurrence of harm is "more likely than not". A tribunal must consider whether there is a real possibility that cannot be ignored of harm occurring, having regard to the nature and gravity of the feared harm in the particular case. Both the likelihood of the harm occurring and the severity of the consequences are relevant. The same approach applies to the assessment of a need for supervision.'* So in other words it is a balance between how likely the harm is and how serious the harm would be if it happened.

This resulted in the HP guidance being updated and now states that '*when considering whether an activity can be undertaken safely, it is necessary to consider the* ***likelihood of harm*** *occurring and the* ***severity of the harm*** *that might occur. We can use common sense to assess the balance between the risk of harm (likelihood of it occurring) and the severity of harm, in determining whether an activity can be done safely*.'

The DWP issued new guidance to decision makers, which whilst now accepting that harmful events do not need to happen on 50% of days, the examples provided focus on how harm can be mitigated and less likely to occur, therefore limiting any award of points. We have included some of these examples under the relevant activities.

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

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

'To an acceptable standard' is not defined in the regulations. However caselaw[3] has held that factors such as the severity of pain or breathlessness will affect whether an activity can be performed to an acceptable standard. Also consider factors such as fatigue or motivation as they may affect whether a person can carry out an activity to an acceptable standard. It is important to explain these problems both at the face-to-face consultation and on the PIP2 form.

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

This guide gives details of how the terminology used in the descriptors is legally defined in the regulations, plus guidance given in the PIP Assessment guide for healthcare professional's (HP) - this guidance was last updated in November 2018 - but remember this is guidance only NOT the law. How the law 'should' apply is also defined by caselaw, which is legally binding, but not always applied by decision makers and we have kept the current caselaw in mind when writing this guide. We have also given some of our ideas of when the descriptors may apply. The guide includes each page of the actual PIP2 form followed by a page of guidance notes.

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

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

Q3 - Preparing Food

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

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

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

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

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

☐ Yes
☐ No
☐ Sometimes

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

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

☐ Yes
☐ No
☐ Sometimes

Q3c - Extra information - Preparing Food

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

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

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

Cook: is legally defined as meaning to heat food at or above waist height.

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

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

Caselaw[4] has confirmed this activity is a notional test of your physical or mental ability to prepare and cook a simple meal and does not take into account dietary, cultural or religious requirements, or personal conditions, such as childcare - it is a functional test.

Descriptor F cannot prepare and cook food, refers to 'cannot at all' and therefore only likely to apply to people with very severe learning difficulties or severe physical problems which mean that even with physical assistance or supervision they would still not be capable. This descriptor refers to just food instead of the ability to make a simple meal.

This activity does not look at whether you are able to safely bend to get food in or out of an oven (despite the PIP2 asking if you can use an oven safely); it just considers the ability to use a hob or microwave. The HP guidance states this activity does not include carrying items around the kitchen, but this is not law, just guidance and some moving things around the kitchen is needed to prepare and cook a simple meal. It does though include the ability to serve food on a plate, which usually involves some moving things around the kitchen.

The HP guidance gives examples of aids and appliances including prostheses, perching stool and spiked chopping boards. A perching stool is stated as an aid—consider issues such as safely getting on/off the stool, but caselaw[5] has now held that '*unless a claimant is unable to stand safely for more than a few minutes, he is unlikely reasonably to require a perching stool',* explaining it is a simple meal for one, although you maybe 'watchful' over a steak, there is no need to stand or perch over the spaghetti. The guidance emphasises the difference between *needing* to use an aid/appliance and *choosing* to in order to make things easier - but remember you need to be able to do the activity reliably, so if you can just about manage without the aid, but choose to use it to reduce pain or risk, it means you need to use it to be able to prepare/cook safely, repeatedly, in a reasonable time and to an acceptable standard. Explain why you need the aid and are not just using a gadget for convenience. Although pre-chopped vegetables are not considered an aid or appliance, being reliant on them may show that you could be considered as requiring either an aid or appliance or help from another person to complete the activity.

The HP guidance says prompting may apply if you lack the motivation to cook or need to be reminded how to cook and prepare food on the majority of days - Descriptor D. Descriptor E - includes needing supervision to tell if food is safe to eat e.g. meat cooked. If you could not safely use the hob but could safely use a microwave Descriptor C may apply. Caselaw[6] has clarified that there is little difference between heating up ready meals and using a microwave to heat up food that someone else has prepared and put in a microwaveable container for you so C would apply if you could do so without prompting, supervision or assistance. It should still be asked if a higher scoring descriptor might apply, as would be the case if you need either supervision or assistance to prepare a simple meal then E may apply.

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

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

In a reasonable time period:

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

Safely: The following are examples of potential safety concerns in the HP guidance:

- '*increased risk of cutting oneself or another person as a result of a health condition or impairment*'
- *'fire as a result of not understanding how to use an electrical appliance or gas hob correctly*' - but also include the risk of fire, are fire alarms regularly set off?
- Burning or scalding yourself eg; if you are likely to drop a saucepan or spill food.
- '*an actively suicidal person may require supervision to carry out these activities or be unable to carry them out at all, due to the risk of self harm posed by access to knives, naked flames, hot implements and food*' - stating that a person in this situation is *'likely to have a care plan'*. The DWP examples of 'safely' include a claimant with epilepsy whose seizures occur approximately once a week, without warning, causing their body to become stiff and limbs twitch down and drop anything they are holding and can mitigate any risk by using food choppers instead of knives and microwave heat proof dishes with lids that would be safe if dropped and awards descriptor C. The HP guidance states for people with seizures E '*might apply to those where there is strong evidence that the altered consciousness is unpredictable and they would not reliably be able to use a microwave*'.

Standard Rate – 8 points; Enhanced Rate – 12 points

Q4 - Eating and drinking

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

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

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

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

☐ Yes
☐ No
☐ Sometimes

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

☐ Yes
☐ No
☐ Sometimes

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

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

☐ Yes
☐ No
☐ Sometimes

Q4d - Extra information - Eating and drinking

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

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

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

The law gives definitions:

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

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

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

The HP guidance states that because of the legal definition of 'take nutrition' the activity '*refers solely to the act of eating and drinking and so the quality of what is being consumed is irrelevant*'. So nutritionally poor diets aren't considered but there could be very rare '*cases where what is being consumed is so beyond any reasonable or rational view of what constitutes food or drink that it does not amount to 'taking nutrition'*.

Arguably nutritional value should be important because the activity is called 'taking nutrition' not 'eating and drinking' but the weight of caselaw[7] currently disagrees. 'Reliably' is still important so 'safety' and 'acceptable standard' still have to be considered - is the activity of cutting food into pieces and chewing and swallowing it done 'safely' for a diabetic if not done often enough?

The HP guidance states that the '*frequency of taking nutrition should only be considered if the claimant has an underlying condition which affects their ability to remember to eat, or their motivation to eat eg dementia or severe clinical depression or an eating disorder'.* Help needed to eat often enough should still be explained and as caselaw[7] points to the definition which includes cutting food into pieces, chewing and swallowing suggests cooked meals not just snacks or liquids only.

The HP guidance says that B.ii. may apply to '*claimants who are at significant risk of choking when taking nutrition'*. This could apply to someone who has regular seizures or has throat problems, the risk of choking would need to be due to your health condition or disability.

Lack of motivation to eat may be taken into account by whether a claimant can complete descriptor D 'reliably', therefore if you need encouragement to start eating, and would often not get round to eating without this encouragement, explain how the activity would not be reliably completed. Explain how often you miss meals and explain why, for example, 'I get so down, that due to my depression I just don't want to eat'. But remember this activity is not about lacking the motivation to make something to eat, think about whether you need encouraging to eat, even if a meal was placed in front of you, would you still need prompting?

This is an important activity for some mental health problems, as the prompting descriptor D equals 4 points. Lacking the motivation to eat can affect people with depression or substance dependency etc. as well as people with eating disorders.

The HP guidance states that prompting may apply if you need reminding to eat '*for example, due to a cognitive impairment or severe depression'*. The guidance on prompting about portion size means this descriptor could apply to different types of eating disorders, whether eating too little or bingeing as a result of your health condition or disability. The guidance states '*prompting regarding portion size should be directly linked to a diagnosed condition such as Prader Willi Syndrome or Anorexia. In cases where obesity is a factor and where there is no impaired cognition which would suggest a lack of choice or control then this descriptor would not apply*'. This is a very simplistic view of eating problems and it is important to fully explain why prompting is required for other health reasons and not solely restricted to just diagnosed eating disorders. Remember it is guidance only, not the legal test.

Reliably: To an acceptable standard:

- A bad or restricted diet is still taking nutrition to an acceptable standard.

Safely:

- Risk of choking on food.

The DWP guidance for decision makers has the example of a claimant with weekly seizures, and states that *'during a seizure or event often the mouth will clench and people bite their tongue, any food in the mouth would remain there and the person having the seizure breathes through their nose. Alternatively, depending on the nature of the seizure, the swallowing reflex may be maintained so that the person swallows the food, even whilst semi-conscious. Also the length of time spent swallowing is short.*' As the claimant in this example had *'never choked in the past'* no points were awarded.

Standard Rate – 8 points; Enhanced Rate – 12 points

Q5 - Managing treatments

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

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

Monitoring changes include things like:

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

A home treatment includes things like:

- physiotherapy and home dialysis

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

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

- ☐ Yes
- ☐ No
- ☐ Sometimes

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

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

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

- ☐ Yes
- ☐ No
- ☐ Sometimes

Q5 - Extra information - Managing treatments

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

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

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

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

IMPORTANT: the wording of Descriptor B changed for new claims/reviews from 16/03/17, and even more importantly the legal definition of what therapy means has been substantially tightened since caselaw[8] held that if supervision, prompting or assistance was needed to ***both*** manage medication and to monitor a health condition that this could amount to managing therapy and the higher points awarded.

The definitions in law are now:

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

Therapy: means therapy to be undertaken at home which is prescribed or recommended by a - (a) registered - (i) doctor; (ii) nurse; or (iii) pharmacist; or (b) health professional regulated by the Health Professions Council; but does not include taking or applying, or otherwise receiving or administering medication (whether orally, topically or by any other means), or any action which, in [the claimant's] case, falls within the definition of "monitor a health condition".
The Health Professions Council, renamed the Health and Care Professions Council, includes professions such as occupational therapists, physiotherapists, speech therapists, the full list of professions is detailed on http://www.hcpc-uk.org.

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

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

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

The HP guidance states that Descriptor B could include help to physically open medication, interpreting/reading blood sugar, supervision or prompting to ensure medication is taken properly. The guidance states that for aids such as dosette boxes, alarms and reminders, '*consideration of their use for the purpose of this activity should be directly linked with the reliability criteria – in other words the claimant is unable to reliably manage their medication independently and the use of aids or appliances is required*' - so explain why they are needed. Equipment such as inhalers, needles, glucose meters and nebulisers are not aids according to the guidance, but are devices for delivering medication. But if a different device is needed due to your condition to improve/replace the impaired function of your condition, eg. visual impairment, caselaw[9] has said it would then be an aid or appliance. Any assistance/prompting/supervision needed to use or understand any equipment should still count as needed to manage the medication. Supervision due to the risk of accidental or deliberate overdose or deliberate self-harm would fit into B and score 1 point.

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

Reliably: - Safely:

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

Standard Rate – 8 points; Enhanced Rate – 12 points

Q6 - Washing and bathing

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

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

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

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

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

☐ Yes
☐ No
☐ Sometimes

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

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

☐ Yes
☐ No
☐ Sometimes

Q6c - Extra information - Washing and bathing

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

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

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

The regulations give a definition:

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

The HP guidance states that Descriptor E '*should be applied as a hypothetical test to consider whether the claimant needs assistance to get in to and out of either one of an unadapted bath, or an unadapted shower'*. This is supported by caselaw[10], so even if you can manage in your standard shower but would need physical assistance to manage getting in or out of a hypothetical standard bath - even if you don't have one, you can still be awarded 3 points for Descriptor E. If you have a wet room shower, the guidance states, if it is reasonably required (not automatic—you must need it), it could be evidence that you cannot get into an unadapted shower. But the guidance also say consideration should be given to whether you '*could reasonably use an aid such as a grab rail to get in or out of an unadapted bath or shower'* and therefore B would apply, but does that not mean the bath is adapted?

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

The guidance states Descriptor F does not include '*the ability to wash ones upper spinal region'*, however this is not included in the wording of this descriptor. Caselaw[11] disagrees stating '*by focussing on ability to reach the upper spinal area, rather than ability to wash the body between shoulders and waist, the Tribunal misconstrued descriptor 4(f)'*, it should still be considered whether physical assistance is needed to be able to wash your upper back and 4 points awarded.

Prompting may apply if you lack motivation or need to be reminded to wash or bathe. A useful piece of caselaw[12] has found that if, at times, you have sufficient impetus to bathe, such as for an appointment, but for the majority of days you lack the motivation due to your health, you could still score points for Descriptor C. But if the only reason you don't is due to laziness then this would not apply.

If you have washed yourself but either do not realise you have failed to do so sufficiently or are physically unable to adequately wash and you are still not clean this has not been done to an acceptable standard and therefore you should be considered unable to complete this activity. This could apply to someone with learning difficulties, mental health problems or substance misuse problems or to someone with a visual impairment or just physically unable to complete the activity. It is important to explain why your health or disability means you cannot manage this to an acceptable standard which is *'good enough'*.

The HP guidance for needing supervision says, the likelihood of a risk occurring should be considered and that 'if *the claimant can wash or bathe the majority of the time without risk of injury, for example because their health condition is under control through medication'* it would not apply. HPs should be applying the safely guidance at the beginning of this guide and consider the gravity of drowning in the bath due to a seizure as arguably if your seizures are not fully under control then C could apply.

Reliably:

In a reasonable time period:

- '*Someone who, as a result of their health condition, has obsessive ideas around cleanliness and takes considerably prolonged periods of time to complete activities due to repetitive and extended hand washing*.'
- '*An individual who becomes breathless and exhausted whilst washing and dressing, and needs 2 hours to complete these tasks.'*

Safely:

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

The DWP guidance for the claimant with weekly unpredictable seizures states that due to the risk of drowning, whilst the likelihood of having a seizure while washing and bathing is low, 'the severity of the consequences are high' and awards descriptor C. A claimant with severe learning difficulties could also be awarded C if they do not think to check if the water is too hot.

Standard Rate – 8 points; Enhanced Rate – 12 points

Q7 - Managing toilet needs

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

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

Using the toilet means:

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

Managing incontinence means:

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

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

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

Q7a - Do you need to use an aid or appliance to use the toilet or manage incontinence?

Aids and appliances include things like:

- commodes, raised toilet seats, bottom wipers, bidets, incontinence pads or a stoma bag

☐ Yes
☐ No
☐ Sometimes

Q7b - Do you need help from another person to use the toilet or manage incontinence?

By this we mean:

- do they physically help you?
- do they tell you when to use the toilet?
- do they watch over you to make sure you are safe?

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

☐ Yes
☐ No
☐ Sometimes

Q7c - Extra information - Managing toilet needs

Tell us more about any difficulties you have with your **toilet needs or incontinence**

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

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

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

Legal definitions:

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

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

The HP guidance states that incontinence pads, raised toilet seats, bottom wipers, commodes or a stoma bag may count as suitable aids. Caselaw[13] has confirmed that incontinence pads are an aid for managing incontinence and that using them on a precautionary basis, even if the incontinence episodes do not happen on more than 50% of days, but if the pads are reasonably required on more than 50% of days on a precautionary basis, this will still count[14]. Caselaw[15] has also held if incontinence pads are reasonably needed at night, even on a precautionary basis or reasonably needed but not used, this can satisfy Descriptor B. Also remember to include details of any physical assistance required to empty any aids such as a commode.

The HP guidance states that claimants with 'indwelling (permanent) catheters or stoma are considered incontinent for the purposes of this activity' and a stoma bag listed as an aid, following caselaw[16] confirming that a stoma and bag should count as an aid or appliance to manage incontinence and therefore this argument should also apply to catheters and bags. To score the higher scoring Descriptors E and F you will need to explain what physical assistance is also required to manage the incontinence. Because you count as incontinent you require more than assistance with toilet needs and the HP guidance states that Descriptor D only refers to people needing physical assistance to get on/off the toilet, evacuate the bladder or bowel and clean themselves, not help due to incontinence. Caselaw[17] has confirmed needing help with only one of the defined toilet needs eg getting off the toilet still counts.

The guidance states that this activity does not include managing clothing. Caselaw[18] has confirmed that the definitions of both managing toilet needs and managing incontinence excludes the need for help in removing/cleaning soiled clothes from being covered by this activity, although an argument could still be made that managing incontinence is not so rigidly defined and could include changing soiled bedding, please seek advice. Our advice is to still provide details of any, prompting, supervision or assistance you require to change into clean clothes, as this is likely to at least indicate that either incontinence aids may be needed or there could be difficulties in cleaning yourself afterwards.

Guidance states that this activity also does not include climbing stairs or mobilising to the toilet. The guidance goes on to say that if a commode is used due to limited mobility to get to the toilet, instead of due to the risk of incontinence, it will not count as an aid to toilet needs because it is being used because of mobility problems instead and therefore is not covered by this activity. A commode under this guidance will only score points if needed due to a bladder or bowel problem causing urgency. If a commode is used due to a combination of mobility problems and problems controlling the bladder/bowel, focus on explaining the limited control problems. This approach has now been confirmed by caselaw[19], so if your mobility problems prevent you from reaching the toilet in time we recommend that you try to speak to your GP about whether there are any continence issues. Also consider whether your limited mobility means you may have difficulty getting on or off the toilet and do you reasonably require either an aid or assistance to manage, if so focus on this aspect. Caselaw taking an alternative view may emerge and therefore we advise to still include details of help you need getting to the toilet, if you cannot get to the toilet in time there is an argument that you cannot do this to an acceptable standard.

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

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

Reliably: Safely examples from the HP guidance:

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

The DWP guidance states the claimant with weekly, unpredictable seizures is at a low risk of a seizure happening on the toilet and a very low risk of coming to any harm falling off the toilet and therefore no points awarded, but a claimant with life-threatening status epilepticus, requiring urgent medical attention if a seizure lasts over 5 minutes should be awarded C due to being at significant risk.

Standard Rate – 8 points; Enhanced Rate – 12 points

Q8 - Dressing and undressing

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

Tell us about whether you can dress or undress yourself
This means:

- putting on and taking off clothes, including shoes and socks
- knowing when to put on or take off clothes, and
- being able to select clothes that are appropriate

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

Q8a - Do you need to use an aid or appliance to dress or undress?
Aids and appliances include things like:

- modified buttons, front fastening bras, velcro fastening, shoe aids or an audio colour detector

☐ Yes
☐ No
☐ Sometimes

Q8b - Do you need help from another person to dress or undress?
By this we mean:

- do they physically help you?
- do they select your clothes?
- do they tell you when to dress and undress?
- do they tell you when to change your clothes?

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

☐ Yes
☐ No
☐ Sometimes

Q8c - Extra information - Dressing and undressing

Tell us more about any difficulties you have when **dressing and undressing**:

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

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

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

Definitions—only one for this activity:

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

The HP guidance states this activity assesses the ability to put on and take off '*appropriate, un-adapted clothing that is suitable for the situation'*. It states this is a functional test and not related to how you choose to dress (the need to be 'culturally appropriate', which was in previous guidance has now disappeared).

Previous guidance has stated you would not be considered able to perform this activity reliably if you cannot determine when it is appropriate to change into clean clothes, this is absent from the current HP guidance. Caselaw[20] has confirmed that because Descriptor C refers to being able to select appropriate clothing and to be able to dress to an acceptable standard this means not wearing '*malodorous'* (foul smelling) or *'unhygienic*' clothes. The case goes on to confirm that an acceptable standard does not mean fastidious and a common sense approach is needed, and that 'mere indifference' to the state of your clothing is not enough - it needs to be caused by your physical or mental health. However if a person does not notice that their clothing is dirty or smelly there would usually be an underlying reason for this even if the person themselves lacks the insight to be aware of the reasons, for example, due to dementia or other mental health conditions.

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

The HP guidance only gives examples of button hooks and sock aids as suitable aids (previous guidance included modified zips or trousers, front fastening bras and velcro fastenings—so still include these if they are the aids you need). You do not have to need to use aids for both dressing and undressing, just one is enough. Caselaw[21] has basically said that a common sense approach is needed to the type of clothing and fastenings, with the exception of socks and shoes, no particular type of clothing should be considered as it is a general functional test, so difficulty getting into a dress with tiny buttons cannot be used to generate points but neither can saying there is no need because you can get into loose, elasticated clothes with no fastenings. Reasonable alternatives such as a cardigan instead of a pullover can be considered, or slip on shoes (check whether appropriate) and remember most outer clothing has fastenings and it is reasonable in this country to need to put a coat on to go out.

For this activity chairs or beds are not considered aids, as people with no impairments will tend to sit getting dressed, it is a normal way to get dressed, the exception would be if the bed was needed to assist with the function of pulling on clothes, but caselaw[1] has said this is likely to be exceptional. However if you can only get dressed by sitting or lying down, maybe it takes you a lot longer to get dressed, or are in pain, or get breathless and have to stop—so can you do so in a reasonable time period and to an acceptable standard? Explain these problems and how much longer it takes you on the form.

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

If, due to conditions such as depression, you regularly do not get dressed and stay in your pyjamas all day as it feels too much effort to get dressed because your mood is too low, explain that you need prompting, even if you do not get it—make it clear this help is needed because of your mental health. Caselaw[12] has found that if, at times, you have sufficient impetus to dress, such as for an appointment, but for the majority of days you lack the motivation due to your health, you could still score points for Descriptor C.

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

Reliably: In a reasonable time period:

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

Standard Rate – 8 points; Enhanced Rate – 12 points

Q9 - Communicating

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

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

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

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

☐ Yes
☐ No
☐ Sometimes

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

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

☐ Yes
☐ No
☐ Sometimes

Q9c - Extra information - Communicating

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

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

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

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

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

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

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

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

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

The HP guidance explains that communication support includes both people directly experienced in communicating to the claimant such as family members and people with experience of communicating with people with similar needs such as a sign language interpreter. The fact that family and friends experienced in communicating with the claimant can provide communication support has been confirmed by caselaw[22].

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

The guidance says verbal information can include interpretation from verbal into non-verbal form and vice-versa, e.g. speech to sign language or written text, as is clear from the legal definition. Following caselaw[23] the guidance now says that '*lip reading is not considered an acceptable way to interpret verbal communication'.*

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

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

Remember that the ability to understand is part of this descriptor, but because of the very limited legal definition in the regulations defining what basic and complex verbal information is, it can be very difficult to include people with even very basic communication abilities in this activity—think about whether it can be done to an acceptable standard, repeatedly, on the majority of days, when it is reasonable to need to communicate. But the HP guidance is trying to limit the scope further by stating the ability to remember and retain information is not part of this activity, giving the example of people with dementia or learning disabilities. We disagree with this– if you need support with understanding due to the level or type of learning difficulties or dementia, there is nothing in the regulations to prevent this, except the very limited legal definitions of verbal communication.

Caselaw[24] has looked at the interaction between the activities of communicating verbally and engaging with others and held that there is no reason a person cannot score under both descriptors if anxiety prevents verbal communication but it is not automatic. There must be communication problems as well as a problem with engagement to score under both but even if one causes the other, both (communication and social engagement) descriptors/problems can still count, the facts of each case must be considered, although it is very unlikely to apply to the limited legal definitions of verbal communication.

Reliably: To an acceptable standard:

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

Standard Rate – 8 points; Enhanced Rate – 12 points

Q10 - Reading

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

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

This means:

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

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

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

- ☐ Yes
- ☐ No
- ☐ Sometimes

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

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

- ☐ Yes
- ☐ No
- ☐ Sometimes

Q10c - Extra information - Reading

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

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

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

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

The legal definitions:

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

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

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

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

This activity considers both the inability due to cognitive impairment to understand written information and the ability to visually see information.

The guidance states that the prompting descriptors mean '*reminding, encouraging or explaining by another person. For example: may apply to claimants who require another person to explain complex written information due to a cognitive impairment person may need to be reminded of the meaning of basic/complex information'*. But remember there is nothing in law restricting the need for prompting to be only due to cognitive problems. So if your mental health prevents you from being able to even attempt to read a sentence due to anxiety, or your perception means you misunderstand things etc then there is no reason why this should not also count, but remember it is a very limited level of reading and understanding as restricted by the legal definitions.

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

The HP guidance example of '*complex written information'* given is: '*Your home may be at risk if you do not keep up repayments on your mortgage or any other debt secured on it. Subject to terms and conditions'.* But isn't this more complex than '*more than one sentence of written or printed standard size text in your native language'*. The HP example of '*basic written information'* given is a green exit sign on a door. This is not legally correct as it would be written in very large text, whereas the legal definition given in the regulations is *'written or printed in standard size text'*, which most people would think of as 12 point.

A useful piece of caselaw[25] has stated that Descriptor E, '*cannot read or understand signs, symbols or words at all'*, should apply if words cannot be understood even if signs and symbols can be, but '*points can only be awarded in respect of illiteracy if that illiteracy is linked to a physical or mental condition limiting that person's ability to read or which has prevented that person from learning to read'.* The HP guidance states E may apply to someone who needs another person to read everything for them due to a learning disability or severe visual impairment.

It is important to remember the legal definitions of what both basic and complex written information is and it has been confirmed in caselaw[26] as being the definitions being *'very basic indeed, and complex written information is hardly more so*'. Therefore you need to take into account that it is a very a high threshold of limited reading ability and the definition 'complex' is not what you would normally associate with the word.

To score points for this activity any illiteracy must be caused by a health condition or impairment, for example learning difficulties, and not due to a lack of education, so it is important to explain the reason why you are unable to read or understand information. People can often have unrecognized learning difficulties though, so think about school history, any extra help required etc. It has been confirmed in caselaw[25], that points can only be awarded due to illiteracy if the cause of illiteracy is linked to a physical or mental condition limiting that person's ability to read or which has prevented that person from learning to read.

Standard Rate – 8 points; Enhanced Rate – 12 points

Q11 - Mixing with other people

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

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

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

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

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

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

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

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

☐ Yes
☐ No
☐ Sometimes

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

☐ Yes
☐ No
☐ Sometimes

Q11c - Extra information - Mixing with other people

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

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

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

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

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

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

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

The Government has said this activity is about difficulties engaging with other people generally, not just people you know well and so have not confined the descriptors to specific situations. The HP guidance confirms this activity should consider your ability to '*interact face to face in a contextually and socially appropriate manner, understand body language and establish relationships'*. Caselaw[27] has held that a physical problem causing communication difficulties could cause anxiety in social situations may be sufficient for this activity to apply, so explain the impact any physical problems may have on your confidence and anxiety levels in social situations.

For Descriptor D, the HP guidance states that overwhelming psychological distress means '*distress related to a mental health condition or intellectual or cognitive impairment which results in a severe anxiety state in which the symptoms are so severe that the person is unable to function',* and that '*behaviour which would result in a substantial risk of harm to the claimant or another person must be as a result of an underlying health condition and the claimant's inability to control their behaviour*'.

The guidance says for Descriptor C that '*vulnerability to the actions of others is considered in this activity. For example, someone with cognitive or learning impairment may be less risk aware and vulnerable to manipulation or abuse*'. Family and friends that know the person well will count as experienced in assisting people to engage in social situations as well as people who do not know them but are used to providing support to people with health conditions or impairments. The HP guidance states that C is '*all about needing social support to engage in order to reduce anxiety (note the legislation does not refer to overwhelming psychological distress and so the bar is much lower), or to assist with social integration, or to minimise harm to the claimant or others'* . It may help to describe what the person giving support is doing i.e. providing reassurance, explaining how to behave, monitoring for inappropriate behaviour etc.

The guidance for B states that it could be needing reassuring and calming and '*applies to people who need someone present for part of the time to help them socially engage, for example somebody with depression who might need intermittent encouragement',* and that for C it '*applies to people who can only engage with others with active and skilled support on the majority of days, or who are left vulnerable due to their level of risk -awareness as a result of their condition'* and that *'social support is something over and above prompting such as active intervention and not mere reassurance by presence'*. This is a more narrow view than in caselaw, although the DWP is appealing against the Court of Session (Scotland) decision to the UK Supreme Court. This case[28] confirmed that prompting or social support do not have to occur during or immediately before the social engagement, although there must be a '*temporal or casual link*' and that '*prompting'* or encouraging can count as '*social support' , 'if, to render it effective or to increase its effectiveness, it requires to be delivered by someone trained or experienced in assisting people to engage in social situations.'* . Social support includes '*moral or emotional support'*[29]. It could be that prompting or social support is what later allows engagement to take place. So explain if your support worker, counsellor, family etc, actually prepare you in advance to cope with social engagement.

The inability to engage socially must be as a result of your health condition or impairment and not '*simply a matter of preference by the claimant'*. Therefore if you are unable to engage socially due to your mental health, such as due to your level of anxiety or because of problems establishing relationships with people because of being on the autistic spectrum, explain both the problems and the cause of the problems. Caselaw[30] has held that the ability to engage face to face, refers to engaging with an individual or small group as it is not possible to engage face to face with a crowd and that reciprocating exchanges[31], such as buying an ice cream, does not meet the legal definition of engage socially. A Court of Appeal[32] decision has now stated that '*this activity encompasses all forms of social engagement, whether the 'relationship' established lasts ten minutes, ten days or ten years…, it is a low threshold.'*

Explain how often you have cancelled appointments because on that day your level of anxiety or paranoia was too high for you to cope with engaging with other people. Going to your PIP face to face assessment is not the same as engaging socially and establishing relationships, but if you manage to go on your own, it is likely to be construed that you do not have a problem with this activity, if your anxiety levels make appointments difficult try to take someone with you. .

Reliably: Safely: Becoming violent which presents a serious risk of harm to the claimant and/or another person.—Use examples of any incidents that have happened when your health has resulted in being unable to control your temper leading to aggressive behaviour towards others. Also consider whether verbal aggression and/or disinhibited behaviour may be a safety risk, it must be related to your health condition.

Q12 - Making decisions about money

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

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

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

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

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

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

☐ Yes

☐ No

☐ Sometimes

By this we mean:

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

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

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

☐ Yes

☐ No

☐ Sometimes

By this we mean:

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

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

Q12c - Extra information - Making decisions about money

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

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

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

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

The legal definitions:

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

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

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

BUT the legal definition of assistance is 'physical intervention by another person and does not include speech', therefore if you need physical help to 'carry out' his activity i.e. assistance, then legally it should apply. E.g. a blind person may need the physical intervention of someone in order to see their change in a shop or to see the amount on a bill in order to make a decision. The HP guidance, following caselaw[33] states that '*reduced vision or mobility does not impact on making budgeting decisions. The fact that a person's limited sight or mobility make it difficult for them to see price tags in shops or get about may mean that they require someone else to read or help with travel, but it does not itself give rise to difficulty in making the decisions.*' There has been caselaw[34] stating that this activity primarily refers to the cognitive/intellectual decision making process but giving no definitive answer on whether help or the degree of help needed for people with physical disabilities (eg reading out a bill to a blind person) to put them in a position to make the decision does or does not count therefore the argument should still be made.

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

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

The HP guidance for B states that some people may lack motivation to do this activity and consideration must be given as to whether this is due to a health condition and '*whether the individual would carry out the activity if they really had to'* for example, after receiving a final notice letter. The current HP guidance helpfully goes on to state that *'complex budgeting decisions are not just a string of simple sums, but the ability to respond appropriately to changing circumstances and events, as income and outgoings change, new demands are made, new things become priorities. Because of this, conditions such as depression can have an impact if they mean that the person is unable to respond to these changing circumstances and demands*.'

The HP guidance now states that '*where bad budgeting decisions are made, consideration must be given to whether this is as a result of a health condition or impairment.'* So if, due to mental health conditions such as manic depression, you lose control of your decision making ability when in a manic or 'high' phase and spend all of your money with no thought of the consequences, then explain this here and explain any patterns of this behaviour. Caselaw[35] has found that impulsiveness due to ADHD and using up funds on '*superficially attractive propositions'* amounts to decision making as in not paying bills.

A further case[36] looked at a claimant with ASD who '*might have difficulties with respect to budgeting as a result of the condition even if there is sufficient intellectual ability and even where there is a demonstrable ability to motivate in the context of the performance of other sorts of tasks. In particular what is said about persons with ASD (an abbreviation for autistic spectrum disorder) becoming narrowly focused to the exclusion of other tasks which hold less importance might be thought to hold relevance'*. While you may have the cognitive and intellectual ability to understand and although complex budgeting decisions may not so '*burdensome*' to require much motivation, it should be considered whether on the evidence if '*any prompting must be needed'*.

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

Standard Rate – 8 points; Enhanced Rate – 12 points

Q13 - Going out

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

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

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

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

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

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

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

☐ Yes
☐ No
☐ Sometimes

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

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

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

☐ Yes
☐ No
☐ Sometimes

Q13 - Going out continued

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

☐ Yes
☐ No
☐ Sometimes

Q13d - Extra information - Going out

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

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

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

Mobility

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

IMPORTANT CHANGES: the wording of Descriptors C, D and F changed for new claims from 16/03/17, to prevent caselaw (MH[37]) from a three judge panel decision on 28/11/16 from continuing to apply. MH said that following a journey includes both navigation and ability to make progress which may be limited if a person experiences overwhelming psychological distress. Because MH was made by a three judge Upper Tribunal, it was binding over single judge decisions and decision makers and first tier tribunals. The effect was to widen the descriptors and allow claimants whose mental health meant that their distress was suitably overwhelming and therefore needed someone with them in order to get where they were going on either familiar or unfamiliar routes to score points.

However in a judicial review the High Court[38] ruled on 21/12/17 that the changes to the regulations for this activity are unlawful and should be quashed. This was followed by the Secretary of State for the DWP, Esther McVey, announcing on 19/01/18 that they would not be appealing the High Court decision and they would be taking steps to implement MH. So although the wording of regulations have not changed, they should now be read with 'for reasons other than psychological distress' deleted. This did not happen straight away as health professionals and DWP decision makers continued to use the previous guidance until new guidance incorporating MH was published at the end of June 2018 (the guidance had never been updated in line with MH in the period from the decision in Nov 2016 until the descriptor changes in March 2017). Therefore this guide has now been updated in line with both MH and the current guidance (with relevant comments from previous guidance included).

The legal definitions:

Psychological distress: is defined in the regulations as distress related to an enduring mental health condition or an intellectual or cognitive impairment.

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

Orientation aid: a specialist aid designed to assist disabled people to follow a route safely. (Caselaw[39] confirms that to be an orientation aid, a SatNav must either have been specially designed or modified to assist the disabled in following a route safely).

The HP Nov 18 guidance states this activity is designed for limitations on mobility for claimants with mental, cognitive or sensory impairments and '*cognitive impairment includes orientation (understanding of where, when and who the person is), attention, concentration and memory'.*

The guidance says that it is useful to separately consider the:

- *'ability to plan the route of a journey in advance'* (C)
- *'ability to leave the home and embark on a journey and'* (B & E)
- *'ability to follow the intended route once they leave the home'* (D & F)

'Overwhelming psychological distress' (OPD) is described as meaning '*severe anxiety state in which the symptoms are so severe that the person cannot undertake a journey without being overwhelmed'* and that the '*threshold is a very high one'* and '*a claimant who, without prompting, would be left feeling anxious, worried or emotional does not meet it'*. OPD could occur with agoraphobia, dementia, generalised anxiety disorder or panic disorder.

If a claimants safety is at risk from falls when planning and following a journey, but not due to physical walking problems, the guidance says that it can count here *'where the fall arises as a result of a sensory or cognitive impairment (for example, seizures associated with loss of consciousness)'*, this could apply for descriptors D and F.

The previous HP Sept 16 guidance stated that 'journey' means a local journey, whether familiar or unfamiliar. However a Judge has dismissed the guidance as irrelevant stating that there is no mention of the journey needing to be local in the law. This caselaw[40] says that by limiting consideration to only local journeys gives different entitlement depending on where you live stating that '*a person who lives in a quiet corner of rural Wales will be subject to a different test from one who lives on the outskirts of London or some other 'intimidating destination'* . However despite the Judge dismissing the HP guidance as irrelevant, it is still important to know how the HP carrying out your assessment and the decision maker is likely to assess your claim.

For Descriptor B the guidance says it applies when going out causes overwhelming psychological distress and prompting is needed on the majority of days to undertake the journey.

NB: Continued on the next page

Planning and Following Journeys continued:

The HP guidance no longer says that B applies where someone needs prompting to 'complete' the journey, instead (due to MH) it states '*in practice, this is only likely to apply in the circumstance where someone needs prompting to set off on the journey, but would not need another person whilst on the journey itself*'.

Descriptors B and E refer to any journey familiar or not and the guidance states '*any journey' means that in order to satisfy the descriptor on a day the person must require prompting with every single journey on that day to avoid OPD. If the person can manage to leave the home to make a journey once without prompting then on that day the descriptor is not satisfied.'* So if you can pick the kids up from school or get to the local shop most days, neither apply even if you cannot go anywhere else that day. This risks ignoring the issue as confirmed by caselaw[41] that if something cannot be done for a significant part of the day when it would be reasonable to, it cannot be done. A descriptor only has to apply on over 50% of days, so if you can go out some days explain the proportion of good/bad days. A descriptor should apply if it applies at any time of the day in a 24 hour period if you would reasonably need to do it at that time (this is separate from the requirement to be able to do something repeatedly) and so if you cannot go out without prompting for B or at all for E for a significant portion, when it would be reasonable for you to want to, of the majority of days then arguably points should be scored.

The guidance says B might apply if '*the claimant becomes panicked before any journey and they are only able to get out of the door if someone provides encouragement and reassurance that there are no dangers or threats as a result of going outside. However, once they are out they are able to follow a route independently without help*.'

The guidance says if you can only go out at night then this '*is not considered to be undertaking a journey to an acceptable standard'* and therefore E may be the appropriate descriptor instead.

The HP guidance states that E *'is likely to apply to claimants with severe mental health conditions (for example, severe agoraphobia, panic disorder or psychotic illness associated with severe paranoia) or cognitive impairments (for example, a person with dementia who may become very agitated and distressed when leaving home, to the extent that journeys outside the home can no longer be made either at all, or on the majority of days, even with the support of another person).'*

In line with MH, the guidance explains that if E applies to you, then F can't, so if for the majority of days you are unable to go anywhere, even if you can sometimes go out and manage a familiar route because you are accompanied, then E is the appropriate descriptor.

Since 'for reasons other than psychological distress', is no longer part of descriptors C, D and F, we no longer have to always stress how the difficulty planning or following a route for people with mental health problems is not only due to psychological distress, however as MH held that to apply the psychological distress needs to be SO overwhelming, I recommend still using the arguments about how mental health is affecting the cognitive ability to follow a route.

So as the DWP have now said the MH should be followed, what does it say? It was a long decision (19 pages long) but if we distil it down to the basics, '*follow a route'* does not just mean navigate and also includes '*making one's way along a route'*. For people suffering from psychological distress, the descriptors mean in essence:

B – Prompting to avoid overwhelming psychological distress before embarking on a journey – so prompting to leave the house, but problems after leaving the house may come under the other descriptors.

D – Needing someone with you on an unfamiliar journey because otherwise the psychological distress would be so overwhelming that you could not complete the journey.

E – Overwhelming psychological distress means you cannot go out.

F - Overwhelming psychological distress is not taken into account if E is satisfied because E means you can't go out, so F applies if the distress is so overwhelming that you could not complete a familiar journey alone.

Caselaw[43] following on from MH has stated that D or F could apply '*so long as it can be demonstrated that the passive presence of another person is sufficient, on the facts, to avoid overwhelming psychological distress being experienced by a claimant when attempting to follow the route of a journey'.*

The HP guidance states that C applies to people who, due to cognitive or developmental impairments, '*cannot formulate a plan for their journey in advance using simple materials, such as bus route maps, phone apps or timetables. The route that is being planned is unfamiliar – one does not need to plan a familiar route*.' Remember to also check whether the cognitive impairment also means you need someone with you to reliably follow that planned route and D or F may be more appropriate.

The HP guidance now updates the definition of '*follow the route'* as meaning *'make one's way along a route to a destination. This involves more than just navigation of the route; it also includes making your way along the route reliably. Safety should be considered in respect of risks that relate to making ones' way along a route (for example, tendency to wander into the road, inability to safely cross a road or risk of self-harm due to overwhelming psychological distress caused). For example, a claimant with a severe visual or profound hearing impairment may be at a substantial risk from traffic when crossing a road*.'

MH looked at the meaning of 'follow' and stated *'the phrase 'follow the route', when given its natural or ordinary meaning, clearly includes an ability to navigate but we do not consider that it is limited to that. Navigation connotes finding one's way along a route, whereas 'follow a route' can connote making one's way along a route or… 'to go along a route' which involves more than just navigation.'*

The guidance states that D *'is most likely to apply to claimants with cognitive, sensory or developmental impairments, or a mental health condition that results in overwhelming psychological distress, who cannot, due to their impairment, work out where to go, follow directions, follow a journey safely or deal with minor unexpected changes in their journey when it is unfamiliar. A claimant who suffers overwhelming psychological distress whilst on the unfamiliar journey and who needs to be accompanied to overcome the overwhelming psychological distress may satisfy descriptor 1d.'*

The guidance states you should only be considered able to follow an unfamiliar journey if you are capable of using public transport out of ability rather than choice, implying if your health prevents you from using public transport then Descriptor D could apply.

The guidance also states that '*the route has already been planned. Any significant diversions from that route are therefore irrelevant – it is no longer the planned route. However, making one's way around road works, or a change of train platform (i.e. minor diversions) are part of being able to follow the route of a journey. For example a profoundly deaf person may need a person to accompany them to relay information, such as changes to a journey, due to minor disruptions*.' This approach is also applied to F, a familiar journey does not need to be planned and if it changes it is no longer familiar.

A very helpful piece of the HP guidance for D is that it 'refers to "*an unfamiliar journey" rather than "any unfamiliar journey"…. it's not necessary to show that they need such support for every possible unfamiliar journey on most days.'* The same reasoning is applied for F, so again support does have to be needed for every possible familiar journey, therefore you may be able to get to a close, familiar, local shop but need assistance for most other familiar journeys.

The guidance for F says it is *'most likely to apply to claimants with cognitive, sensory or developmental impairments, or a mental health condition that results in overwhelming psychological distress, who cannot, due to their impairment, work out where to go, follow directions, follow a journey safely or deal with unexpected changes in their journey, even when the journey is familiar. A claimant who suffers overwhelming psychological distress whilst on the familiar journey and who needs to be accompanied to overcome the overwhelming psychological distress may satisfy descriptor 1F.'*

The guidance also says F could apply to '*a claimant who is actively suicidal or who is at substantial risk of exhibiting violent behaviour and who needs to be accompanied by another person to prevent them harming themselves or others when undertaking a journey would meet this descriptor. In cases such as this, the HP should look for evidence of suicidal thoughts and/or behaviour. In cases of violent behaviour there must be evidence that they are unable to control their behaviour and that being accompanied by another person, who can intervene if necessary, reduces a substantial risk of the person committing a violent act.'*

Some examples of how mental health could affect the ability to both follow a route and make your way along a route that do not involve overwhelming psychological distress could include: being too distracted by voices, delusions, thoughts, altered awareness, psychosis, perception etc, which then affect your mental processes and resulting in this affecting your cognition and navigation skills. Someone with OCD may not be able to follow the route in a reasonable time period if they have to go back to start due to something on the route and try again, how is this different from someone with learning difficulties not being able to deal with unexpected changes? If due to disinhibition or lack of awareness of risk, supervision or support are required to follow a journey safely then Descriptor D or F should be argued

Reliably: Safely:

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

The updated DWP guidance for decision makers on safely has given examples:

- Claimant with epilepsy, weekly seizures without warning and injuries from previous falls. Physically no problems walking, but loses consciousness - a cognitive/ sensory impairment. Risk as cannot travel any route safely without another person due to risk of injury from falls.
- Claimant with episodes of narcolepsy, causing them to lose consciousness, but now have better control over the condition and not had any events for 3 months— because of this the guidance say that it is reasonable that the risk of harm is too remote to score points.

Caselaw[42] has considered an claimant with visual impairment and found that it should '*consider whether the claimant could safely follow the route of a familiar journey without another person, taking into account, for example, the effect of lighting conditions, traffic and/or when there were unexpected obstacles*.' It is important for people with visual impairments to consider not just visual acuity but issues such as visual field and spatial awareness, so explain all the visual problems that affect you safely seeing where you are going.

Standard Rate – 8 points; Enhanced Rate – 12 points

Q14 - Moving around

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

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

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

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

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

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

- ☐ Yes
- ☐ No
- ☐ Sometimes

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

- ☐ Yes
- ☐ No
- ☐ Sometimes

Q14 - Extra information - Moving around

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

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

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

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

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

Therefore a double amputee cannot stand and should be awarded Descriptor F, but a single lower limb amputee may be able to stand, a prosthesis is considered to be an appliance in the guidance and therefore you will have to consider how far you can reliably move. Move is not defined in the regulations but the guidance clarifies that this activity requires a person to stand and then move independently while remaining standing. If a wheelchair is needed to move that distance you should be considered not to be able to stand and move the distance.

The HP guidance states this activity should be judged in relation to flat outdoor surfaces including kerbs. This has been supported by caselaw[44] '*a reasonably flat pavement'* and no account is taken of where in Swansea you actually live.

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

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

The HP guidance says in order to do this activity reliably, consideration should be given to the manner of moving, including gait, speed, risk of falls, symptoms or side effects such as pain, breathlessness and fatigue. Levels of pain should still be considered as to whether moving is to an acceptable standard, including in stoic claimants who, despite pain, may walk further in a reasonable time. '*Limited pauses do not necessarily mean the bout of moving has come to an end. For example, a claimant who has some difficulty with balance may pause before avoiding a small obstacle or stepping up onto a kerb – the claimant should not be viewed as completely stopping at that point*.' So brief pauses do not stop the distance you can walk, but longer halts could and brief pauses could also bring into question whether you can manage the distance in a reasonable time period. So explain why you need to stop and how long before you can move again and how this affects your speed of walking. The guidance says a reasonable walking speed is 30 metres per minute.

The HP guidance states that this activity is only the physical act of moving and awareness of danger is considered under Planning and Following Journeys. However there may be some overlap in the case of falls and there will remain issues surrounding people suffering from conditions such as autism who may refuse to walk and ground themselves and therefore are unable to manage the physical act of walking. The cause of problems with moving around do not have to be physical and genuine psychosomatic pain[45] or exhaustion could limit your physical ability to move around.

The meaning of Descriptor C had divided opinion in caselaw[46] as to whether this means that although you can manage no further than 50 metres without an aid, does this mean no further than 50 metres even if you have an aid or does it not matter how far you can go with an aid as long as you cannot go further than 50 metres unaided. However a further case[47] looked at both and concluded that C only applies to people who can not go further than 50 metres either aided or unaided and this is realistically the approach that will be accepted.

Reliably: Repeatedly:

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

Caselaw[48] has established that how often a claimant wants to walk should be taken into account. This can be overlooked when deciding how often it is reasonable for someone to move around, so give examples of how your mobility restricts you from doing the things you would like to do.

Safely: Falling

Standard Rate – 8 points; Enhanced Rate – 12 points

Q15 - Additional Information

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

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

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

Section 4 - What to do now

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

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

What happens next

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

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

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

Coming to a face-to-face consultation

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

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

Face to Face Consultation:

A healthcare professional will assess which of the 'daily living' and 'mobility' descriptors apply. This is very similar to an Employment and Support Allowance medical although the descriptors are different. Claimants can take someone with them to this assessment. You can record the assessment, but you must notify Capita in advance and sign an agreement that specifies how you may use your copy. The recording can only be carried out on a tape or cd machine capable of recording 2 identical copies at the same time. Trails of videoing assessments are taking place. During the assessment written notes can be taken that do not have to be provided to the assessor.

Capita, who are responsible for arranging the assessments in Wales, initially stated that a large number of the consultations would take place in the claimant's home. Locally they usually take place at an assessment centre, usually at Frigate House in Swansea, although you could be asked to attend an assessment centre further away. Home visits can be arranged when Capita identify the need from your PIP2 form and/or supporting medical evidence that has been provided or obtained. On your PIP2 form or, if providing a letter from you're a medical professional supporting your request to be seen at home, give clear reasons why you are unable to attend the assessment centre. Capita state on their website that if you cancel your appointment more than once, are more than 20 minutes late for your consultation or fail to provide your ID you will be treated as having failed to attend. If you do not provide what is accepted as a good reason to the DWP your claim will be refused. For more information go to www.capita-pip.co.uk.

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

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

Length of PIP award:

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

The HP guidance has been updated to allow a recommendation that no review will be necessary because the claimant's functional impairments will never substantially improve, giving this example '*his learning disability has been present since birth and his functional limitations are unlikely to change now. He lives in supported accommodation and there has been no change to his functional ability in the last few years. A review is not likely to be considered necessary.*' They also give an example of a claimant with high levels of impairment due to motor neurone disease which is progressive and his needs are only likely to increase.

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

Further details are given in Decision Making Process Guidance (DWP internal guidance), but a copy was obtained through a freedom of information request. This states that a short fixed term award can be made with or without a planned intervention date, based on the HP's recommendation. If there is no planned intervention date then the award stops at the end date and a new claim is needed. If then the HP says there is likely to still be problems at the recommended review date, then the review date will be set 12 months before the end of the award. A longer fixed term award will happen when the HP says there will still be problems at the recommended review point and the review point is more than 12 months from the assessment date. The DWP's PIP computer system is set up to issue an 'end of award notification' 14 weeks before the end of the award and guidance notes on how to claim if the claimant considers their 'needs have continued'. Caselaw[49] has determined that the decision on whether a fixed term award is inappropriate is appealable.

Caselaw References:

1)	[2016] UKUT 501 (ACC)	CPIP/3352/2015
2)	[2017] UKUT 105 (ACC)	CPIP/1599/2016
	reported as [2017] AACR32	
3)	[2016] UKUT 326 (ACC)	CPIP/665/2016
4)	[2017] UKUT 358 (ACC)	
	[2016] UKUT 572 (ACC)	
	[2017] UKUT 317 (ACC)	
5)	[2018] UKUT 209 (ACC)	CPIP/2098/2017
6)	[2016] UKUT 322 (ACC)	CPIP/190/2016
7)	[2016] UKUT 490 (ACC)	CPIP/2308/2015
	reported as [2017] AACR17	
8)	[2016] UKUT 530 (ACC)	CPIP/721/2016
9)	[2016] UKUT 556 (ACC)	CPIP/2916/2016
10)	[2016] UKUT 196 (ACC)	CPIP/2094/2015
	reported as [2016] AACR43	
11)	[2018] UKUT 139 (ACC)	CPIP/2039/2017
12)	[2016] UKUT 194 (ACC)	CPIP/181/2016
13)	[2016] UKUT 456 (ACC)	CPIP/2908/2015
14)	[2017] UKUT 258 (ACC)	CPIP/387/2017
15)	[2018] UKUT 78 (ACC)	CPIP/3104/2017
16)	[2016] UKUT 296 (ACC)	CPIP/5352/2014
17)	[2015] UKUT 570 (ACC)	CPIP/1787/2015
18)	[2015] UKUT 498 (ACC)	CPIP/1739/2015
19)	[2017] UKUT 54 (ACC)	CPIP/449/2016
20)	[2017] UKUT 156 (ACC)	CPIP/3730/2016
21)	[2015] UKUT 309 (ACC)	UK/5338/2014
	reported as [2016] AACR10	
22)	[2016] UKUT 550 (ACC)	CPIP/1534/2016
23)	[2018] UKUT 376 (ACC)	CPIP/305/2018
24)	[2016] UKUT 8 (ACC)	CPIP/2301/2015
25)	[2017] UKUT 30 (ACC)	CPIP/1769/2016
26)	[2017] UKUT 301 (ACC)	CPIP/777/2016
27)	[2016] UKUT 160 (ACC)	CPIP/2559/2015
28)	[2017] CSIH 57	SSWP v MMcK
29)	[2016] UKUT 191 (ACC)	CSPIP/35/2016
30)	[2017] UKUT 7 (ACC)	CPIP/2983/2016
31)	[2017] UKUT 352 (ACC)	CPIP/1127/2017
32)	[2018] EWCA Civ 851	Hickey v SSWP
33)	CPIP/1650/2015	
34)	[2016] UKUT 530 (ACC)	CPIP/721/2016
35)	[2017] UKUT 156 (ACC)	CPIP/3730/2016
36)	[2018] UKUT 169 (ACC)	CPIP/3257/2017
37)	[2016] UKUT 531 (ACC)	CPIP/1347/2015 MH v SSWP
38)	[2017] EWHC 3375 (Admin)	RF v SSWP
39)	[2017] UKUT 480 (ACC)	CPIP/3759/2016
40)	[2016] UKUT 420 (ACC)	CPIP/1328/2016
41)	[2015] UKUT 643 (ACC)	CPIP/2287/2015
42)	[2017] UKUT 456 (ACC)	CPIP/1998/2017
43)	[2018] UKUT 339 (ACC)	CPIP/703/2018
44)	[2016] UKUT 240 (ACC)	CPIP/139/2016
45)	[2016] UKUT 146 (ACC)	CPIP/301/2015
46)	[2015] UKUT 612 (ACC)	CPIP/4572/2014
	[2015] UKUT 529 (ACC)	CPIP/694/2015
47)	[2016] UKUT 501 (ACC)	CPIP/3352/2015
48)	[2017] UKUT 154 (ACC)	CPIP/3622/2016
49)	[2016] UKUT 85 (ACC)	CPIP/5459/2014

Summaries of and links to the full decisions can be found on **pipinfo.net**
Pipinfo is published by Lasa: the social welfare law and tech charity.