



Personal Independence Payment (PIP)- Issues, evidence & tactics

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PIP topics covered

- PIP outline
- Myth Busters
- Migration from DLA
- Scoring system & terminology
- Issues and Top Tips to make a successful claim
- Recent case law & changes to regulations
- Appeals best practice
- PIP & other benefits
- Extra resources
- Questions?





PIP-Outline

- PIP is a benefit for people with long term illnesses, health conditions or disabilities that cause difficulty with getting around and/or completing daily living tasks.
- It is administered by The Department for Work and Pensions (DWP)
- Entitlement to PIP is not based on National Insurance contributions and is non means-tested (so income & savings do not affect it), non taxable benefit and can be paid to people in or out of work
- Main qualifying conditions: (except if special rules apply –more on this later)
 - ✓ Age 16-64
 - ✓ Normally live in the UK & present at least 2 of the 3 yrs before claiming
 - ✓ Conditions have affected claimant at least 3 months & likely to continue for at least 9 months
- PIP made up of two components – **Daily living** and **Mobility** and an award can be made up of one or both with any combination of Standard and Enhanced rates. Entitlement to the components is assessed based on a set of 12 activities- 10 daily living & 2 mobility

Common myths

MYTHS



MYTH: You must have a carer to claim Daily Living component

What matters for entitlement to PIP is the effect the disability of health condition has on daily living abilities, not the help actually received

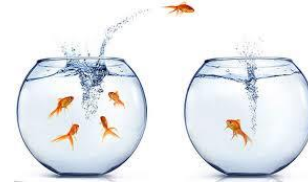
MYTH: If I have a certain condition (e.g COPD) I will definitely get PIP

What matters for entitlement to PIP is the effect the disability of health condition has on abilities, not the diagnosis

MYTH: It takes months for a PIP claim to be processed

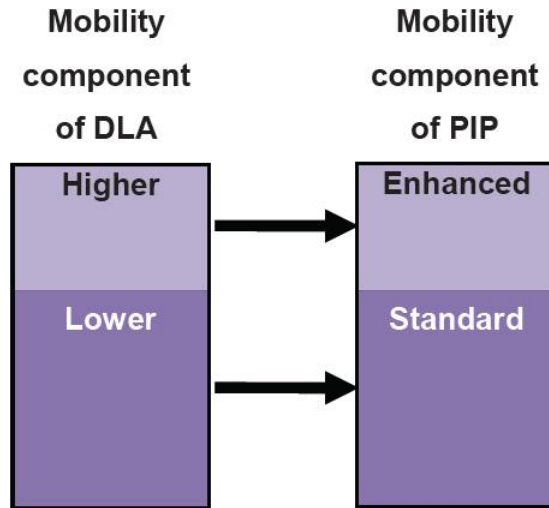
It is a lengthy process for most but for claimants diagnosed as permanently ill, with prognosis of less than 6mths claims are fast tracked under Special Rules. In these cases there is no 3 month qualifying and Enhanced rate Daily living is automatically awarded. Mobility is still assessed but usually via a paper based decision. Awards are set for 3 years

Migration- What stage is at & who will it affect?



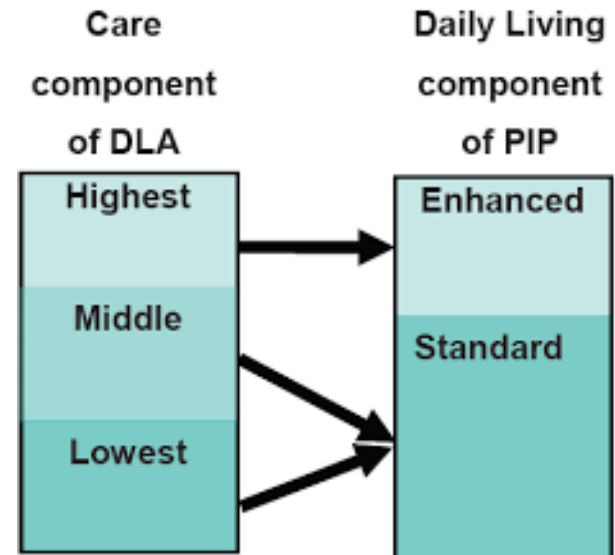
- **PIP replaces DLA for anyone turning 16 or who was under 65 on 08/04/2013** –so some people still on DLA now aged over 65 will be reassessed for PIP because of DWP delays with migration.
- **DLA indefinite awards**-Will also be reassessed for PIP if within age bracket
- **Migration triggers**- Reports of change of circumstances, a fixed term DLA award is due to end, Children turning 16
- **Full Personal Independence Payment Roll-Out (FPR): 1 October 2017** The next phase of Roll Out commenced on 1 October. A further 22,268 DLA claimants, selected at random, will be invited to make a claim to Personal Independence Payment (PIP).
- **Invitation to claim**- If claimants don't respond to claim PIP then their DLA will end. If they respond within the deadline DLA will continue to be paid until a 28 days after the PIP decision date.

Migration- How do DLA & PIP compare?



DLA mobility was based on a test of being 'unable or virtually unable to walk'
PIP has a set distance test meaning a claimant with a physical limitation can only qualify for Enhanced rate mobility if they can only move less than 1 metre.

DLA had a low rate care component awarded to some claimants on the basis that they could only prepare a cooked meal in a microwave- these claimants wouldn't meet the points threshold for standard rate Daily Living component on this criteria alone, as the max score for preparing food using a microwave is 2 (6 pts short of the threshold)



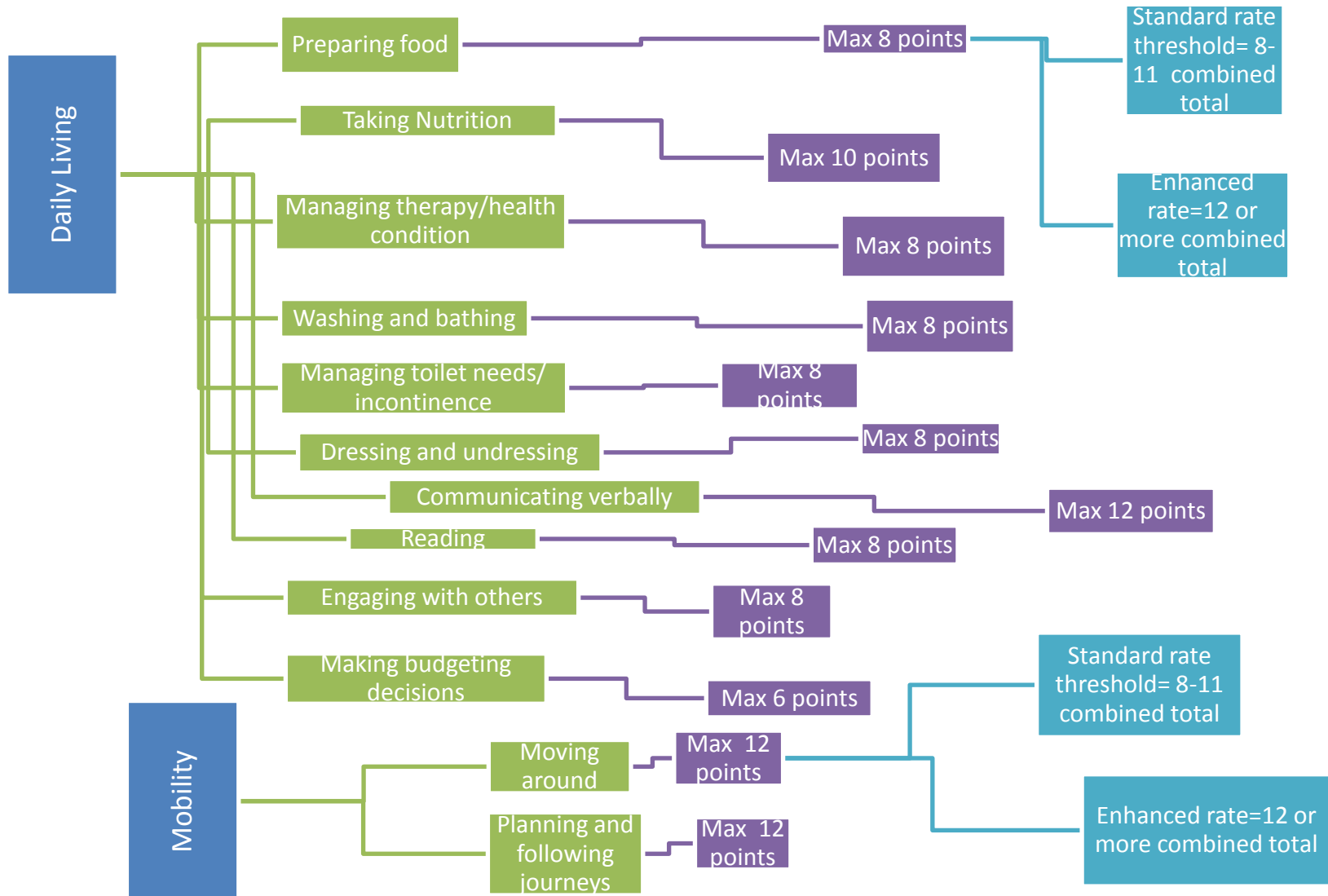
Migration & Motability

- Motability is a scheme for people with limited mobility to lease a vehicle using their benefit entitlement if they receive a qualifying benefit
- Many people have lost their car through reassessment as they haven't qualified for the Enhanced rate Mobility component
- Following outcries from disability rights campaigners the transitional support package was enhanced from 20/04/17
- Motability customers have 12 weeks after the PIP decision is made before their car has to be returned (as DLA continues for 4 wks after decision, and then an 8 additional wks are allowed) Or if a customer has been in the scheme since 2013 they can keep for 26 wks but their payment will be reduced when they return the vehicle
- Transitional Support Payment available but amounts vary depending on when the customer joined the scheme and how soon they return the car so best practice is to refer to the website:

<https://www.motability.co.uk/about-the-scheme/personal-independence-payment-and-the-scheme/q-and-a-transitional-support-package>

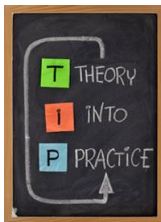


Scoring system & glossary of terms



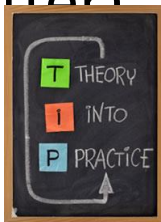
Top Tips - Moving from DLA to PIP

- Letter: DLA will stop, invitation to claim PIP (don't phone immediately – use time wisely)
- Advise client to see GP
- Assist by writing letter to GP to explain situation
- Request Patient Summary & letter asking for Home Visit Medical (may charge)
- Assist to make PIP phone call to apply (GP details, bank details)



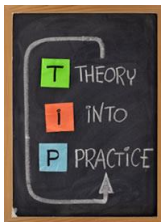
Top Tips- Completing PIP 2 form

- You can phone to request a 2 week extension
- DWP have a Home Visiting Service to fill in PIP forms or get help from CAB if you don't feel confident
- PIP is points based so ensure you check the each descriptor – this will help you fill in the form
- 'Bad day', not 'Good day'
- Lots of detail
- Medical Assessment venue: only 1 in Cambs, in Cambourne.
- Do you need to accompany? State days you are available
- If HV Medical needed – explain clearly why (& have GP letter)
- Photocopy the PIP form (for you & client)



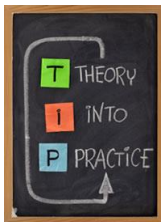
Top Tips – Supporting Evidence

- Client to keep a diary of care & mobility needs over a week
- GP Patient Summary (list conditions, medication.)
- GP letter asking for HV
- Hospital letters, discharge letters, psychiatric assessment reports, care plans, OT assessments, prescription lists etc. Up to date as possible.
- Send photocopies – not originals
- DWP do NOT usually write to GP's or Consultants – so don't assume they do.
- Write client's name & NI number on each sheet



Top Tips – Your letter of support

- Very detailed with a chronological 'Background'
- Many clients have complicated issues going back many years
- Explain history of case including psychiatric & other hospital admissions (dates), changes in meds, operations, attending Special School, living in Supported housing etc.
- Tell their story, so that the DWP have to listen..



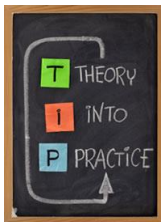
Top Tips – List Descriptors

- List PIP descriptors & points that best fit their needs, based on fact. Check the descriptors, starting with the highest scoring descriptor in each category and working your way down until you reach the one that is most suitable

Example of simple list:

The descriptors and the points most suitable to (client's) situation:

- Preparing food – 2 points
- Managing therapy – 1 point
- Washing and bathing - 2 points
- Toilet needs – 2 points
- Dressing and undressing – 2 points
- Engaging with others face to face – 2 points
- Planning and following journeys – 4 points
- Moving around - 12 points

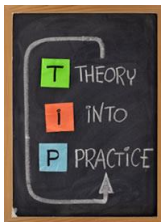


Top Tips: Detailed Descriptors

- Detailed section, extra evidence of why they fulfil that particular descriptor. Also useful for a Mandatory Reconsideration or Appeal
- **Example of one descriptor from a more detailed list:**

Q11. Engaging with other people face to face

- *b. Needs prompting to be able to engage with other people – 2 points*
- **Evidence:** This is a big issue for **(client)**. Due to the depression, low mood, anxiety and panic attacks he finds it impossible to cope with any unfamiliar people or social interactions. Even with people he does know he finds it very difficult indeed. He has panic attacks (indoors and outdoors), including sweating, palpitations and feeling that he will die and has to remove himself from the situation. He cannot cope with crowds. He prefers to be at home, as he feels safest there. He is afraid of being followed when outdoors and does not leave the flat unless he has to.
- This anxiety has continued to be severe. Even seeing the GP or the staff at 'Inclusion' (who are familiar to him) makes him anxious. He is OK with his own brother, his friend **(name)** and his Key Worker, but even the thought of having to meet with strangers really upsets him. He needs a lot more prompting and support. In the past 'Inclusion' has tried to get him to join in with 'Group Therapy' but he cannot cope with anything like this and has to have 1:1 Counselling.
- He is very anxious indeed about the thought of having to have a PIP Medical assessment with a Healthcare Professional that he does not know. His GP has written a letter requesting a home visit medical, but he is even worried about this, as he does not like the thought of having to see someone he doesn't know, even in his own home.



Top Tips- Reliability criteria

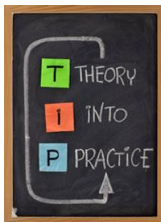
- Powerful argument in challenging DWP decisions
- **For every activity reliability must be considered**-this is confirmed in the PIP Assessment guide

Quote back to DWP their own guidance which states:

For a descriptor to apply the claimant must be able to reliably complete the activity as described in the descriptor. A claimant must be able to complete the activity:

- *Safely*
- *To an acceptable standard*
- *Repeatedly*
- *In a reasonable time period*

Source: Section 2.2 PIP Assessment guide Part 2- The Assessment criteria

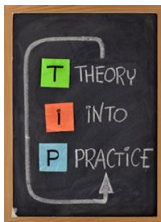


Top Tips – Letter summary

- **Summary:**
- Refer back to the client's conditions. If you are requesting a home visit put in why you are asking for this.

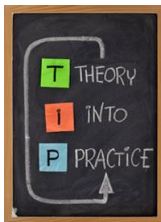
Example:

- Asking (client) to attend a PIP Medical is likely make him more anxious. He is already losing sleep due to all of his worries. If (client) does need to attend a medical, please consider a home visit. (Client) will not be able to cope with a medical at a venue due to anxiety and also due to the fact that he cannot cope with long car journeys due to the level of pain. His previous medicals for PIP and DLA have all been done as home visits.
- **Preferably, please make a decision based solely on the PIP form and the supporting documentation provided.** These include letters and reports from various consultants, GP etc. These all provide proof that (client) has multiple medical health issues.



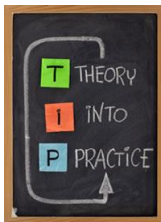
Top Tips – PIP Medical

- Home visit or venue? Venues usually out of county.
- Attending an unfamiliar venue alone puts client at a disadvantage (*demonstrates they are able to travel to an unfamiliar place and meet with an unfamiliar person*) so reduce chances of gaining points relating to anxiety in the 'Planning a route' Mobility category.
- Try to get a home visit medical.
- Client will usually need to obtain GP letter for this.
- Or push for a more convenient venue, and ensure you can accompany to provide support.



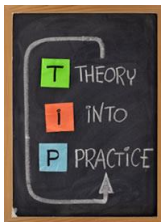
Top Tips – Before the Medical

- Go through form in detail & remind them. Advise them to read through form themselves.
- Advise they cannot be forced to do anything that causes pain and can say so & stop (or refuse)
- Advise that the assessor is NOT their friend. Everything they say or do will be noted.
- It is NOT a job interview, client to wear ordinary clothes etc.
- Ensure they have correct ID documents
- For HV ensure aids (walking stick, bath seat) to hand



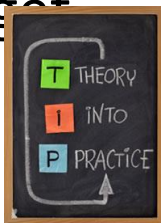
Top Tips – At the Medical

- Ask the ‘Disability Assessor’ their profession (OT, PT, Paramedic, Nurse)
- Important - if you need to challenge an incorrect decision (not a specialist in that area/condition)
- The Assessor will want the client to answer, not you. They will ask you to keep quiet.
- If the client is giving patently wrong answers or is being pushed into agreeing to something that is incorrect you need to step in and refer back to what is written on the PIP form.
- If the client has misunderstood the question you will need to intervene. Clients with conditions (such as Autism) may find the way questions are phrased may lead to an inaccurate answer.



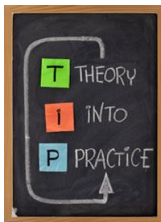
Top Tips – At the Medical

- If further probing questions are needed and the PIP Assessor is not asking them, then you may need to step in.
- Step in if the Assessor is asking the questions in such a way that the client is getting confused and agreeing to things that are not correct.
- For example: ***“So you can walk for 2 minutes, slowly, without stopping?”*** Clients often don’t know how long they can walk for or for what distance. Don’t let them be bamboozled.
- Try to get the client to explain in their own way ***“I can get up off the sofa with help and using my walking stick walk to the toilet, and no further. You can see where the toilet is from here”***.
- This ‘moving around’ question is the one where many clients get confused and caught out.



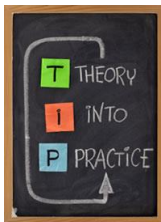
Top Tips – Mandatory Reconsideration

- To challenge an incorrect decision.
- Time deadline – 1 calendar month
- Phone up to request copy of Medical report
- No Mand Recon ‘form’ – Just need to write letter listing things client does not agree with & list descriptors they should have been awarded and why.
- Authority to Act, or letter for them to sign



Top Tips – Appeals

- If Mand. Recon. refused – need to appeal within one calendar month on SSCS1 form (internet)
- State why you don't agree with the decision and the descriptors that you think your client should have been awarded.
- Send to Appeal Tribunal with any extra medical information and copy of Mand. Recon. decision letter.
- State either appeal in person or paper only hearing
- Statistically more likely to win if go to appeal and if you have a Representative.



Recent changes to PIP-How can it help your clients?



- Since its introduction PIP has been challenged in the Courts and any decisions made in the Upper Tribunal create case law which should be considered by Tribunals during appeals.
- Upper Tribunal decisions made in March 2017 have finally been reflected by DWP in updates to the PIP assessment guide that should be used by all DWP staff and Healthcare professionals conducting the assessments.
- Recent case law can be particularly useful to claimants with fluctuating conditions- PIP was originally introduced with a majority of the time rule so that claimants with health conditions that fluctuated were likely to have their claim decided on how they were most days, even if symptoms at their worst placed them at risk.

E.G A claimant who suffers seizures without warning that cause them to injure themselves, but only occur on average 3 times per month

RJ, GMcL and CS v Secretary of State for Work and Pensions v RJ (PIP): [2017] UKUT 105 (AAC), decided on 9th March 2017- states that it should be the severity of the risk considered not how the claimant is for the majority of the days. This reflects the principle under DLA- the more serious the risk the less important the frequency.

- So if someone was previously refused PIP as they couldn't score points for the 'majority of the time' they could reapply using this case law if their conditions cause serious risk.

Recent changes to PIP-How can it help your clients?



- DWP made changes to descriptors for 2 activities from 16 March 2017 to tighten their definition- **Planning and following journeys & Managing therapy/Monitoring a health condition**
- DWP made changes to Planning and following journeys so that claimants can no longer score enough points for the enhanced rate mobility component via this activity alone if their restrictions are solely linked to psychological distress- as descriptors C, D & F have been amended to state *'For reasons other than psychological distress'*
- In reality this means someone who has severe anxiety and only goes out accompanied by another person, but has no physical restrictions on their mobility, could score a max 4 points on Planning & following journeys descriptor B, so doesn't meet 8 point threshold
- BUT someone with solely mental health restrictions could still meet the threshold for the mobility component if the condition also causes cognitive impairment e.g Dementia, learning disability, ADHD as it could be argued that they require assistance following a route because of memory loss, impaired concentration etc

Recent changes to PIP-How can it help your clients?



- Changes to **Managing therapy or monitoring a health condition** have made it clear that managing therapy cannot include taking medication (the case law found in favour of a claimant whose Husband helped her to use equipment to monitor her blood sugar and adjust her medication and food accordingly- the judge decided this could count as therapy so descriptors C to F could apply)
- The maximum point score for managing medication is 1 point under descriptor 3b- so this is a less favourable change for claimants
- More in-depth information about all these changes and PIP case law can be found online Disability Rights UK Case law summaries
- If quoting relevant case law in an appeal submission it can be useful to the Tribunal panel to include a copy.

Representing at appeals- best practice



- Help to prepare your client for what to expect when they arrive, before, during and after the hearing. CAB have a handy guide and help sheet- <https://www.citizensadvice.org.uk/benefits/sick-or-disabled-people-and-carers/pip/appeals/your-hearing/>
- It is helpful for the Tribunal if a written submission has been sent in advance so they know what the appellant is hoping the outcome will be. If the submission only refers to certain activities or just one component then it can save the client time and additional questions as the Tribunal may only ask about those areas- although they do have the choice to look at the whole benefit and all activities if they choose.
- Find a handy template in your hand out pack

CPAG have published an appeals toolkit for basic representation here:

<http://www.cpag.org.uk/content/appeals-toolkit-tribunal>



PIP & other benefits



- An award of PIP can protect against some welfare reforms and acts as a passport to additional entitlement or increases to existing awards.
- PIP exempts households from the Benefit Cap (if tenant, partner or dependent child has an award)
- Housing Benefit/Universal Credit is not reduced by the income of any non dependent adults in the household if the tenant or partner receives PIP Daily Living component. For UC there is no deduction if the non dependent receives PIP Daily Living component.
- PIP can increase the rate of means tested benefits such as: ESA (IR), HB, IS, JSA (IB), WTC, UC



Extra Help

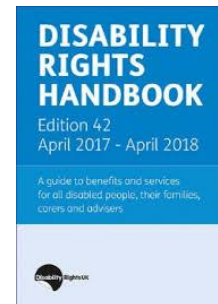
Attend a course to learn more:

- CPAG – courses in London on ‘PIP’ and ‘Challenging Pip Decisions’.
- CPAG tutor Steve Johnson - very knowledgeable.



Use a recognised handbook:

- Disability Rights Handbook
- CPAG Welfare Benefits Handbook



Extra info

PIP toolkit on DWP website regularly updated-

www.gov.uk/guidance/the-personal-independence-payment-pip-toolkit

Disability Rights UK comprehensive claim guide-

www.disabilityrightsuk.org/personal-independence-payment-pip

Easy read PIP guide-

www.disabilityrightsuk.org/sites/default/files/pdf/pipeasyread17Oct2014.pdf

Top tip-Check specific support organisations for their tailored advice on PIP claims for people with specific conditions e.g.

RNIB guide for sight impaired claimants-

www.rnib.org.uk/personal-independence-payment-toolkit

Websites

- <https://www.citizensadvice.org.uk/benefits/sick-or-disabled-people-and-carers/pip/>
- <http://www.carersuk.org/files/helpandadvice/2574/factsheet-uk1026-personal-independence-payment-pip-2017-2018.pdf>
- https://www.scope.org.uk/support/disabled-people/benefits/pip?gclid=EAIaIQobChMI4MbkwO2V1wIV7DLTCh1tNQV1EAAYAiAAEgJzdPD_BwE
- <https://www.disabilityrightsuk.org/personal-independence-payment-pip>

Question time



- No such thing as a silly question!
- Don't forget to use the question cards if we run out of time for your query- we will get back to you!





**KEEP
CALM
AND
THANKS FOR
LISTENING**

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