

Parliamentary briefing from Mind



Changes to Personal Independence Payment

March 2017

About Mind

We're Mind, the mental health charity for England and Wales. We believe no one should have to face a mental health problem alone. We campaign to improve services, raise awareness and promote understanding.

Summary

People who find it difficult to leave the house because of anxiety, panic attacks, and other mental health problems are as restricted in their independence as many people with physical mobility problems, and face just as many higher costs in their daily lives as other disabled people do. These include higher transport costs for those unable to use public transport or drive, and costs associated with hiring a support worker.

The Government is [proposing changes to Personal Independence Payments](#) (PIP). PIP is awarded to cover the extra costs that disabled people face, and is gradually replacing Disability Living Allowance. The Government's changes to PIP would affect over 160,000 people with mental health problems - both in and out of work - who have extra costs related to their disability. These changes mean that people who need help to make journeys because of psychological distress will not receive the same level of support as other disabled people.

The Government argues that they are simply restoring the original intention of PIP following a ruling from the Upper Tribunal which changed the scope of the benefit. They say that people with mental health problems will still be eligible for PIP in the same way as other disabled people.

We remain concerned because:

- The Government made clear commitments in 2012 that people who experience psychological distress will be eligible for the criteria that are now being changed.
- The Government has said that a person with a cognitive impairment alone will still be eligible for the highest mobility rate, but cognitive impairments are not the same as mental health problems.
- Specifically excluding psychological distress undermines the stated purpose of PIP as a benefit which 'treats disabled people as individuals rather than labelling them by their condition'.
- The proposed changes would create a legal distinction between mental health problems and other kinds of impairments when it comes to benefits assessments.

We are calling for the Government to reconsider these changes, and for the regulations to be annulled.

What was the situation before the Upper Tribunal?

The PIP assessment awards someone points based on whether they are able to do certain activities, or whether they need support to do those activities safely and reliably. The Upper Tribunal decision, and the Government's changes involve one particular activity – planning and following journeys.

When this system was first introduced in 2012, Mind and other mental health charities raised concerns. We thought that people with mental health problems would only be able to score points under the criteria which used the words 'psychological distress'. The Government provided reassurances that this was not the case, and that people with mental health problems could potentially score points in a range of criteria if their condition meant they struggled to plan and follow journeys:

"Concern was raised that the activity takes insufficient account of the impact of mental health conditions on mobility. We do not consider this the case. Individuals could potentially score in a number of descriptors in the activity if they cannot go outside to commence journeys because of their condition or need prompting or another person to accompany them to make a journey" ([link](#))

This commitment was echoed in statements Ministers made in debates surrounding the passage of the Welfare Reform Bill in 2012:

Maria Miller (Former Minister for Disabled People, 7 February 2012): *"The Government have made clear that they want personal independence payment... to take fairer account of the impact of mental, intellectual, cognitive and developmental impairments than DLA does currently... For example, when considering entitlement to both rates of the mobility component we will take into account ability to plan and follow a journey, in addition to physical ability to get around. Importantly, PIP is designed to assess barriers individuals' face, not make judgment based on their impairment type."*¹

Esther McVey (Former Minister for Disabled People, 26 November 2012): *"The personal independence payment assessment will look at disabled people as individuals, rather than labelling them by their health condition or impairment. The assessment is being designed to consider an individual's ability to carry out key everyday activities, and will take account of physical, sensory, mental, intellectual and cognitive impairments"*.²

However, in practice, the Department for Work and Pensions has not deemed people who experience psychological distress eligible for the full range of points, regardless of how severely that distress affects them. This has meant that 164,000 people have received a lower rate than they should have been entitled to. This injustice prompted the involvement of the Upper Tribunal.

What did the Upper Tribunal rule?

In December 2016, the Upper Tribunal ruled that someone who has to be accompanied on journeys in order to avoid suffering overwhelming psychological distress can be eligible for any of the criteria within 'planning and following journeys' (depending on how severely their condition affects them).

¹ <https://www.theyworkforyou.com/wrans/?id=2012-02-07b.92568.h&s=mobility+component+mental+health+section%3Awrans#g92568.r0>

² https://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm121126/text/121126w0006.htm#121126w0006.htm_snews28

The Upper Tribunal recognised that someone suffering from psychological distress may need assistance while undertaking a journey in the same way as someone with a visual or cognitive impairment might:

'...overwhelming psychological distress can have the effect that a person is unable to follow the route of a journey because he or she may become unable to navigate or, we would, to make progress. A person who is accompanied may be encouraged to overcome the distress whereas a person who is unaccompanied may not.'

The court ruled that someone who is unable to follow a familiar journey without assistance due to psychological distress could be entitled to the higher award and someone unable to follow an unfamiliar journey without assistance could be entitled to the standard award. This clarified the Welfare Reform Act's intentions to support people on their abilities to undertake activities, rather than basing their benefit on condition or diagnosis.

What is the Government changing?

In response to the Upper Tribunal's ruling the Government have introduced legislation which would mean 'psychological distress' can only be relevant when considering two specific criteria for 'planning and following journeys'. This would mean that people who experience psychological distress would only be eligible for the lower rate.

The updated guidance which accompanies the new legislation provides the following illustrative example:

Sukhi suffers from severe anxiety and claims she needs someone with her for reassurance when going out at all times as otherwise she suffers from very severe panic attacks, sweating and breathlessness. Sukhi has sought an award under mobility descriptor 1f as she cannot follow the route of a familiar journey without another person. However, the [decision maker] determines that because of the wording of mobility descriptor 1f ("for reasons other than psychological distress, cannot follow the route of a familiar journey without another person, an assistance dog or an orientation aid"), any problems following the route due to psychological distress are not relevant. Consequently the [decision maker] awards 4 points under mobility descriptor 1b "needs prompting to be able to undertake any journey to avoid overwhelming psychological distress to the claimant".³

What is our main concern?

These changes undermine rather than restore the original intent of the legislation. By excluding psychological distress, they create a distinction between mental health and other conditions where the primary legislation was intended to apply to anyone with a disability or health condition.

The Government says that it is committed to treating mental health with the same priority it gives physical health – we need to see people with mental health problems being treated fairly and getting the support they need to live a full life. If someone is unable to complete a journey because of their health condition then they should be able to access the appropriate benefits, regardless of whether psychological distress is a factor.

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/599343/adm3-17.pdf

The proposed changes would create a legal distinction between mental health problems and other kinds of impairments when it comes to benefits assessments.

Who will be affected?

The Government's own figures show that there are 164,000 people who struggle to plan or follow journeys because of psychological distress. Their mobility is severely limited by their mental health problem.

The Government's equality analysis includes people with the following conditions as most affected by the change:

Mood disorders	Psychotic disorders
Schizophrenia	Schizoaffective disorder
Phobia - Social	Panic disorder
Post	Generalized anxiety disorder
Agoraphobia	Alcohol misuse
Anxiety and depressive disorders - mixed	Anxiety disorders
Depressive disorder	Bipolar affective disorder (Hypomania / Mania)
Obsessive compulsive disorder (OCD)	Post-traumatic stress disorder (PTSD)
Phobia – Specific	Personality disorder

These proposed changes could prevent people accessing the financial support they need to get to health or job appointments, get out to pay for fuel and heating, take their children to school or see friends and family – things essential to their daily lives and recovery, things essential to preventing isolation. The Government says that it is committed to treating mental health as seriously as physical health, but these proposals call this commitment into question. These misguided proposals must be reversed.

Will people with mental health problems still be able to access the higher mobility rate of PIP?

While people who have both mental health problems and other conditions will still be eligible for the highest rate – the changes mean that people whose mobility is limited by psychological distress alone will not be able to score enough points for the higher rate.

During the Urgent Question on 15 March, the Secretary of State said “under the regulations, people with a cognitive impairment alone can receive the highest rate of the mobility component of PIP. It is simply not the case that people with mental health conditions will not be able to do so.”

Mental health problems are not the same as cognitive impairments.

The distinction between the two is well understood both by healthcare professionals and by people with experience of these conditions. The DWP's own guidance for assessors makes clear that a cognitive impairment encompasses ‘orientation, attention, concentration and memory’. It lists examples of cognitive impairments as:

- Alzheimer's

- Dementia with Lewy bodies
- vascular dementia
- dementia associated with other conditions such as Parkinson's disease
- severe brain injury resulting in cognitive decline.

By contrast it defines psychological distress as 'distress related to an enduring 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.' As examples of mental health conditions it lists:

- Severe Depression
- Bipolar disorder
- Post-Traumatic Stress Disorder (PTSD)
- Obsessive Compulsive Disorder (OCD)
- Psychosis
- Schizophrenia
- Personality disorders

There are many people who experience conditions like anxiety, agoraphobia, schizophrenia, and post-traumatic stress disorder who struggle to make journeys because of psychological distress. Those people will be excluded from the descriptors and the higher rate of PIP as a result of these changes.

Is PIP a better benefit for people with mental health problems?

When PIP was introduced, we supported the principle that the assessment should focus on how someone's condition affects them – not what condition they have. That's why we're so concerned about these changes which undermine that principle and the commitment the Government made to people with mental health problems.

The Government says a higher *proportion* of people with mental health problems are receiving PIP compared to the old benefit Disability Living Allowance. However, the only way we can compare PIP and Disability Living Allowance is to look at the experiences of the people who have been moved from one to the other. Statistics released by the DWP in December 2016 show that 55% of people with mental health problems had their award reduced or removed altogether when they moved from DLA to PIP.⁴ ([Mind](#))

What can MPs do?

- These significant changes deserve a proper debate and scrutiny, and Parliament need to have a say on how their constituents will be affected.
- We urge you to call on the Government to table a debate on the changes to PIP regulations before 30th March – Parliament have until 3rd April to vote to annul the changes.
- That process will go through the 'normal channels' – if Government allow, a debate will take place. If majority vote for the Statutory Instrument to be annulled, this has statutory effect immediately.

We would welcome the opportunity to brief you further on this issue. Please do not hesitate to be in touch:

Katie Howe
Senior Parliamentary Officer

t: 0202 8215 2383
e: k.howe@mind.org.uk
Mind, 15-19 Broadway, London E15 4BQ

