

# **Personal Independence Payment: assessment thresholds and consultation.**

## **A submission by Newcastle City Council**

### **Introduction**

There are 10,860 people in Newcastle between the ages of 16 and 65 in receipt of Disability Living Allowance. They are the people who will be affected by the introduction of the Personal Independence Payment from April 2013. A rough - and probably under - estimate based upon the Government's aim to reduce Disability Living Allowance expenditure by 20% means over 2,000 people in Newcastle will lose some or all of their Disability Living Allowance. It also means a potential loss of £5m to the economy of Newcastle. In addition, there will be the other consequential and as yet unaccounted for reductions in Carers Allowance and related additions in other benefits due to receipt of Disability Living Allowance, such as the disability premium.

This introduction is not part of the questions that are asked in this consultation but we believe we need to register our concern about the detrimental impact that these cuts to benefits will have on disabled people. Not forgetting the additional impact of cuts to benefits such as Housing Benefit and Tax Credits.

We also very concerned about the high level of demand on services for help and advice. Some of which will be due to the process, where Disability Living Allowance will stop and claimants will be have to make a claim for the Personal Independence Payment. Claimants will be told about this soon. At least with the Employment and Support reassessment, existing incapacity benefit claimants were automatically reassessed. This process seems very unfair for those who are already disadvantaged through disability. It is likely that many will not be able to make a claim due to their disability or mental health. We are concerned that a reduction in claim by default will be the result of this process.

Has any consideration of the extra burdens that services will face?

#### **• Q1 – What are your views on the latest draft Daily Living activities?**

1. The activities are too particular and prescriptive. They risk missing out problems and needs due to disability or mental health. For example, the activities include preparing food, taking nutrition, engaging socially, planning and following a journey. But none include interacting with a shop keeper in order to buy the food, or to stretch, reach or lift a food item in a shop – which is required to actually obtain the food!

In the same vein, there is no activity for lifting food from a shelf in the home (yet there is an activity specifically on preparing food).

The activities include the very specific activities of managing toilet needs, bathing and grooming but nothing to include a score for the inability to pick up items of clothing, or get them from a shelf.

2. Under Disability Living Allowance, the House of Lords Mallinson judgement determined a sensible way to understand and include a person's needs. That was to consider first the claimant's disability and to include the inability to do a task which flowed from that disability. For example, arthritis in hands may mean a person cannot pick up a coin from the floor. Similarly, a person who has had a stroke may not be able to pick up or hold a tin of food, a newspaper or TV remote control. Such disabilities or needs for assistance do not appear to be included in the activities.

3. The mobility activities could include scoring points due to angina, or a condition that might lead to deterioration in health. But this does not seem to be the case under the daily living activities. Again, the problem is that by being so prescriptive, the activities do not include disabilities that can be as equally debilitating as the ones that are included.

- **Q2 – What are your views on the weightings and entitlement thresholds for the Daily Living activities?**

#### **Activity 7.**

1. From A to F, there does not seem to be recognition of the additional difficulties faced by people who are both deaf and blind.

2. E and F: The example is very limiting and may put people off from explaining that they "need communication support". The example, should be amended to include " , or from a family neighbour or friend." OR completely re written as follows: "For example, may apply to individuals who require such help from another person." This would be consistent with the notes to activity 7, which include the example of a family member.

3. In the note, why is communication support limited to a 'trained person' or "someone directly experienced ... (e.g. a family member)"? Surely if you need the communication support, then you need it. This would seem to create an unnecessary and unfair exclusion on some people. For example, someone living on their own and/or cannot afford an interpreter. We recommend amending the second paragraph accordingly.

4. The descriptor G "Cannot communicate at all" is too severe. Someone might have a bit of sight or a small amount of hearing but they are effectively in the same communication situation as someone who *cannot* communicate. The descriptor should therefore be amended to include something like: "Cannot *effectively* communicate at all". And/or there should be a qualifying explanation - as there are for other descriptors. For example, it could say "This includes situations where someone has very little sight and/or hearing but has the same affect as someone who cannot communicate at all."

5. It is possible that a person with learning disability or cognitive impairment would satisfy D, E and F? Is that the intention?

### **Activity 8.**

There does not seem to be any need to create a limit of “cognitive, mental and intellectual impairment”. The wording of descriptor (d) (i) would seem to be enough to capture the need, without such an additional limit of a “cognitive, mental and intellectual impairment.”

- **Q3 – What are your views on the latest draft Mobility activities?**

### **Activity 10.**

Why does this only score 10 points? If a person absolutely “*cannot* follow a journey ...” surely that is as bad as a person who satisfies descriptors E and F in activity 11.

- **Q4 – What are your views on the weightings and entitlement thresholds for the Mobility activities?**

Why is it possible to score 3 points more than the threshold of 12? Surely, descriptor E in activity 10 and descriptors F and G in activity 11 should score 12.

- **Q5 – What are your views on how the regulations work regarding benefit entitlement?**

1. We are very concerned that the automatic entitlement to the mobility component of Disability Living Allowance to people of a certain level of blindness is not, in some way replicated in the new scheme. This has only recently been introduced in recognition of the obvious difficulties such people have in getting out and about. It seems a backward step not to include something similar in the new scheme.

2. We are concerned about the reduced time limits for submitting the claim form. The 6 weeks time limit from the phone call – as now for Disability Living Allowance – should remain. This would fairly recognise the kind of difficulties that prospective claimants may have.

3. Equally, appointment times should be longer than the proposed 7 days. Again, given the group of people we are dealing with, reasonable time should be given to accommodate difficulties in getting help with forms and getting to appointments and responding. If people do not get enough time, we envisage more costs as people challenge refusals on this basis. And there could be an accusation of disability discrimination.

4. We understand the Government are opposed to automatic entitlement due to certain conditions – apart from some exceptions. However, we believe it would be a sensible and cost effective approach. It would create much needed savings which could be put back into the Personal Independence Payment scheme by reducing the thresholds or introducing lower rates.

- **Q6 – What are your views on how we are dealing with fluctuating conditions?**

We are concerned that the regulations do not take into account of – and thus do not award points for – severe, acute or extreme health problems that may only last for a short time but are potentially very dangerous and require ongoing supervision.

Epilepsy is a good example of this. This means that such people will be unprotected from support.

We note the section on epilepsy in paragraphs 7.16 and 7.17 in annexe A. However, we do not believe that decision makers or health professionals will take this into account in the way explained because it is so oblique or disconnected to the activities. It will take a special and extra effort for a decision maker to take epilepsy into account in the way described. This is because epilepsy – or another occasional health problem - is not a central part of the scheme or in the activities.

- **Q7 – What are your views on the definitions of ‘safely’, ‘timely’, ‘repeatedly’ and ‘in a timely’ manner?**

Should ‘timely’ here mean ‘reliably’?

Otherwise, no comment.

- **Q8 – What are your views on the definitions in the regulations?**

“Supervision”

1. We wonder if the definition of supervision in paragraph 7.11 is too restrictive. It does not seem to take into account active monitoring in case a problem occurs such as epilepsy.

2. And the term ‘continuous’ (within ‘supervision’) does not seem to allow for monitoring and guidance for people who have mental health problems, where the support would help to avoid the person’s mental health deteriorating. Looking at it another way, what would happen to the person’s mental health if he or she did not get that kind of support? If their mental health would deteriorate, then the scheme should allow for it i.e. award points. Without this sort of qualification, the terms ‘continuous’ and ‘supervision’ would seem to exclude such help.

- **Q9 – Do you have any other comments on the draft regulations?**

General:

The second draft criteria explanatory memo repeats the Government’s aims of “the development of an assessment for the new benefit which would enable an accurate, objective, consistent and transparent consideration of individuals. “

1. Based upon this, we would wish to see the claim form include:  
a) the points and thresholds alongside the ‘activities’,

- b) simple instructions for completing the form,
- b) an indication that if people need help with the form, or are unhappy with the decision, they can seek advice which is independent of the DWP.

2. The claimant experience of Employment and Support Allowance is notoriously problematic. For example, the ESA50 does not reflect the actual criteria thus appearing far from transparent. Also the high number of refusals which are overturned on appeal, appear to show a high discrepancy or inaccuracy in the medical assessments. We would hope that these problems are actively avoided with Personal Independence Payment. Particularly given it is designed to provide help for the disabled and vulnerable.