

**Response to Consultation**  
**PIP Assessment**  
***Moving around activity June 2013***

1. We act for Mr Steven Sumpter, Ms Kim Storr and Ms T, the three claimants in the judicial review proceedings challenging the lawfulness of the decision to make the Social Security (Personal Independence Payment) Regulations 2013. The grounds of that challenge are that the consultation undertaken prior to the introduction of those regulations was inadequate, and that the Secretary of State for Work and Pensions failed to comply with a duty imposed by section 149 of the Equality Act 2010. Ms T was granted the protection of an anonymity order in these proceedings and we will refer to her as Ms T throughout this document.
2. The Secretary of State is undertaking this further consultation ('the Consultation'), and the judicial review proceedings are stayed pending its outcome.
3. We are submitting this response to this fresh consultation on behalf of Mr Sumpter, Ms Storr and T.

***The scope of the Consultation***

4. The Consultation<sup>1</sup> seeks views on the *Moving around* activity in the assessment criteria for the Personal Independence Payments (PIP) as set out in the current regulations<sup>2</sup> (The Regulations).
5. Paragraph 6.3 of the Consultation document says:-

*"We would like to know what people think about the current Moving around criteria, including the current thresholds of 20 and 50 metres; what they think*

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<sup>1</sup> Consultation on the PIP assessment *Moving around* activity June 2013.

<sup>2</sup> Social Security (Personal Independence Payment) Regulations 2013, as amended.

*the impact of the criteria will be; and whether they think we need to make any changes to them or assess physical mobility in a different way altogether.”*

### ***Raising the eligibility threshold***

6. PIP replaces the current benefit, Disability Living Allowance (DLA) and, in doing so, has raised the eligibility threshold for the higher rate of payment of the mobility component. For those whose mobility difficulties are physical only, there is no possibility of securing any compensatory points on the ‘*Planning a journey*’ activity.
7. There has, to date, been no clear acknowledgement that the eligibility criteria for the Moving around activity are more restrictive than those currently used for DLA. For this reason, we have set out below the threshold for eligibility for the high rate mobility component of DLA in some detail so that the comparison with the PIP criteria can be made.
8. The mobility component of DLA is paid at two rates. The higher rate is paid to those who are unable or virtually unable to walk<sup>3</sup>.
9. When assessing an individual’s inability or virtual inability to walk, a number of factors are taken into account, including the distance that can be walked; the speed of walking; length of time for which the individual can walk; and the manner which an individual can progress without severe discomfort. The test is whether the individual can walk outdoors.
10. It is important to be clear what is meant by walking. A person is considered unable to walk if they cannot move their body along by alternate, weight-bearing steps of the feet (Sanhu v SSWP [2010] EWCA Civ 962).

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<sup>3</sup> Regulation 12 the Social Security (Disability Living Allowance) Regulations 1991.

11. The ability to walk is considered taking into account aids and prostheses i.e. a person is considered to be able to walk for the purpose of DLA if they can do so with a stick or crutches. However, because of the definition of walk, a person with only one leg and no artificial limb suitable to be used, is regarded as being unable to walk, even if they can get around on crutches (R(M)2/89).
12. Although the statutory provisions do not specify a threshold distance, the guideline distance used has been 50 metres.
13. Each of our clients is in receipt of the higher rate of the DLA mobility component.

### ***Reasons for reform***

14. These are set out in the original public consultation document '*Disability Living Allowance reform*' published in December 2010. Under the heading, "*The problem: a benefit not fit for purpose*", a number of reasons are given for reform.
15. The specific amendments to the criteria for an award of the higher (now enhanced) mobility component on the ground of physical disability are only relevant to addressing the first of these reasons - that "*case loads and expenditure are increasing at a rate never envisaged*". In this context, paragraph 15 says:-

*"To ensure that the new benefit is sustainable and affordable in the long-term, we must reform DLA **to make sure we focus on those that need the greatest help to live independently.**" [Emphasis added.]*

16. The anticipated number of individuals who will be eligible for the enhanced rate of the mobility component of PIP is significantly less than those who would have been eligible for the higher rate under DLA. The Consultation document says that, with no reform to the DLA system, by May 2018 the projected number qualifying for the highest rate mobility component would be 1,030,000,

but with the current reforms, only 602,000 will be eligible. Clearly, it is anticipated that the reforms to the eligibility criteria for the enhanced of this component will contribute to reduced eligibility, and, therefore, to reducing expenditure. What must be noted here, however, is the Government's commitment to do this in a way that ensures that the benefit is focused "*on those that need the greatest help to live independently*". [Emphasis added.]

### ***The Moving around assessment criteria***

17. The current version of the Moving around criteria is as follows:-

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| a. Can stand and then move more than 200 metres, either aided or unaided.                            | 0 pts  |
| b. Can stand and then move more than 50 metres but no more than 200 metres, either aided or unaided. | 4 pts  |
| c. Can stand and then move unaided more than 20 metres but no more than 50 metres.                   | 8 pts  |
| d. Can stand and then move using an aid or appliance more than 20 metres but no more than 50 metres. | 10 pts |
| e. Can stand and then move more than 1 metre but no more than 20 metres, either aided or unaided.    | 12 pts |
| f. Cannot, either aided or unaided, –<br>(i) stand; or<br>(ii) move more than 1 metre.               | 12 pts |

18. When determining whether or not a claimant can carry out an activity, the Regulations require that consideration is given to whether it can be carried out safely, repeatedly, in a reasonable time period and to an acceptable standard.

19. The activity looks at the ability to move around on the type of surface normally expected out of doors on the flat. (See paragraph 4.14 of the Consultation paper.)

20. Stand is defined as standing upright, with at least one biological foot on the ground, with or without suitable aids and appliances. A prosthesis is defined as

an appliance. This means that a person with one prosthetic leg would be considered able to stand, whereas a bilateral lower-limb amputee would not. (See paragraph 4.11.)

21. The ability to stand and then move takes into account the use of aids and appliances, including walking sticks, crutches and prostheses.
22. A comparison of the Moving around assessment criteria with the criteria for eligibility for the DLA higher rate mobility component on the ground of physical disability (see paragraphs 8-12 above) reveals that they are broadly equivalent save in two significant respects.
23. The first is the replacement of the definition of the activity which is being assessed from walking to that of “*standing and then moving*”. This change means that a person who is a unilateral amputee who can get around on crutches is now considered to be able to stand and then move and will no longer be automatically eligible for the higher rate. Our clients are not affected by this first change, and we, therefore, do not intend to comment on it.
24. The second significant change is that the guideline threshold distance of 50 metres that was used for the purpose of eligibility for the higher rate of the mobility component under DLA, now becomes the threshold distance for eligibility for the standard rate, and the distance for eligibility for the enhanced rate of the PIP mobility component is reduced to 20 metres. Each of our clients is potentially affected by this change and it is this that we will address in detail below.

***Does this change in the threshold distance assist in achieving the objective of focusing the benefit on those that need the greatest help to live independently?***

25. The purpose of PIP (as with DLA) is to contribute to the additional costs of daily life that are faced by those with disabilities and long-term health conditions. (See paragraph 1.1 of the Consultation document.) The reason for focusing

support on those with greatest need is set out in the original consultation, “Disability Living Allowance reform”, December 2010. Paragraph 15 of that document says:-

*“Introducing Personal Independence Payment offers an opportunity to re-think our approach and focus resources on individuals whose impairments have the most impact on their lives. As such, we intend to consider individuals’ ability to carry out a range of activities key to everyday life, including some related to award the definition of mobility. Those least able to do so will be awarded the greatest support in the new benefit. **There is some evidence to suggest that individuals whose impairments have the greatest impact are likely to experience higher costs. The new assessment will therefore allow us to prioritise support to individuals who face the greatest challenges and expense.** As we implement the new assessment, we will assess the extent to which it accurately meets these aims.”* [Emphasis added.]

26. Under PIP, the Government pays the enhanced rate of £55.25 per week to those who cannot stand and then move more than 20 metres, and the standard rate of £21 per week to those who can stand and then move more than 20 metres but no more than 50 metres.
27. The explanation given for using 20 metres as the benchmark distance to distinguish between those with physical disabilities for whom it is appropriate to pay the standard rate and those to whom it is appropriate to pay the highest rate is set out in paragraph 2.4 of the Consultation paper. This says:-

*“The benchmark of 20 metres was intended to allow us to distinguish between those who are effectively unable to get around due to reduced physical mobility – for example, people who are only able to move between rooms in their house but go no further – and those who have some, albeit limited, mobility. We thought that these criteria could be applied consistently and would make it easier to differentiate between people who should be receiving the enhanced and standard rate. We considered that if we use*

*distances in the assessment criteria which are close together, practical differentiation might become harder, leading to more inconsistent outcomes.”*

28. This makes it clear that the intention is to differentiate “*between people who **should be** receiving the enhanced and standard rate*”. [Emphasis added.] The objective of PIP is to provide a contribution to the extra costs faced by people with disabilities and long-term health conditions. Given this, the only rational basis for paying more to one group rather than another is that they are likely to have higher disability-related costs.
29. However, there is no evidence (or even assertion) in the Consultation document that an inability to move more than 20 metres gives rise to higher disability-related costs than an inability to move more than 50 metres.
30. We asked the DWP to provide an explanation for their selection of 20 metres as the appropriate distance to distinguish between the enhanced and the standard rates, and any relevant evidence on which they have relied. In response, we were provided with copies of three pieces of research<sup>4</sup>. We have considered each of these documents, but none provide any evidence that 20 metres is a differentiating benchmark for the purpose of identifying those who have higher disability-related costs.
31. Indeed, it is very difficult to think of any basic activity of daily living outside of the home where the ability to stand and move more than 20 metres but no more than 50 metres gives any greater level of functional independence without incurring any greater cost. It is unlikely to make access to public transport, shops, banking facilities, GP surgeries and so on without incurring the same extra disability-related costs as those who are unable to stand and then move more than 20 metres. Most people who cannot stand and then move 50 metres will effectively be housebound without extra assistance to move greater

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<sup>4</sup> (1) Review of existing research on the extra costs of disability, Mike Tibble; DWP Working Paper No 21 2005; (2) Review of international evidence on the cost of disability, David Stapleton, Annie Protik and Crystal Stone; DWP Working Paper No 542 2008; (3) The impact of Disability Living Allowance and Attendance Allowance: Findings from exploratory qualitative research, Anne Corden, Roy Sainsbury, Annie Irvin and Sue Clarke; DWP Research Report No 649 2010.

distances. These issues are illustrated very well by our clients' own circumstances which are set out in paragraphs 51-71 below.

32. The suggestion that the reforms are intended to re-focus this benefit on those in greatest need cannot mask the fact that if a person is unable to move more than 50 metres they are clearly amongst the most physically disabled in our society with absolutely minimal functional independence. The Government itself acknowledged this in the explanatory note on the second version of the consultation criteria, saying that *"50 metres is considered to be the distance that an individual is required to be able to walk in order to be able to achieve a **basic level of independence** such as the ability to get from a car park to the supermarket"*<sup>5</sup>. [Emphasis added.]
33. In the guidance explaining the third draft of the assessment criteria, the Government repeats that view and, in addition, writes:-

*"20 metres is considered to be the distance that a claimant is required to be able to walk in order to achieve a basic level of independence in the home such as the ability to move between rooms."*<sup>6</sup>

But in introducing 20m as the relevant threshold distance for eligibility for the enhanced rate, what the Government appears to have overlooked is that what is being assessed is the ability to move *out of doors*. This is because the assessment is concerned with functional independence beyond the home. The ability to move around within the home is irrelevant. The relevant question - and one which the Government has failed to ask itself - is whether 50 metres of mobility gives someone a greater level of functional ability out of the home without incurring additional costs than 20 metres of mobility.

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<sup>5</sup> Personal Independence Payment: second draft of assessment criteria: an explanatory note to support the second draft of the assessment regulations November 2011 – see page 61.

<sup>6</sup> Personal Independence Payment: third draft of assessment criteria: Guidance explaining the proposed third draft of the assessment criteria to be used in the summer 2012 testing exercise 7 August 2012 at page 20.

34. Furthermore, it is noted that the benchmark of 20 metres was intended to allow a distinction to be made between those “*who are **effectively unable to get around due to reduced physical mobility** . . . and those who have some, albeit limited, mobility*”. There is no material distinction to be made between the concept of being “*effectively unable to get around*”, and being “*virtually unable to walk*”. The DWP itself has operated a guideline that if someone cannot walk 50 metres they are “*virtually unable to walk*” for the purpose of DLA mobility eligibility. This is consistent with the case law in this area. In CDLA/608/94 the following guidance was given:-

*“...if a claimant is unable to cover more than 25 or 30 yards without suffering severe discomfort, his ability to walk is not ‘appreciable’ or ‘significant’; or if the distance is more than 80 or 100 yards, he is unlikely to count as ‘virtually unable to walk’ . . . In the difficult ground in between, I for my part find helpful the approach of the Commissioner in case CM78/89 at paragraph 13, where he said that mobility allowance (as it then was) was never designed to – and does not – embrace those who can walk 60 or 70 yards without severe discomfort.”*

This approach is reflected in the Decision Maker’s Guide at paragraph 61323. The Consultation document gives absolutely no explanation for now introducing a different and shorter threshold distance (20m) for identifying those who are effectively unable to get around, save as follows.

35. The only justification given is that if distances were used that were too close together, differentiation between those eligible for the enhanced rate and those eligible for the standard rate would become harder, leading to more inconsistent outcomes. However, this argument is built on the premise that 50 metres is the appropriate benchmark for the purpose of identifying those who should be compensated for their additional costs at the standard rate and the assumption that the ability to stand and then move even shorter distances gives rise to additional disability-related costs. No justification is given for using 50 metres as the appropriate benchmark now for the standard rate, whereas previously it had been used as the appropriate benchmark for the higher rate,

and, as already set out above, no evidence is provided (and, certainly, it is not obviously the case) that the ability to move shorter distances generates additional costs.

36. 50 metres has been adopted as the significant benchmarking distance in many other contexts. These include the Department of Transport Guidance which recommends that seating in commonly used pedestrian areas, transport interchanges and stations should be provided at intervals of no more than 50 metres<sup>7</sup>, and disabled parking bays should be located no more than 50 metres away from the facilities they serve<sup>8</sup>. In short, even in physical environments which comply with these best practice guidelines, the challenges (and extra cost) faced by those who can stand and then move between 20 and 50m metres will be no less than those who can stand and then move 20 metres.

### ***Impact***

37. The most obvious impact of the current version of the *Moving around* activity is there will be a significant group who are currently eligible for the higher rate of the mobility component of DLA (because of the use of the guideline distance of 50 metres which is being reduced to 20 metres), who will no longer be eligible, and those who would have been eligible had the threshold distance remained the same.
38. The DWP's Research Report, '*The impact of DLA and Attendance Allowance*' found:-

*“ . . . Among people who did not drive themselves, there was heavy reliance on getting lifts from other people and using taxi. ... Trips to the GP, the supermarket or the bank typically involved taxi fares of £5 - £50. Return fares to hospital appointments as high as £20 were described. These expenses came regularly; it was not unusual to have to make two or three*

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<sup>7</sup> Inclusive mobility: A guide to best practice on access to pedestrian and transport infrastructure; Department of Transport, December 2005 at para 3.4.

<sup>8</sup> Ibid at para 5.1. See also "*Accessible Train Station Design for Disabled People: A Code of Practice*", Department of Transport, November 2011 at D2 page 59.

*such essential trips a week, before adding in any taxi trips for social reasons such as going to church or a club.” (Page 60.)*

39. Access to a car not only brings a greater level of independence but reduces these kinds of costs considerably. It is acknowledged in the '*Review of existing research on the extra costs of disability*' that disabled people generally have lower incomes than non-disabled people (see page 3) and are less likely to be able to afford the expense of buying and running a car, let alone one that is suitable and meets their needs. It is significant that the research, *The impact of Disability Living Allowance and Attendance Allowance*, found that all DLA recipients with a vehicle had the benefit of the higher rate of the mobility component. (See page 60.) Without the higher rate payment, running a car will often be unaffordable for people with disabilities. Some of course use the Motability scheme (which is only available to those who have the higher rate of the mobility component) but others purchase privately.
40. The difference between the enhanced and standard rates is over £30 per week (see above). If reliant on taxis, it is easy to see how this sum could be taken up by one essential journey each week.
41. The loss of the higher rate of mobility component which will, specifically, remove access to the Motability scheme and, generally, make it very difficult for people with disabilities to run a car, will have a devastating impact on the level of achievable independence. The knock-on effects of that loss of independence cannot be over-stated.
42. The impact of a move from the enhanced to the standard rate will not only be increased levels of poverty as other resources are used to pay the additional costs of all the essential journeys, but increased greater social isolation with inevitable impacts on mental health.
43. This will – inevitably – impose greater financial burdens on both the NHS and social services authorities. The former will have the responsibility to respond to the higher levels of depressive illnesses. In addition, if patients are unable to

transport themselves independently to NHS appointments, such as hospital appointments, because of the loss of their Motability vehicle, there will be additional patient transport costs. Social Services are required to meet eligible needs and, to the extent that an individual is unable to remain independent to carry out activities of daily living, their unmet needs will have to be met by these authorities.

44. Those who currently use the Motability scheme to run a car to enable them to travel to and from work may be able to access some help from the Access to Work scheme. However, it will be for the purpose of funding transport solely for the purpose of accessing work. For the majority of people who require such transport, it would be provided by taxi, which, as an expense incurred on a daily basis, is very likely to cost more in total per week than the higher rate of the mobility component. So, not only will the transfer from Motability to Access to Work reduce the individual's independence, but will do so at a greater cost to the public purse.
45. If a disabled person is unable to undertake daily activities of daily living themselves because of a reduction in their transport independence, this will increase the burden on unpaid family carers. This will inevitably lead to increased demands on local authority services, both carer services and services for the disabled person, such as respite (non-residential and residential). It will also increase the number of claimants for carer benefits, again, at the greater cost to the state.
46. With such additional costs to the public purse, the question of whether ultimately, there will be an overall financial saving to be derived from restricting eligibility for the higher rate mobility component must be addressed.
47. What is absolutely clear is that the raising of the eligibility threshold will directly and substantially increase the inequalities that people with disabilities already face. The inability to live everyday life in ways that most take for granted is the most fundamental inequality of all. We must not lose sight of the fact that we

are talking about a group of people who can move between 10 and 25 metres from their home, taking into account that they must return to their front door.

48. The impact will be on those with this level of physical disability and will clearly be so great that the Government needs to consider whether some alternative way of making the financial savings that it seeks can be found. We understand that 104,000 are projected to score 10 points on the Moving around activity by October 2015 and 33,000 8 points. Some of these will already be eligible for the higher rate by virtue of scoring points on the Planning a journey activity. If the 50m threshold were maintained as the appropriate distance for identifying those for whom it is appropriate to pay the higher rate, on the Government's own figures less than 140,000 additional enhanced rate claims would be in payment by October 2015. There is absolutely no evidence that the Government has calculated the cost of eligibility for this group for the higher rate of mobility component and compared it with the additional financial costs on the state, both central and local, of removing that eligibility. In the absence of an analysis of this kind, the Government is not in a position to make a judgment on whether the reform with an impact of this severity is justified.
49. We are, however, concerned that the Government is unable to adequately assess the impact of the current criteria. For the purpose of its limited impact assessment to date, it has used the data collected in face to face appointments with a sample of about 900 people. In response to a request for information we have been provided with a copy of the blank pro forma assessment document. This required the assessor to collect information for the purpose of applying the eligibility descriptors in their original draft form. The relevant threshold distance at that time was 50m and not 20m. The only distance in the training manual for G4S assessors (which has also been disclosed), used by way of example to illustrate the approach to be used, was 50m. The Department has refused to disclose the full completed assessments for the sub-sample of 99 (used to assess reliability of the proposed descriptors) on the ground that sufficient information would be disclosed to allow someone who knows the individual concerned to identify them, and also on the ground of confidentiality. The Department has also refused to disclose one page of each

of those assessment (which would exclude the bulk of the personal information about the individual used) which recorded, in each case, the assessor's reasons for selecting the particular Moving around descriptor in that assessment. The reason given was that "*in some cases*" the individual could still be identified. However, for those cases where it would not do so, the material has not been disclosed. The failure to disclose this information has made it very difficult to respond on the impact of aspect of the consultation which is an issue that consultees have been expressly invited to address.

### ***Our clients' circumstances***

50. The majority of the potential impacts identified above are evidenced in our clients' particular circumstances, but there is nothing exceptional about their circumstances – they merely illustrate the position of people with their level of mobility restrictions if they are not eligible for the enhanced rate under the new scheme.

- **Ms T**

51. Our client, Ms T has a number of debilitating health conditions which severely limit her mobility. She has fibromyalgia, curvature of the spine causing constant lower back pain, achilles tendinopathy (a genetic and chronic condition that affects the achilles tendons and ankles), arthritis (in ankles, knees and hips), asthma and chronic fatigue syndrome. She lives in a one bedroom bungalow owned by a housing association and is in receipt of the higher rate of the mobility component of DLA. She moved to her current accommodation when her mobility deteriorated to such an extent that she found it very difficult to continue to live in her flat which could only be accessed via 15 steps and then a path. On moving into her current home, she was assessed by an occupational therapist, and a number of aids were supplied and adaptations made to enable her to live there.

52. Ms T uses the high rate mobility component of her DLA to lease a car using the Motability scheme. She describes this car as being her “*life-line*”, and cannot imagine how she would survive without it.
53. Ms T’s nearest bus stop requires walking nearly 10 minutes walk up a hill. There is a small local shop, but again that is an uphill walk of about double that distance.
54. Ms T does as much shopping as possible online, but needs to go shopping once a week for various fresh ingredients, and for other household items about once a month. She has checked with her local taxi firm who would charge about £9 for a return journey to the local supermarket, and £12 into the nearest town centre. Even if Ms T could get to the bus stop and use the bus, she would not be able to carry shopping. She uses a walking stick outside of her house, and when the pain is worse, crutches.
55. Ms T goes to church each week. This is very important to her. Even if she could access the bus stop, it would be a two-bus journey with a change in between. A return taxi fare would be over £13.
56. In short, one taxi journey to shop, and one taxi journey to church each week would cost approximately the equivalent (if not more than) the standard weekly rate of the PIP mobility component.
57. This does not take account of the numerous and various journeys which have to be undertaken to be independent in daily live. For Ms T these include the following, the return taxi journey for which is indicated:-
- GP £9
  - Local hospital £14
  - Dentist: £12
  - Podiatry £9
  - Optician: £9
  - Hairdresser: £13
  - Participation in hobby using equipment available at her church: £13

58. There are some journeys which our client believes that she may find so difficult that they might prove impossible to do without a car. She currently regularly visits her stepmother in Surrey, and her aunt in Twickenham. She believes that she would find the change of train at Waterloo Station very difficult, but if this obstacle were overcome, there would be taxi fares to and from her local train station each requiring £13 for the return journey and taxi fares between the destination station and her step-mother's or aunt's home. .
59. What is absolutely clear is that Ms T's life would become very restricted indeed if she were unable to run a car. She can only afford to do so with the high rate of the mobility component which she uses for the Motability scheme. She is already taking medication for depression and, unsurprisingly, finds that the more she stays at home the worse her depressive illness becomes. Her GP has advised her to go out and meet people as much as possible. In response to this advice, she uses her car to visit local places of interest when she feels able to do so. She has expressed her serious concerns that without her car, she will become very isolated which will, inevitably, impact on her mental health.

- **Steven Sumpter**

60. Mr Sumpter is 34 years of age and at his final year at university in 2000 suffered with post-viral fatigue syndrome. Although he worked following university, his health deteriorated and he was diagnosed in 2005 with ME. An improvement in his health allowed him to work again until 2010 when he suffered a total relapse. Mr Sumpter has been undergoing further investigations recently and has been advised that his correct diagnosis is, in fact, ME but an inherited genetic disorder (mitochondrial disease) which causes dysfunction in the system which generates energy for cells in the body.
61. Mr Sumpter has been awarded the high rate of the mobility component and leases a car using the Motability scheme. He has a self-propelling wheelchair which he uses when he is travelling in the car, but, because he cannot propel

himself very far, he has to be able to park close to his destination. He also purchased, an old powered wheelchair second hand which he uses, when possible, to mobilise in the local area. He can only do so when he is well enough and when he is confident that the route to be taken is suitable and accessible, for example that there are dropped kerbs where required, and the surfaces of the pavements are good. He can walk short distances with the aid of a stick.

62. The nearest bus stop to his home is a few hundred metres away (0.2 miles). On a very good day, Mr Sumpter is able to take his powered wheelchair to the bus stop and use the bus if he is intending to travel into Evesham. The buses to Redditch which also stop at the bus stop are not always wheelchair accessible. However, as explained above, Mr Sumpter can only use this means of transport if he is confident that he can reach his destination at the other end both in terms of his energy levels, and the accessibility of the route for a wheelchair. If he were without a car, the taxi fare to and from Evesham would be in the region of £20. The standard rate of the mobility component would fund one such journey a week and nothing more.
63. Mr Sumpter cannot reach the supermarket where he and his wife shop by bus because there is no bus that goes there from his home. If he did not have the car, he would either have to pay a taxi to take him (the return journey to one local supermarket is £24 and the other £16) or he would not be able to undertake even this basic activity of daily living. He would have to rely on his wife to do all their shopping, in addition to all the tasks that she currently undertakes as his main carer. An Increase in her caring responsibilities would not be sustainable without the provision of respite care.
64. In any event, there are many other basic activities which his wife cannot undertake for him. Mr Sumpter needs to attend his dentist, his optician and his barber all in Evesham and, as indicated above, each return journey by taxi would be in the region of £20.

65. Mr Sumpter also has to see his GP. The frequency varies. It is currently about once every two months, but only a year ago he had appointments every 3 or 4 weeks. This taxi fare is in the region of £20.
66. He has recently been attending Worcester Hospital which has been investigating the cause of his diabetes and has identified his new diagnosis. He has been told that it is likely that he will be referred to a hospital in Oxford which specialises in this condition. A return journey in the taxi to the train station would be £20, or he would have to rely on NHS patient transport.
67. Mr Sumpter does suffer with depression. In the past, when he was bedbound for 6 months, he felt suicidal, and was referred to a psychiatrist. He tries very hard to maintain relationships with friends and relatives, and to participate in local events, all of which, he knows, have a positive effect on his mental health. He is very concerned that if he were to lose the high rate of the mobility component and he no longer had access to a car (which he certainly would not, because he would not be able to afford it), his life would be so restricted that his mental health would deteriorate.

- **Kim Storr**

68. Ms Storr is 53 years of age and lives in a one bedroom ground floor flat. She suffers from numerous health problems including rheumatoid arthritis (which affects her hands, knees and feet) liver disease (primary biliary cirrhosis), chronic fatigue (including fatigue as a result of her liver disease) and symptoms of osteoporosis. Prior to her health problems, she worked as a nurse on an acute psychiatric ward, and, following redundancy, worked in various other jobs, but, in 2000, she reached the point where she could no longer work.
69. Ms Storr used her high rate mobility DLA award to purchase a car, but did not use the Motability scheme. However, she has difficulty operating the handbrake now, and cannot use the car at the moment.

70. Ms Storr uses crutches when she goes outside but cannot move far. The bus stop is about a 5 minute walk away on a slight incline. Ms Storr finds it too difficult to travel by public transport.
71. At the moment Ms Storr is very reliant on a friend to give her a lift to go shopping or attend medical appointments. If this were to breakdown she would be almost entirely dependent on taxis. Ideally she is need of an adapted vehicle through the Motability scheme, but does not feel able to make that change at the moment, because of the uncertainty of continuing eligibility. She, therefore, finds that she is becoming more and more restricted to her home which she knows impacts on her confidence and her wellbeing which makes it even more difficult for her to get out and about.

### ***Summary***

72. The government has raised the eligibility threshold for accessing the enhanced rate of the mobility component of PIP for those with physical disabilities.
73. The purpose is to contribute to the overall objective of reducing the number of people eligible for PIP compared with DLA.
74. The Government committed to undertaking this exercise in a way that targets this financial assistance on those who need the greatest help to live independently.
75. The expectation is, therefore, that where the eligibility threshold for the highest rate of mobility component has been raised, this payment will be made to those who have greater disability-related costs.
76. However there is no evidence that those who can stand and then move no more than 20m have any greater disability-related mobility costs than those who can stand and then move no more than 50m. Indeed, it is commonsense

that they will not. 50m offers no greater functional independence than 20 m for the purpose of maintaining an independent life out of the home.

77. No non-circular justification has been given for raising the eligibility threshold.
78. The use of 20m as a significant mobility distance runs counter to the DWP's own guidance on what is meant by being virtually unable to walk, and the use of 50m as the distance of relevance and significance in all other relevant contexts, in particular the guidance for built environment design.
79. The impact on physically disabled people who will lose their entitlement to the higher rate (and, in consequence, to their ability to run a car, whether that is through the Motability scheme or otherwise) will be devastating with consequential costs to the public purse which are likely to be very significant indeed.

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