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<b>Report To:</b>	<b>Health and Social Care Committee</b>	<b>Date:</b>	<b>6 June 2017</b>
<b>Report By:</b>	<b>Louise Long Corporate Director (Chief Officer) Inverclyde Health and Social Care Partnership (HSCP)</b>	<b>Report No:</b>	<b>SW/24/2017/HW</b>
<b>Contact Officer:</b>	<b>Helen Watson Head of Strategy and Support Services</b>	<b>Contact No:</b>	<b>01475 715285</b>
<b>Subject:</b>	<b>PERSONAL INDEPENDENCE PAYMENT (PIP) UPDATE</b>		

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## 1.0 PURPOSE

- 1.1 To update Committee on issues relating to the roll out of Personal Independence Payment (PIP) including the outcome of the Second Independent Review of the PIP Assessment; the latest UK Government position announcement on the Motability Scheme; feedback to Cosla on the impact locally of PIP; and a number of areas of involvement by the Welfare Rights Officers within the HSCP Advice Services Team.

## 2.0 SUMMARY

- 2.1 The Report regarding Personal Independence Payment (PIP) presented to Committee (SW/10/2017/HW) on 23 February 2017 noted the 2<sup>nd</sup> Independent Review of the PIP Assessment was due to be laid before Parliament by April 2017. That report has now been presented to Parliament pursuant to Section 89 of the Welfare Reform Act 2012.
- 2.2 The Report also noted an announcement made at the end of 2016 by the Minister for Disabled People, Health and Work as to the position of Motability claimants and the return of Motability vehicles following an unsuccessful reassessment for migration to DLA to PIP. The Minister has made a further written statement outlining an 'enhanced' Transitional Support Package.
- 2.3 An Inverclyde HSCP Advice Services Welfare Rights Officer was successful in their appeal to the Upper Tribunal in Edinburgh. This in turn helps define new case law that significantly increases the chances of claimants, at risk of harm and in need of supervision, being awarded PIP throughout the UK.
- 2.4 CoSLA recently requested information from local authorities on the local impact of Personal Independence Payments. Inverclyde HSCP provided a response which is contained within Appendix 1.
- 2.5 Inverclyde Financial Inclusion Partnership has implemented a PIP Survey to monitor the impact of the roll out of PIP on claimants locally. A number of common themes are emerging which reflect the findings of the national survey conducted by the Disability Benefits Consortium as detailed in the Committee Report of 23 February 2017.
- 2.6 Case studies of clients supported by Welfare Rights Officers within the HSCP Advice Services Team show the impact on individuals applying for PIP or being migrated

from DLA to PIP and the positive outcomes when supported by the team to appeal.

### **3.0 RECOMMENDATIONS**

- 3.1 That the Committee note the contents of this report and the on-going impacts of the transition to Personal Independence Payments.
- 3.2 That the Committee note the work of Inverclyde HSCP Advice Services Welfare Rights Representation staff in widening possible access to PIP for potentially many more thousands of claimants across the UK.
- 3.3 That the Committee note the themes emerging from the Inverclyde Financial Inclusion Partnership survey and Tribunal cases represented by Inverclyde HSCP Advice Services Welfare Rights Representation staff.

**Louise Long**  
**Corporate Director (Chief Officer)**  
**Inverclyde HSCP**

## **4.0 THE SECOND INDEPENDENT REVIEW OF THE PIP ASSESSMENT**

- 4.1 The Welfare Reform Act 2012 mandated two independent reviews of PIP. The first of these reviews took place in 2014. The second was presented to the UK Parliament in March 2017.
- 4.2 The policy intent of PIP was to introduce a fair, transparent and objective assessment of disability compared with DLA, moving the majority of claimants from indefinite to fixed term awards. The key conclusion of the Review is that public trust in the fairness and consistency of PIP decisions has not been achieved, with high levels of disputed decisions, many of them overturned at appeal. The Second Independent Review notes currently 65% of appeal hearings overturn the initial DWP decisions, which is clearly eroding the trust of claimants and stakeholders in the system.
- 4.3 The Review also noted the importance of PIP as 'bridge' or 'buffer' to stay in work. It allows, for example, a reduction of hours but for a claimant to remain in employment by using PIP as a top up mechanism to supplement the claimant's income. For those receiving the Enhanced Rate of the Mobility Component of PIP the ability to lease a car can have a positive result in terms of facilitating access to the workplace.
- 4.4 The UK government has announced its ambition to halve the gap in employment between disabled and non-disabled people, which currently stands at 32%. The Report asks if more could be done to connect people with employment advice if they claim PIP and are either in work or have the desire to move into work. This is with the clear proviso that take-up of any support is entirely optional and claimants are reassured that this is not a back door to any conditionality attached to PIP.

## **5.0 MOTABILITY**

- 5.1 In September 2013 Motability established a transitional support package of a £2000 lump sum for disabled claimants found not to be entitled to the enhanced mobility component of PIP who previously received the higher rate of DLA mobility following reassessment.
- 5.2 The Health and Social Care Committee Report of 23 February 2017 highlighted that following an unsuccessful reassessment, the vehicle was 'returned within 28 days or thereabouts whether or not the claimant appeals.' The Report noted the Minister for Disabled People, Health and Work had announced that 'discussions are underway to enable PIP claimants to keep their vehicle pending appeal.'
- 5.3 Further information has now been released which will allow scheme customers to retain the car for up to eight weeks after their Disability Living Allowance payments end, a significant increase from the three weeks they are allowed today. In addition customers who are eligible for a transitional support payment will be able to retain their car for up to six months, including during the processes of reconsideration or appeal. For those who take advantage of this option, the level of transitional support payment will be reduced.

## **6.0 PERSONAL INDEPENDENCE PAYMENT IMPACT**

- 6.1 As part of evidence gathering, CoSLA wrote to all 32 Scottish local authorities asking for information relating to the impact of Personal Independence Payment (PIP) locally. The main focus of this report is on the impact on individuals, services and the local economy and also areas of mitigation work currently being undertaken. Inverclyde HSCP coordinated the local response which is in Appendix 1.

## **7.0 CASE LAW DEVELOPMENTS AND POLICY RESPONSES**

- 7.1 Two highly important recent Upper Tribunal Judgements, which had interpreted the PIP assessment Regulations in ways which the Government did not intend, were published together at the end of 2016. The changes resulting from the judgements would have extended the PIP eligibility criteria to the benefit of people with a wide range of conditions including learning disability, autism, schizophrenia, anxiety conditions, social phobias and early dementia, if allowed to stand. The UK Government, however, laid before Parliament on 23 February 2017 regulations to amend the PIP eligibility criteria from 16 March 2017 to clarify the drafting (of the original regulations) and reverse the effect of the two Upper Tribunal Judgements.
- 7.2 The DWP Equality Analysis accompanying the amended regulations estimates that approximately 339,500 claimants (with 292,500 no longer entitled to any mobility component) could be affected by reversing the effect of the two judgements. The Department's estimate of the additional expenditure that would have resulted from the two Upper Tribunal decisions over the next five years (and therefore the amounts it expects to save from reversing the decisions) is £3.7 billion cumulatively between 2017-18 and 2021-22.
- 7.3 A third separate but also highly important Upper Tribunal Judgement which will extend the eligibility criteria has, however, not been challenged by DWP or subject to amended regulations by the UK Government thus far. The DWP has argued that a claimant can only score points for the purposes of Personal Independence Payment for being unsafe if harm is likely to occur on more than 50% of the occasions on which a claimant attempts an activity. Therefore, for example, DWP has not been awarding to such claimants with epilepsy if they cannot show that it is 'more likely than not' they will have a seizure on any given occasion when they prepare food.
- 7.4 To determine if the approach of the DWP was the correct one and provide a definitive interpretation of the regulations, three conjoined appeals from Stirling, London and Inverclyde were heard in Edinburgh on 24 November 2016. Representation at the Upper Tribunal for the Inverclyde appeal was provided by one of the Welfare Rights Officers from Inverclyde HSCP Advice Services Welfare Rights Representation Team.
- 7.5 The key argument that appears to have resulted in the panel of Upper Tribunal Judges decisively ruling against the DWP's 50% rule was provided by the Welfare Rights Officer from Inverclyde HSCP Advice Services. The Welfare Rights Officer submitted the term "supervision" should be given the same meaning it bore for the predecessor benefit of DLA. By confirming the same approach should be adopted in relation to PIP as DLA, the Judges hold that a decision maker should look at whether there is a real possibility that harm might occur and also how great the harm might be. The greater the potential harm, the less likely it needs to be that it would happen on any specific occasion.
- 7.6 This therefore means that there is now a much greater chance of claimants who are at risk as a result of sensory impairment, epilepsy, heart disease, learning disabilities, dementia, mental health and other conditions being awarded PIP throughout the UK as a result of this decision.

## **8.0 INVERCLYDE FINANCIAL INCLUSION PARTNERSHIP PIP SURVEY**

- 8.1 The Health and Social Care Committee Report of 23 February 2017 noted a formal request had been submitted by Inverclyde HSCP to DWP to utilise premises at Duff Street, currently used for ESA assessments, to carry out PIP assessments as an alternative to clients having to travel to Glasgow for assessment. The response received from DWP/ATOS advised the journey from Inverclyde to Glasgow falls within their threshold of reasonable travelling time of 90 minutes by public transport,

therefore there would be no PIP assessments arranged for Duff Street. The issue was in addition raised by the Leader of the Council with the Minister for Employment resulting in a similar negative response.

- 8.2 The issue of the difficulty claimants from Inverclyde have attending PIP assessments scheduled in Glasgow is one of the key emerging themes in the Inverclyde Financial Inclusion Partnership PIP Survey. Claimants indicate difficulties using public transport and are struggling to pay an upfront return taxi fare of approximately £110. Claimants report difficulty sitting for the duration of the journey and experience increased pain:

*“I am not able to go by public transport due to mental health as well as physical pain...had to go by taxi which was still painful.”*

*“I was scared that I would have a seizure when travelling.”*

*“I was uncomfortable sitting in one position for that length of time. It would have been better for me to have this carried out locally.”*

*“I was in constant pain during the journey to and from the assessment centre in Glasgow.”*

*“I had to travel by train and then taxi which left me exhausted and in a lot of pain due to having to sit for so long.”*

- 8.3 Other emerging themes from the Financial Inclusion Partnership Survey include: significant reduction in entitlement on migration from DLA to PIP;
- those currently on PIP, but subject to review of fixed term awards, receiving reductions in these awards despite the claimant reporting no change in the level of disability and how it affects them;
  - a general concern that the report produced by the Health Care Professional following the assessment bearing little resemblance to the discussion the claimant indicated took place at the assessment.

- 8.4 In order to help individuals better understand Personal Independence Payments, Inverclyde HSCP has produced a leaflet which outlines the help that is available and emphasises that a home visit assessment can be requested if travelling to Glasgow is too difficult for a client (appendix 2).

## **9.0 EXAMPLES OF CASES SUPPORTED BY HSCP ADVICE SERVICES WELFARE RIGHTS REPRESENTATION OFFICERS**

### **9.1 CASE STUDY 1**

The Welfare Rights Representation Unit recently dealt with a case where the claimant was disallowed PIP for failing to attend an assessment scheduled in Glasgow. The claimant had indicated she was unable to use public transport due to the nature of her disability. She was refused a request for a home assessment and had no ability to pay the upfront taxi fare of £110, having only £73 per week income from Employment and Support Allowance.

The case was successful at appeal with the Tribunal accepting she had good cause for failing to attend the assessment scheduled in Glasgow.

### **9.2 CASE STUDY 2**

A recent Welfare Rights Representation Unit appeal concerned a claimant who was migrated from DLA to PIP. Previous DLA entitlement comprised an award of low rate mobility and high rate care. As a result of the care award the claimant's partner

received an award of Carer's Allowance. The claimant disputed the information recorded in the Health Care Professionals assessment document and reported a significant level of disability as a result of a severe stroke. Following assessment no award of PIP was made and the previous award of Carer's Allowance as a consequence was removed from the claimant's partner.

The appeal, based on the submission of the Welfare Rights Officer, was successful and the client awarded enhanced rate daily living and standard rate of mobility. As a result the claimant's partner had the award of Carer's Allowance reinstated. Of note is that the decision of DWP was to award four points only in respect of two daily living activities however the Tribunal found the claimant entitled to 31 points for daily living, finding 9 out of the 10 daily living descriptors to be applicable.

9.3 Personal Independence Payment is a vital form of support for people with cancer who often experience life changing effects from cancer treatment. Without it, many would struggle to meet the considerable costs associated with their cancer diagnosis. The two case studies given below are examples of how cancer patients can be adversely affected by the DLA to PIP migration process. Both cases were represented at appeal by the Inverclyde HSCP Advice Service/Macmillan Cancer Support Welfare Rights Officer.

#### 9.4 CASE STUDY 3

This client with a breast cancer diagnosis had previous entitlement to DLA middle rate care and low rate mobility. Following reassessment on migration from DLA to PIP, no award of PIP was made.

The outcome of the appeal was an award of enhanced rate daily living (£82.30 per week) and standard rate mobility (£21.80 per week) with a backdated payment of £1,873.

#### 9.5 CASE STUDY 4

This client has a brain tumour diagnosis. Previous entitlement to DLA high rate care and high rate mobility were in place. Following reassessment on migration from DLA to PIP, no award of was PIP made.

The outcome of the appeal was an award of standard rate daily living (£55.10 per week) and enhanced rate mobility (£57.45) with a backdated payment of £2,256.

## 10.0 IMPLICATIONS

### FINANCE

#### 10.1 Financial Implications

One of costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report £000	Virement From	Other Comments
N/A					

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact £000	Virement From (If Applicable)	Other Comments
N/A					

## LEGAL

10.2 There are no legal issues.

## HUMAN RESOURCES

10.3 There are no legal issues.

## EQUALITIES

10.4 Has an Equality Impact Assessment been carried out?

	YES (see attached appendix)
√	NO – This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy. Therefore, no Equality Impact Assessment is required.

Personal Independence Payments (PIP) by their nature affects one of the protected characteristic equality groups.

## 11.0 REPOPULATION

11.1 There are no repopulation issues.

## 12.0 CONSULTATION

12.1 N/A.

## 13.0 BACKGROUND PAPERS

13.1 Appendix 1 - Report to CoSLA

13.2 Appendix 2 - PIP leaflet

Response from Inverclyde Council/HSCP

**1. Has your council experienced an increase in demand for services as a result of the move from Disability Living Allowance (DLA) to Personal Independence Payment (PIP) (Y/N) please give details of services and increased demand.**

In 2015 approximately 40% of all enquiries to Inverclyde HSCP Advice Services were in relation to Disability Benefit entitlement. Enquiries relating to Disability Benefit in general and PIP in particular have significantly increased in volume over the years 2015 to 2016

DLA/PIP enquiries 2015: 530 of which 26% related to DLA and 74% to PIP

DLA/PIP enquiries 2016: 833 (57% increase) of which 5% related to DLA and 95% to PIP

DLA/PIP disputes 2015: 312 of which 16% related to DLA and 84% to PIP;

DLA/PIP disputes 2016: 493 (58% increase) of which 6% related to DLA and 94% to PIP.

**2. What activities/actions has your council been involved in to mitigate the impact of the transfer of people claiming DLA to PIP.**

Inverclyde HSCP Advice Services and Inverclyde Revenue and Benefits Service have entered into a formal data sharing agreement in relation to information provided to Revenues and Benefits by DWP of DLA to PIP adverse decision outcomes. This data sharing agreement has allowed Advice Services to adopt a proactive approach in offering support to those adversely affected by the reassessment process to challenge decisions where appropriate and explore other avenues of income maximisation to mitigate the impacts of the reassessment process;

The Disability Benefits Consortium (DBC) is a national coalition of over 60 different charities. The response of the DBC to the 2nd review of PIP by Paul Gray on behalf of DWP was informed by a comprehensive and extensive survey of service users. Inverclyde HSCP in conjunction with Inverclyde Financial Inclusion Partnership have replicated this approach by developing a PIP client experience questionnaire that will be used to inform future calls for evidence and consultation responses.

PIP assessments for Inverclyde residents are usually held in Glasgow. DWP currently use existing facilities located in Greenock to conduct ESA assessments. The issue of utilisation of existing DWP estate to allow for PIP assessments to be held in Inverclyde was raised in a letter dated 29/11/16 from the Leader of the Council to the Minister for Welfare Reform. The request for assessments for Inverclyde residents to be held in Inverclyde was rejected in a response received from the Minister for Employment date 9/1/17

Inverclyde Council has provided funding to Inverclyde Council on Disability to provide support to vulnerable clients who identify a need to be accompanied to their assessment if required. Since April, 59 clients have been supported to attend medicals in Glasgow



**3. How much financial support does your council estimate has been lost by the local economy as a result of the move from DLA to PIP and how much resource has the council applied to mitigate this impact?**

Analysis made by Sheffield Hallam University in March 2016, 'The uneven impact of welfare reform', calculated the cost of replacement of DLA by PIP in Inverclyde to be £124 for every working age adult per annum.

ONSS indicates Inverclyde to have a working age population of 50,600. On that basis the loss to the local economy is £6,274,400 per annum. It is assumed this figure takes no account of the loss of associated premiums and other pass ported entitlements that can often be of greater monetary value than the award of DLA/PIP itself.

**4. The 2014 survey indicated that several councils planned to undertake various monitoring activities. Please provide the results, trends, and conclusions that have been drawn from any monitoring activity that your council has undertaken in regard to the move from DLA to PIP (e.g. numbers and affected, changes in level of financial support for individuals and overall, changes in service volume).**

The DBC survey referred to earlier outlined:

80% of respondents indicated difficulties in completing the PIP claim form;

93% of respondents found the process of applying for PIP stressful;

82% of respondents agreed or strongly agreed that the process of applying for PIP had a negative impact on their condition.

As indicated Inverclyde HSCP/FIP intend to replicate the approach of the DBC. Whilst not sufficient in number to allow for any meaningful statistical analysis the comments contained in the first returns of the Inverclyde PIP Questionnaire echo the findings made by the DBC:

"Due to my condition, I found it difficult to express all my thoughts and put it down in writing so it was extremely important that I got help with completing the form as the person was independent from my health care.";

"I wouldn't know what information to put in without help";

"I had to get help with completing the form and for someone to explain questions";

"The questions were explained by the adviser. I wouldn't have been able complete the form without support";

"I am not able to read and write very well as well as understand complex questions so I wouldn't have been able to complete the form myself";

"Information in report was not discussed at assessment. It seemed like the report was based on someone else";

“I was in constant pain during the journey to and from the assessment centre in Glasgow. Kept waiting at the PIP Assessment Centre for 35 mins after appointment time. This had a major effect on both my physical and mental health”

“My award has been reduced even although my conditions are still the same, if worse and are missing out on money”

“My condition has deteriorated significantly; however, my award has been lowered and I am going through mandatory reconsideration which is raising my anxiety levels”;

“I was not awarded any PIP and am going through mandatory reconsideration which is stressful”

#### **5. Has your council experienced a reduction of income from social care charges due to the move from DLA to PIP?**

There has been a reduction of income however we are unable to attribute this to the introduction of PIP.

#### **6. What difficulties or otherwise have been experienced during the move from DLA to PIP?**

Worth highlighting the impact the change to PIP has had on Advice Workers and HSCP staff in general. A survey of Scottish Social Services Workforce in 2015 found that 75% were driven by a desire to make a difference; 70% said good outcomes for those they supported made them feel valued. Workers in Health and Social Care are characterised by the empathy they demonstrate for their clients. Such an empathetic approach must come at an emotional price when working with fragile, distressed and vulnerable clients they witness being given a ‘raw deal’ by the social security system.

A recent (July 2016) evidence summary from Iriss (improving lives through knowledge, evidence and innovation), ‘The impact of welfare reform on the social services workforce’, made the following ‘key points’:

“Welfare reform has increased demand on the social services workforce...

Workers have been emotionally affected by the impact of welfare reform on client’s lives and have felt angry, distressed, as well as disappointed and frustrated in their ability to help.

Workers have been diverted from other tasks to help reassure people affected by welfare reform and guide and signpost them through the system.

Additional workloads and emotional stresses come on top of an already difficult work-life balance, decreasing job security and pay and conditions with possible implications for recruitment and retention.

The sector is involved in awareness raising, evidence gathering, lobbying and campaigning to challenge aspects of welfare reform.”



# Personal Independence Payment (PIP) Assessments

## PIP TOP TIPS

**When you have made a claim for Personal Independence Payment in most cases you will be asked to attend a face-to-face assessment**

**If you have been invited to attend a face-to-face assessment it is important to bear the following in mind:**

- Be prepared to talk about your condition and how it affects you
- Someone can accompany you when attending the assessment
- You can claim back travel expenses for yourself, companion or carer. You can also claim travel expenses for young children who would otherwise be left unattended; Ask for a claim form from the reception in the assessment centre
- In some cases you may be able to request taxi fares however this needs to be arranged in advance by contacting the assessment centre
- You can request a home assessment (known as a domiciliary) however you will need to provide confirmation from your health professional that indicates you are unable to travel on health grounds. Please note that requesting a home assessment does not guarantee you will get one
- If you cannot attend your assessment you must contact the assessment centre as soon as possible to request that it is re-arranged
- Failure to attend may result in your PIP claim being closed and if you are transferring from Disability Living Allowance, this could stop too

**Remember that Advice First can assist you to complete your initial application or renewal**

If you require any further advice regarding Personal Independence Payment or any other Welfare Benefits and how to challenge decisions, please contact Advice First on **01475 715299** or email [triage.advice@inverclyde.gov.uk](mailto:triage.advice@inverclyde.gov.uk)