

## **Video Transcript**

Hello, I'm Liam – a trainer with Benefits and Work

Welcome to this short video explainer on a recent Supreme Court judgement and what it means for PIP claimants.

The DWP has announced that they will begin searching for thousands of PIP claimants owed up to £13,000 each following a recent Supreme Court judgement.

We've put this short video explainer together so that you know the important details, including what you need to do if you think this might apply to you or somebody you support.

### **So what's happened?**

A recent Supreme Court judgement ruled that the DWP got the law wrong when deciding whether PIP claimants should get points for the activity 'Engaging with other people face to face'.

This could mean potentially thousands more people are eligible for the daily living component of PIP or should be getting it at a higher rate.

The DWP has announced that it is beginning a review of PIP claimants to identify those owed up to £13,000 due to this error.

You may have missed out if:

- You get regular get support to help you manage face-to-face encounters, from either
- A mental health professional
- Particular friends or relatives who are experienced in providing you support.

### **The technical bit**

To get awarded PIP you need to get awarded points against grading criteria called 'descriptors'.

The supreme court judgement involved 2 of these descriptors in particular:

- b. Needs prompting to be able to engage with other people. 2 points.
- c. Needs social support to be able to engage with other people. 4 points.

### **What was decided?**

The Supreme Court made two big decisions:

**Firstly** – they decided that some people awarded 2 points for needing prompting, should have got 4 points for needing social support, if that prompting was provided by somebody ‘trained or experienced’ in providing social support. For example a mental health specialist or a friend or family member who is experienced in providing you with support.

**Secondly** – some people awarded 0 points because the social support they received did not happen ‘immediately before or during’ the social engagement, should have got 4 points, as social support is still relevant even if provided weeks before or even after the event.

### **Let’s look at these in more detail**

#### **1: When prompting is social support**

The DWP had maintained that if you needed ‘prompting’ to be able to engage with others then you would score 2 points for descriptor b.

Prompting means ‘*reminding, encouraging or explaining by another person*’. For example, if you need someone to be with you at appointments or meetings, to encourage you to engage with people, then you could score 2 points for this descriptor.

The DWP maintained that this was the case no matter who the person prompting you was.

However, the supreme court judgement ruled that if the person prompting you is someone ‘trained or experienced in assisting people to engage in social situations’, then this prompting could count as social support, and you could get 4 points instead!

Example:

So, if the prompting could come from any well-meaning friend or relative and it would be just as effective, then you would only score two points.

But if the prompting would only be effective if it came from someone ‘trained or experienced’, such as a **trained** mental health professional **or** an **experienced** friend or relative, then it is now likely to score four points.

#### **2: The timing of social support**

The DWP had taken the view that social support has to be given during the social activity or immediately before it.

However, the Supreme Court held that social support can count even if it takes place weeks before or even after the event.

This could mean that many people who got zero points for this activity will now be eligible for four points.

Example:

Someone who would not be able to cope with social engagement if it were not for the support they receive at monthly meetings with their therapist would until now not have been awarded any points on these grounds by the DWP, but – as a result of this change – they should now score 4 points.

### **Who the DWP be reviewing?**

We don't know yet how the DWP plans to carry out its search or how long it will take.

However, we think it will apply to decisions made between the 6<sup>th</sup> April 2016 – the date from which the ruling applies - and 17<sup>th</sup> September 2020 – the date from which the DWP say they've been following the ruling in all decisions.

In addition, the DWP will only look at decisions where the additional points would have made a difference between you being awarded the standard or enhanced rate or not.

We also know that they will not be looking at cases where the award was made by a tribunal, because they say that they do not have the power to change tribunal decisions on the grounds of an error of law.

### **What can I do if I think I might be affected?**

If you think you may be entitled to the standard or enhanced rate of PIP as a result of this decision and you are in one of the categories that the DWP are searching for, then you can just wait to see if they contact you.

Alternatively, you can write to the DWP telling them that you think you are covered by this decision and asking them to look at your claim again.

If you are not sure if it applies to you, you could write to the DWP and ask them what points you were awarded and when your claim was decided.

You might also need to check the DWP have enough evidence, or provide new evidence so that they can make the right decision.

If you're a Benefits and Work member, there are sample letters covering all of these aspects in the members area of our website.

We've also updated our PIP guide to take account of the changes to the law, so members can also use this to find out more.

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