

# Claiming Incapacity Benefit

## CONTENTS

---

	PAGE
What is Incapacity Benefit?.....	1
Who can claim Incapacity Benefit? .....	1
When should I claim? .....	1
Am I entitled to Incapacity Benefit?.....	1
Incapable of work.....	2
The Own Occupation Test .....	2
The Personal Capability Assessment .....	2
Period of Incapacity for work.....	2
Have I paid enough National Insurance Contributions.....	3
Incapacity in Youth .....	3
Widows and Widowers.....	4
How much is Incapacity Benefit? .....	4
Incapacity Benefit Rates .....	4
How do I claim Incapacity Benefit? .....	5
What if I am employed? .....	5
How is Incapacity Benefit paid? .....	5
The IB50 .....	5
What is the IB50? .....	5
How many points do I need to qualify? .....	5
How are the points scored? .....	6
Information to complete the questionnaire .....	6
What do I do when I have completed the IB50? .....	8
What if I have to attend a Medical Examination? .....	9
What happens next? .....	10
Pension Payments.....	10
What pension payments count?.....	10
What is the upper age limit? .....	11
What if I go back to work and become ill again?.....	11
Can I work and claim Incapacity Benefit? .....	11

---

## **APPENDICES**

---

APPENDIX 1 - Deemed Incapacity.....	12
APPENDIX 2 – Exemption from the Personal Capability Assessment.....	13
APPENDIX 3 – Linking Rules.....	14
APPENDIX 4 - Additional Amounts.....	15
APPENDIX 5 - Descriptors and Scores .....	16
Physical Descriptors .....	16
Mental Health Descriptors .....	20
Local Information .....	21
Comment Slip .....	22

### **Warning**

**The information in this briefing note is as accurate as possible at the time of printing. However, it is only a guide to the appropriate rules and therefore cannot be completely accurate in every respect and cover every possible situation.**

**We therefore always recommend that you seek advice from a competent person before taking any action based on the information in this briefing note.**

## What is Incapacity Benefit?

Incapacity Benefit is a benefit paid to people who are unable to work due to illness or disability. It is usually only paid to those who have paid sufficient National Insurance contributions (see pages 3 – 4 for exceptions).

Incapacity Benefit is not means tested, this means it is not affected by any savings or income (apart from certain pension income, see page 10).

If you have a low income you may also be entitled to Income Support, Housing Benefit or Council Tax Benefit (See the Welfare Rights briefing note *A Simple Guide*). If you have children you should be entitled to Child Tax Credit (See briefing note *Tax Credits*). If you have a disability and need help with personal care, supervision to ensure your safety, or have difficulty walking, you may be entitled to Disability Living Allowance (See briefing notes *Disability Living Allowance What is it? How to claim*).

## Who can claim Incapacity Benefit?

You must be 16 or over and under 60 years for a woman or under 65 years for a man (some people over pension age may be entitled to Short Term Incapacity Benefit see page 11)

**If you are an employee** and your normal gross (before Tax and National Insurance deductions) earnings are £87.00 or above then you should be entitled to Statutory Sick Pay (SSP). SSP is paid for up to 28 weeks, after which you may be entitled to Incapacity Benefit if you are still unable to work. If you are not entitled to SSP for any reason you may be entitled to Incapacity Benefit immediately instead.

**If you are self employed or unemployed** you cannot get SSP so you should claim Incapacity Benefit straight away. If you are not entitled to Incapacity Benefit because you have not paid enough National Insurance contributions, you should claim Incapacity Benefit and Income Support. You may be entitled to Income Support because you are unable to work (see *Income Support and Income Based Job Seekers Allowance* briefing notes).

## When should I claim?

You should make your claim for Incapacity Benefit as soon as possible as you may lose benefit. Any claim **must** be made within three months of your first day of illness or when your employer tells you that you are no longer eligible, or cannot get, SSP.

## Am I entitled to Incapacity Benefit?

To qualify for Incapacity Benefit you must:

- Be incapable of work because of illness or disability **and**
- Be in a period of incapacity for work **and**
- Not be entitled to SSP, or SSP entitlement has ended **and**
- Meet the National Insurance contributions conditions **or** qualify for Incapacity in Youth conditions **or** as a widow/widower (see page 4) **and**
- Be under 65 for a man or under 60 for a woman (see page 11 for exceptions)

## Incapable of Work

The Department for Work and Pensions uses two tests to assess someone's ability to work. The **Own Occupation Test** and the **Personal Capability Assessment**.

### The Own Occupation Test

If you have worked 16 hours or more per week for more than 8 weeks in the 21 weeks prior to your claim for Incapacity Benefit the Own Occupation Test applies. This test assesses your ability to do your usual job. You must provide evidence of your inability to work, sick notes from your GP are usually sufficient. The DWP may request that you attend a medical examination if they require further evidence. The Own Occupation Test covers the first 28 weeks of illness (whether in one single period or several linked periods see page 11)

In all other cases the Personal Capability Assessment will apply.

### The Personal Capability Assessment

This test assesses your ability to do a number of set tasks or **descriptors**. You will have to complete form IB50. This form comprises a series of questions about how your illness or disability affects your ability to perform each task. Each descriptor is allotted a number of points, if you are awarded enough points you will be treated as incapable of work (see The IB50 on page 5 - 8).

The DWP may ask you to attend a medical examination to assess your incapacity for work. If you are asked to attend a medical examination you must go, as not attending without good reason will affect your eligibility to benefit.

Some people can be **deemed** incapable of work for the purpose of both these tests. *See appendix 1*

Some people are automatically **exempt** from the Personal Capability Assessment. *See appendix 2.*

### Period of Incapacity for Work

The first three days of illness are classed as Waiting days and you will not receive Incapacity Benefit for these days. Therefore a Period of Incapacity for Work is a period of four or more consecutive days when you are incapable of work.

Two or more periods of Incapacity for Work can sometimes be linked together. If periods of Incapacity for work fall within eight weeks of each other these periods can be linked to form one single period. This is beneficial if you try to return to work but illness prevents you continuing.

If two or more periods are linked:

- You do not have to reserve the qualifying period
- You will have already been assessed as meeting the National Insurance contribution conditions.
- The date of your first claim will be used when assessing the date at which you become eligible for Higher Rate Short Term or Long Term Incapacity Benefit.
- You can continue to claim Incapacity in Youth if you have not met the National Insurance qualifying conditions.

*In some circumstances if you stop claiming Incapacity Benefit your period of incapacity for work does not end as long as you claim again within two years. See Appendix 3*

## Have I paid enough National Insurance contributions?

To qualify for Incapacity Benefit you must have:

- i. **paid** sufficient National Insurance contributions in one of the previous three tax years\* **and**
- ii. **paid or been credited with** full National Insurance contributions for the last two complete tax years.

This first rule is relaxed so that sufficient contributions paid in any previous tax year will be enough if:

- You were entitled to Carer's Allowance (even if not paid due to overlapping benefit rules) in the last complete tax year before the benefit year you became incapable of work.
- You were working for more than two years and entitled to the Disability Element or the Severe Disability Element of Working Tax Credit immediately before becoming incapable of work.
- Receiving Incapacity Benefit for at least a day in the complete tax year prior to the benefit year of your new claim
- You were entitled to credits because you were in prison or a detention centre and the conviction was quashed.

*\*Tax year runs from 6 April to 5 April.*

*Benefit year runs from the first Sunday in January to first Saturday in the following January.*

## Incapacity in Youth

The Incapacity in Youth rules were introduced in 2001 following the abolition of Severe Disablement Allowance. Incapacity in Youth enables young people who are ill or have a disability and have not had a chance to pay National Insurance contributions to claim Incapacity Benefit.

To qualify for Incapacity Benefit in Youth the claimant must:

- i. Be aged 16 or over **and**
- ii. Have been incapable of work for 28 weeks continuously **and**
- iii. Be aged under 20 when the period of incapacity began and claim in time

**OR**

- Be aged under 25 when the period of incapacity began and have been attending a course of advanced or secondary education that started at least three months before their 20<sup>th</sup> birthday. (**Seek advice**) **and**
- iv. Satisfy the residency and presence conditions **and**
  - v. Not be subject to immigration control **and**
  - vi. Not be in full time education if younger than 19 years of age.

*Full time education is defined as a course of study of at least 21 hours per week – this can include periods of supervised or unsupervised study. However if you have a disability **only** the hours of study that are suitable for a student who is not disabled are counted towards this total.*

*To claim Incapacity in Youth use IB(Y)1 form usually available from your local Job Centre Plus Office.*

## Widows and Widowers

If you are a widow whose spouse died before 9 April 2001 or a widower whose spouse died after 5 April 1979 and before 9 April 2001 you may be entitled to Incapacity Benefit even if you have not satisfied the National Insurance contribution conditions. If you qualify in this way you may be entitled to Long Term Incapacity Benefit straight away. If you fall into this category you should seek expert advice as the rules are complex.

## How much is Incapacity Benefit?

Incapacity Benefit is paid at two rates, Short Term and Long Term, dependent on the length of time you have been incapable of work. Short Term Incapacity Benefit is divided into two, Higher and Lower rates. Higher Rate Incapacity Benefit has additional amounts depending on your age when your Period of Incapacity for Work started. (See table below) You may be able to claim extra Incapacity Benefit for your spouse or someone who looks after your children. Any earnings or pension may affect your entitlement to this addition. Prior to 6 April 2003 you could claim additional amounts for any children that lived with you; you must now claim Child Tax Credit for children living with you. See Appendix 4 for rules on claiming additional amounts.

## Incapacity Benefit Rates

	Claimant under pension age		Claimant over pension age	
	Amount	Adult Dependent	Amount	Adult Dependent
<b>Short Term</b>				
Lower Rate Weeks 1-28	£61.35	£37.90	£78.05	£46.80
Higher Rate Weeks 29-52	£72.55	£37.90	£81.35	£46.80
<b>Long Term</b> Week 53+	£81.35	£48.65	N/A	N/A
Age Addition under 35	£17.10	} Age additions only paid with Long Term Incapacity Benefit		
Age Addition 36 - 44	£8.55			

**Backdating.** Incapacity Benefit cannot be backdated for more than 3 months.

- However if you have been incapable of work due to illness for a period prior to your claim your period of incapacity for work can be backdated so that you will become eligible for Short Term Higher Rate or Long Term Rate at an earlier date.
- This is important if you wish to claim Incapacity in Youth as you can fulfil the 28 week qualifying period in this way.

Ask your GP for a backdated sick note or Med 5 if you think this applies.

## How do I claim Incapacity Benefit?

If you are aged 18 or over (unless you qualify under Incapacity in Youth rules) you will need to telephone the Contact Centre to make a claim. They will take a few details from you and arrange a convenient time to ring you back. They will tell you what details you will need to have available for their call. On the return call they will ask you all the questions that they need to process the claim, then they will print off your answers and post them to you. This is called the customer statement. You should read through it carefully to make sure everything is correct, and then sign the declaration. If you have been told to attend a Work Focused Interview you should take your customer statement with you. If you are exempt from an interview or it has been waived you should post the statement back with any evidence requested.

You will need to provide self certification (Form SC2) for your first seven days of illness. If you are incapable of work for more than seven days you will have to send medical evidence (Form Med3/Sick note from your GP) to the office that deals with your claim. It is vital to keep your sick notes up to date; if you do not provide medical evidence your claim will be suspended. Once you have passed the Personal Capability Assessment you will not normally have to provide medical evidence.

## What if I am employed?

If you are employed and your Statutory Sick Pay has finished or your employer cannot pay SSP you will need to follow the procedure above but you will also need to obtain Form SSP1 from your employer and send it to the DWP.

If you receive 28 weeks of SSP from your employer you should immediately go to the Short Term Higher Rate of Incapacity Benefit.

## How is Incapacity Benefit paid?

Incapacity Benefit is usually paid fortnightly in arrears. Payment is paid into a nominated bank account. In certain circumstances you can request that you be paid by cashable Giro.

## The IB50

After you have been incapable for work for 196 days you will be sent form IB50 so that the DWP can assess your incapacity for work under the Personal Capability Assessment. Some people are exempt from this test (see appendix 2). If you believe you fall in this category and you receive an IB50 you should not have to complete the form. Contact your local Job Centre Plus office or seek advice.

## What is the IB50?

The IB50 is a form that asks how difficult or easy you find particular tasks or **descriptors**. It is in the form of a questionnaire with 14 descriptors and your ability to complete these tasks is scored. If you score enough points you should not have to attend a medical examination and should continue to qualify for Incapacity Benefit.

## How many points do I need to qualify?

To qualify for Incapacity Benefit you need:

- **15 points for physical disabilities** OR
- **10 points for mental health disabilities** OR
- **15 points from both** with a minimum of 6 points from the mental health descriptors

## How are the points scored?

For each descriptor the highest score is added together to make your final total. See appendix 4 for a list of descriptors and their points.

### ***Mental Health***

The IB50 has no specific questions about mental health problems but there is space to indicate how your condition affects you. Points are awarded on how you cope with your condition on a daily basis, your ability to perform certain tasks, how you cope with pressure and how you interact with others.

Write down as much information as you can that falls within the descriptors (see appendix 4).

If you score 10 points you pass the test. If you score between 6 and 9 points for mental health problems you are counted as having 9 points and must score at least 6 points in the physical disabilities descriptors to qualify for Incapacity Benefit.

## **INFORMATION TO COMPLETE ON THE QUESTIONNAIRE**

Before completing the questionnaire think about the tasks and your ability to do these in a work setting on a regular basis. If you suffer pain or discomfort carrying out the tasks, give details.

Below are some points which may help you with effective completion of the questionnaire:

### **WALKING**

- Give details of any walking aids you use - e.g. stick.
- Do you get breathless or suffer pain during or after walking?
- Do you need to rest after walking and therefore cannot do other tasks?
- Is your balance poor or can you only walk very slowly?
- The distance you put down on the form should be the distance you can regularly walk without discomfort or pain. Make sure the distance you put down is accurate.

### **USING THE STAIRS**

- Do you become breathless using stairs?
- Could you regularly walk up or down stairs or only manage it once or twice a day?
- Do you get any pain (e.g. in your legs) using the stairs?
- Would you need to rest after walking up or down the stairs?
- Have you had any falls on the stairs?

### **SITTING IN A CHAIR**

*(The chair envisaged is an unpadded chair without arms – e.g. a dining chair)*

- Can you sit in a chair comfortably and do other activities such as writing?
- Do you become stiff if you sit for a while?
- Do you have to move about to ease any pain or discomfort?

## **STANDING**

- Can you stand without holding on to anything?
- Do you get dizzy, tired, or light-headed if you stand?
- Are you able to stand and do any other activities, e.g. you may not be able to stand and wash dishes.

## **RISING FROM A CHAIR**

- Do you sometimes need help you to get up and out of a chair e.g., by holding onto a stick, other furniture including pushing on the seat of the chair or a person?
- Do you have problems with your balance when you stand up?
- Could you sit down and stand up on a regular basis?

## **BENDING AND KNEELING**

- Do you suffer from pain in your knees or back when bending?
- Could you safely bend down to pick something up or would you be at risk of falling?
- Would you have to hold on to something or someone for support?

## **MANUAL DEXTERITY**

- If you are writing do you get pain in your hands?
- Is your condition variable so on some days you cannot manage to use taps or turn knobs?

## **LIFTING AND CARRYING**

- Do you have problems lifting things with either hand?
- Could you safely lift a full saucepan or would you be liable to drop it?
- Does your hand hurt after you have lifted or carried anything?
- Could you sustain a lifting and carrying action or do it repeatedly?

## **REACHING**

- Do you need help on occasions with putting on your coat?
- Do your arms ache or become painful reaching up?

## **SPEECH AND SPEAKING**

- Can people who do not know you understand what you say?
- Do you stammer and does this become worse if you are worried or stressed?

## **HEARING**

- Do you frequently need other people to explain what is being said around you?
- Is it difficult for you to concentrate to understand what is going on?
- Does any background noise interfere with your hearing?

## SEEING

- Can you read large print for long periods, or does it become blurred? Do you have to stop because your eyes ache?

## INCONTINENCE

- Do you need to stay close to a toilet due to this problem?

## FITS AND LOSS OF CONSCIOUSNESS

- Do you suffer from dizzy spells and then need to sit and rest?
- Does your medication have side effects, e.g. drowsiness?

## MENTAL HEALTH

*Try to give details about how your condition affects you - these could include something similar to the following statements:*

- I need someone to encourage me to get up and get dressed.
- I tend to sit and do nothing for most of the day.
- When watching TV I often find I have drifted away and cannot remember what is happening.
- I often leave things on the cooker and forget about them.
- I do not like new situations as I get very nervous and panicky.
- I cannot go out of the house on my own.
- I find that I cannot explain myself very well and I get very frustrated or angry with people because of this.
- I feel that everything is getting on top of me and I cannot cope, I get upset easily and I feel constantly tired.

What do I do when I have completed the IB50?

You have six weeks to complete and return the questionnaire, a reminder will be sent after four weeks. If you do not return the questionnaire without good reason you will be treated as capable of work.

You may be requested to provide a medical report from your GP (Med4) that gives a statement of your condition and its affect on you. You should visit your GP and make them fully aware of your condition and how it affects you so that they can write an accurate report.

In Leicestershire medical examinations are held in Leicester. The Med4 report asks if you able to attend a medical examination. If you would have difficulties attending a medical examination you should inform your GP of this.

## What if I have to attend a Medical Examination?

When you have returned your questionnaire a decision maker (DM) will look at this and see if they have enough information to make a decision. Usually the DM will want more information and you will be asked to go to a medical examination.

The DWP must give you at least 7 days notice of the time and place of the examination, but usually they will let you know about four weeks before. If you have language problems and need an interpreter or wish to see a male or female doctor you should request this before the appointment. If you cannot attend you should inform them of this as soon as possible by telephoning the *client help desk* at the Medical Assessment Centre - the telephone number will be on your appointment letter. You should explain why you are unable to go and ask for another appointment at a more convenient time. If you are too ill to go to the Medical Assessment Centre you should be able to arrange an examination at your home. You will need your GP to support this request.

If you miss the examination without good reason you will be treated as capable of work. You should contact the *client help desk* as soon as possible explaining your reasons for not attending, e.g. you were too ill, and try to arrange a new date.

The medical examination usually takes about 20-45 minutes. You are allowed to take another person (a spouse/partner or friend) with you to the examination. The doctor will come and meet you in the waiting room and the examination will really begin then as the doctor will test your grip when shaking your hand and will be watching how you get up from the chair and walk to the examining room.

The doctor will ask you questions based on the tasks in the questionnaire. Try to make sure you explain all the difficulties you would have doing these, including any pain or discomfort you suffer, and whether you are able to repeat these tasks. If your condition changes, try to explain to the doctor how you are on your bad days. The doctor's decision on your capability for work should be based on how your condition affects you over time, not just how you were on the day of the examination.

If you suffer from depression or any mental health problems then the doctor will ask you about this. However, the doctor is not allowed to ask you directly any of the mental health descriptor questions, so the questions you will be asked may seem strange or irrelevant. Try to explain how your condition affects you each day and which things you find difficult. Look at the mental health descriptors in *Appendix 5* as this will give you some idea about what the doctor is looking for. If the doctor does not ask you about your mental health problems then make sure that you tell them all about this before leaving.

## What happens next?

A decision maker (DM) from the DWP will make an assessment on your incapacity. Their decision will be based on the questionnaire (IB50) you completed, your own doctor's report (Med 4), and (if you went for a medical examination) the report from the DWP Medical Service doctor.

You will be informed of the DM's decision on your incapacity by letter. If you pass you will continue to receive IB. If you fail you will no longer be entitled to IB and payment will stop immediately. You may be able to claim other benefits, e.g. Jobseekers Allowance, but if you disagree with the DM's decision you should consider appealing. About 45% of appeals are successful. (See the companion guide *Incapacity Benefit: Appealing Against a Decision to Stop Benefit*.)

## Pension Payments

If your entitlement to Incapacity Benefit started on or after 06 April 2001 your benefit may be reduced if you receive certain types of pension income. If the total amount of gross pension you receive is less than £85.00 per week or you receive the highest rate of Disability Living Allowance Care component then your pension payments are ignored.

If the total amount of gross pension exceeds £85.00 per week your Incapacity Benefit will be reduced by half of the amount of pension paid above £85.00.

### *Example*

*Mr Jones was awarded Incapacity Benefit in 2004 and receives a personal pension of £55.00 per week and an occupational pension of £35.00. The pension total is £90.00, this exceeds the limit by £5.00 so Mr Jones Incapacity Benefit will be reduced by half the difference i.e. £2.50.*

## What pension payments count?

Pension payments that count are:

- Any personal pension *and*
- Any occupational pension *and*
- Any Public Service Pension
- Any permanent health insurance policy arranged by your employer that provides payments in connection with ill-health or disability after your employment ends. However if you contributed more than half of the pension premiums this pension income will be ignored.

Pension payments that are ignored are:

- Any part of a pension paid to an ex-spouse
- Any lump sum payment
- Any payment received because of the death of the pension holder
- Any other type of pension payment

## What is the upper age limit?

You are **not** entitled to Long Term Incapacity Benefit after you reach retirement age (60 for women 65 for men)

If you are no more than 5 years over pension age you may be entitled to Incapacity Benefit if:

- You would have been entitled to a category A Retirement Pension had you not deferred claiming it or de-retired

OR

- On the basis of your late spouse's (or Civil Partner's after Dec 05 2005) National Insurance contributions a category B Retirement Pension had you not deferred claiming it or de-retired

AND

- Your period of incapacity for work began before you reached pension age

AND

- The period of 364 days when Short Term Incapacity Benefit is paid has not run out.

You may be better off claiming Retirement Pension and Pension Credit so seek advice before deciding.

## What if I go back to work and become ill again?

If you go back to work and become ill within a certain period of time (Linking Period) you should be able to reclaim Incapacity Benefit at the same rate and without having to serve three waiting days (See appendix 3).

## Can I work and claim Incapacity Benefit?

You can in some circumstances do a limited amount of work and claim Incapacity Benefit. The rules are complex so see the companion briefing note **Moving Into Work? A Guide to Incapacity Related Benefits** or seek advice.

# APPENDIX 1

## Deemed Incapacity

You may be deemed incapable of work in respect of the Own Occupation Test or the Personal Capability Assessment:

- \* if you are under medical observation as the possible carrier of an infectious or contagious disease (or you have been in contact with a person with such a disease), and a medical officer for environmental health has given you a certificate excluding you from work; *or*
- \* if you are receiving in-patient treatment (including nursing) at a hospital or in a 'similar institution'; *or*
- \* on days when you are receiving treatment by way of plasmapheresis, parenteral chemotherapy, or radiotherapy or regular weekly treatment by way of renal dialysis or total parenteral nutrition; *or*
- \* on days when you are pregnant and there would be a serious risk to your health or your baby's health:
  - when the own occupation test applies to you, if you continue to work in your own occupation; *or*
  - when the personal capability assessment applies, if you work in any occupation; *or*
- \* if you are pregnant or have recently had a baby; *and*
  - you would not be entitled to either maternity allowance or statutory maternity pay were you to make a claim; *or*
  - you are within the period beginning with the first day of the sixth week before the expected week of childbirth (or beginning with the actual day of childbirth if that is earlier), and ending on the 14<sup>th</sup> day after the date you had the baby; *and*
  - you have a medical certificate giving your expected date of childbirth or your actual date of childbirth; *or*
- \* if you are a 'welfare to work beneficiary' (see briefing note 'Working while sick or disabled') you can be treated as incapable of work without having to satisfy the own occupation test or personal capability assessment for up to 91 days if:
  - in your last period of incapacity for work you were either assessed under the personal capability assessment (or all-work test) and found to be incapable of work, or you were exempt from the personal capability assessment (but not for the reasons given in the last two bullet points in Appendix 2); *or*
  - you submit a medical certificate to the DWP confirming that you are incapable of work; *and*
  - the days fall within your 52-week linking period or within the first 13 weeks after the end of the 52-week linking period.

The 91 days do not need to be consecutive and so can be separated by days when you work or are not incapable of work. If you are incapable of work for more than 91 days within the above period you will have to satisfy the own occupation test or the personal capability assessment from the 92<sup>nd</sup> day of your incapacity for work (unless you can be treated as incapable of work for another reason).

## APPENDIX 2

### Exemption from the Personal Capability Assessment

- You receive Disability Living Allowance Care Component at the highest rate.
- You are terminally ill. Terminal illness is defined as a progressive condition such that the person is expected to die within six months.
- You are registered as blind.
- You are assessed as at least 80% disabled for the purpose of a Severe Disablement Allowance claim, or receive disablement benefit based on at least 80% disability.
- People with one of the following impairments or illnesses:
  - ~ tetraplegia or paraplegia
  - ~ persistent vegetative state
  - ~ dementia
- people accepted by the Decision Maker as having one of the following impairments or illnesses:- (usually advice will be sought from a DWP doctor)
  - ~ severe mental illness
  - ~ severe learning difficulties
  - ~ severe and progressive neurological or muscle-wasting diseases
  - ~ active and progressive forms of inflammatory polyarthritis
  - ~ impairment of cardio-respiratory function which severely and persistently limits effort tolerance
  - ~ dense paralysis of the upper limb, trunk and lower limb on one side of the body (e.g. from a stroke)
  - ~ impairment of function of brain or nervous system causing motor sensory and intellectual deficits
  - ~ severe and progressive immune deficiency states characterised by the occurrence of opportunistic infections or tumour formation
- hospital in-patients undergoing treatment
- people with an infectious or contagious disease certified by a Medical Officer for Environmental Health.
- people receiving regular treatment such as dialysis or chemotherapy
- women who are pregnant and either:-
  - ~ working would be a risk to their health or the health of their unborn child; OR
  - ~ between the 6th week before their expected week of confinement and 14 days after the actual date of confinement and have no entitlement to Statutory Maternity Pay or Maternity Allowance.
- You were receiving Severe Disablement Allowance on 12<sup>th</sup> April 1995 and you have been continuously incapable of work since then.
- You are getting constant attendance allowance that is paid at a rate that is higher than the lower weekly rate.

## APPENDIX 3

### The Linking Rules

Two or more periods of incapacity for work separated by eight weeks or less are linked together to form a single period.

A similar rule, the **Welfare to Work** rule, can protect your benefits for up to 104 weeks. This rule does not apply if your previous claim ended because you failed the Personal Capability Assessment.

To qualify for the 104 week linking rule you must:

- Have been receiving benefit because of an incapacity for work for at least 196 days
- You must start work (or training where a training allowance is paid) within one month of the date your claim for incapacity related benefit ends.

If you return to benefit within this 104 week period you immediately re-qualify for the 104 week linking rule again.

You will not be entitled to IB for the periods between the linked periods of incapacity for work, but if periods are linked in this way it means that:

- the question of whether or not you satisfy the contribution conditions is decided at the beginning of the first period of incapacity for work and is not re-considered if you have periods when you get better but then become ill again; *and*
- you do not have to serve a further three waiting days before being entitled to payment of IB
- your previous periods of incapacity are counted when calculating the date from which you become entitled to the higher rate of short-term or long-term IB.

The 104 week Tax Credit linking rule can also protect your entitlement for up to two years. This applies if:

- you were working for 16 hours or more a week but have had to give up your job; *and*
- in the week that you last worked you were entitled to working tax credit (WTC) on the basis of your previous entitlement to the higher rate of short-term IB or long-term IB; *and*
- you are incapable of work in the first day that you stop working; *and*
- this day falls within two years of the last day on which you were entitled to IB.

In these circumstances any day falling in a week in which you were entitled to WTC counts as a day of incapacity for work.

Your period of incapacity for work also does not end if:

- you were on 'training for work'; *and*
- you were entitled to the higher rate of short-term or long-term IB at some time in the eight weeks before you started your training; *and*
- you are incapable of work on the day after your training stops; *and*
- this day falls within two years of the last day on which you were entitled to IB.

In these circumstances any day falling in a week in which you were doing such training counts as a day of incapacity for work.

## APPENDIX 4

### Claiming an increase in Incapacity Benefit for a spouse or someone who cares for a child

You can qualify for extra money for a spouse if:

- you make a separate claim for an increase
- AND**
- Your Spouse earnings including occupational and private pensions are not over the earnings limit for that week
- AND**
- You are not getting an increase for a dependent adult who is looking after your child (see below)
- AND EITHER**
- Your spouse is over 60 and you reside with them OR you contribute to their maintenance at a weekly rate at least the amount of the weekly increase
- OR**
- Your spouse is under 60 and you reside with them and entitled to child benefit

If you do not claim an increase for a spouse you may be able to claim for an adult dependant who cares for a child.

You can qualify if:

- You make a separate claim for the increase
- AND**
- Your Spouse earnings including occupational and private pensions are not over the earnings limit for that week
- AND**
- Your dependant has care of a child
- AND**
- You are treated as entitled to an increase in Incapacity Benefit for the child
- AND EITHER**
- You reside with your dependant **OR**
  - You contribute to the maintenance of at least equal to the increase **OR**
  - You employ your dependant at accost of at least the standard rate of the increase and the employment started before you became incapable of work unless the need for you to employ your dependant arose afterward
- AND**
- You do not get an increase for your spouse
- AND**
- Your dependant is not absent from Great Britain unless they are residing with you outside GB and you still qualify for benefit

If your spouse or adult dependant is working the rules are complex and you should seek advice.

## APPENDIX 5

### Descriptors and Scores for each Activity

*Only the highest score under each activity area counts. The first two activity areas (walking and stairs) overlap and only the highest point score in either activity counts.*

#### Physical Descriptors

##### Walking on level ground with a walking stick or other aid if normally used

<i>Descriptor</i>	<i>Points</i>
(a) Cannot walk at all	15
(b) Cannot walk more than a few steps without stopping or severe discomfort	15
(c) Cannot walk more than 50 metres without stopping or severe discomfort	15
(d) Cannot walk more than 200 metres without stopping or severe discomfort	7
(e) Cannot walk more than 400 metres without stopping or severe discomfort	3
(f) Cannot walk more than 800 metres without stopping or severe discomfort	0
(g) No walking problem	0

##### Walking up and down stairs

<i>Descriptor</i>	<i>Points</i>
(a) Cannot walk up and down one stair	15
(b) Cannot walk up and down a flight of 12 stairs	15
(c) Cannot walk up and down a flight of 12 stairs without holding on and taking a rest	7
(d) Cannot walk up and down a flight of 12 stairs without holding on	3
(e) Can only walk up and down a flight of 12 stairs if goes sideways or one step at a time	3
(f) No problem in walking up and down stairs	0

##### Sitting in an upright chair with a back but no arms

<i>Descriptor</i>	<i>Points</i>
(a) Cannot sit comfortably	15
(b) Cannot sit comfortably for more than 10 minutes without having to move from the chair because the degree of discomfort makes it impossible to continue sitting	15
(c) Cannot sit comfortably for more than 30 minutes without having to move from the chair because the degree of discomfort makes it impossible to continue sitting	7
(d) Cannot sit comfortably for more than one hour without having to move from the chair because the degree of discomfort makes it impossible to continue sitting	3
(e) Cannot sit comfortably for more than two hours without having to move from the chair because the degree of discomfort makes it impossible to continue sitting	0
(f) No problem with sitting	0

**Standing without the support of another person; may use a walking stick**

	<b>Descriptor</b>	<b>Point s</b>
(a)	Cannot stand unassisted	15
(b)	Cannot stand for more than a minute before needing to sit down	15
(c)	Cannot stand for more than 10 minutes before needing to sit down	15
(d)	Cannot stand for more than 30 minutes before needing to sit down	7
(e)	Cannot stand for more than 10 minutes before needing to move around	7
(f)	Cannot stand for more than 30 minutes before needing to move around	3
(g)	No problem standing	0

**Rising from sitting from an upright chair with a back but no arms**

	<b>Descriptor</b>	<b>Point s</b>
(a)	Cannot rise from sitting to standing	15
(b)	Cannot rise from sitting to standing without holding on to something	7
(c)	Sometimes cannot rise from sitting to standing without holding on to something	3
(d)	No problem with rising from sitting to standing	0

**Bending and kneeling**

	<b>Descriptor</b>	<b>Point s</b>
(a)	Cannot bend to touch knees and straighten up again	15
(b)	Cannot either bend or kneel or bend and kneel as if to pick up a piece of paper from the floor and straighten up again	15
(c)	Sometimes cannot either bend or kneel or bend and kneel as if to pick up a piece of paper from the floor and straighten up again	3
(d)	No problem with bending or kneeling	0

**Manual dexterity**

	<b>Descriptor</b>	<b>Point s</b>
(a)	Cannot turn the pages of a book with either hand	15
(b)	Cannot turn a sink tap or the control knobs on a cooker with either hand	15
(c)	Cannot pick up a coin which is 2.5 centimetres or less in diameter with either hand	15
(d)	Cannot use a pen or pencil	15
(e)	Cannot tie a bow in laces or string	10
(f)	Cannot turn a sink tap or the control knobs on a cooker with one hand but can with the other	6
(g)	Cannot pick up a coin which is 2.5 centimetres or less in diameter with one hand but can with the other	6
(h)	No problem with manual dexterity	0

### Lifting and carrying by use of upper body and arms

	<b>Descriptor</b>	<b>Point s</b>
(a)	Cannot pick up a paperback book with either hand	15
(b)	Cannot pick up and carry a 0.5 litre carton of milk with either hand	15
(c)	Cannot pick up and pour from a full saucepan or kettle of 1.7 litre capacity with either hand	15
(d)	Cannot pick up and carry a 2.5 kilogramme bag of potatoes with either hand	8
(e)	Cannot pick up and carry a 0.5 litre carton of milk with one hand but can with the other	6
(f)	Cannot pick up and carry a 2.5 kilogramme bag of potatoes with one hand but can with the other	0
(g)	No problem with lifting and carrying	0

### Reaching

	<b>Descriptor</b>	<b>Point s</b>
(a)	Cannot raise either arm as if to put something in the top pocket of a coat or jacket	15
(b)	Cannot raise either arm to his/her head as if to put on a hat	15
(c)	Cannot put either arm behind his/her back as if to put on a coat or jacket	15
(d)	Cannot raise either arm above his/her head as if to reach for something	15
(e)	Cannot raise one arm to his/her head as if to put on a hat but can with the other	6
(f)	Cannot raise one arm to his/her head as if to reach for something but can with the other	0
(g)	No problem with reaching	0

### Speech

	<b>Descriptor</b>	<b>Point s</b>
(a)	Cannot speak	15
(b)	Speech cannot be understood by family or friends	15
(c)	Speech cannot be understood by strangers	15
(d)	Strangers have great difficulty understanding speech	10
(e)	Strangers have some difficulty understanding speech	8
(f)	No problem with speech	0

### Hearing with a hearing aid if normally worn

	<b>Descriptor</b>	<b>Point s</b>
(a)	Cannot hear sounds at all	15
(b)	Cannot hear well enough to follow a television programme with the volume turned up	15
(c)	Cannot hear well enough to understand someone talking in a loud voice in a quiet room	15
(d)	Cannot hear well enough to understand someone talking in a normal voice in a quiet room	10
(e)	Cannot hear well enough to understand someone talking in a normal voice on a busy street	8
(f)	No problem with hearing	0

**Vision in normal daylight with glasses or other aid to vision if normally worn**

	<b>Descriptor</b>	<b>Points</b>
(a)	Cannot tell light from dark	15
(b)	Cannot see the shape of furniture in the room	15
(c)	Cannot see well enough to read 16 point print at a distance greater than 20 centimetres	15
(d)	Cannot see well enough to recognise a friend across the room at a distance of at least 5 metres	12
(e)	Cannot see well enough to recognise a friend across the room at a distance of at least 15 metres	8
(f)	No problem with vision	0

**Continence (other than enuresis [bed wetting])**

	<b>Descriptor</b>	<b>Points</b>
(a)	No voluntary control over bowels	15
(b)	No voluntary control over bladder	15
(c)	Loses control of bowels at least once a week	15
(d)	Loses control of bowels at least once a month	15
(e)	Loses control of bowels occasionally	9
(f)	Loses control of bladder at least once a month	3
(g)	Loses control of bladder occasionally	0
(h)	No problem with continence	0

**Remaining conscious without having epileptic or similar seizures during waking moments**

	<b>Descriptor</b>	<b>Points</b>
(a)	Has an involuntary episode of lost or altered consciousness at least once a day	15
(b)	Has (as above) at least once a week	15
(c)	Has (as above) at least once a month	15
(d)	Has had (as above) at least twice, in the six months before the test is applied	12
(e)	Has had (as above) once in the six months before the test is applied	8
(f)	Has had (as above) once in the three years before the test is applied	0
(g)	Has no problems with consciousness	0

## Mental Health Descriptors

*There is no limit to the number of descriptors which you can count under each heading.*

### Completion of tasks

	<i>Descriptor</i>	<i>Point s</i>	
(a)	Cannot answer the telephone and reliably take a message	2	
(b)	Often sits for hours doing nothing	2	
(c)	Cannot concentrate to read a magazine article or follow a radio or television programme	1	
(d)	Cannot use a telephone book or other directory to find a number	1	
(e)	Mental condition prevents him from undertaking leisure activities previously enjoyed	1	
(f)	Overlooks or forgets the risk posed by domestic appliances or other common hazards due to poor concentration	1	
(g)	Agitation, confusion or forgetfulness has resulted in potentially dangerous accidents in the three months before the test is applied	1	
(h)	Concentration can only be sustained by prompting	1	

### Daily living

	<i>Descriptor</i>	<i>Point s</i>	
(a)	Needs encouragement to get up and dress	2	
(b)	Needs alcohol before midday	2	
(c)	Is frequently distressed at some time of the day due to fluctuation of mood	1	
(d)	Does not care about appearance and living conditions	1	
(e)	Sleep problems interfere with daytime activities	1	

### Coping with pressure

	<i>Descriptor</i>	<i>Point s</i>	
(a)	Mental stress was a factor in making them stop work	2	
(b)	Frequently feels scared or panicky for no obvious reason	2	
(c)	Avoids carrying out routine activities because convinced they will prove too tiring or stressful	1	
(d)	Is unable to cope with changes in daily routine	1	
(e)	Frequently finds there are so many things to do that they give up because of fatigue, apathy or disinterest	1	
(f)	Is scared or anxious that work would bring back or worsen their illness	1	

### Interaction with other people

	<i>Descriptor</i>	<i>Point s</i>	
(a)	Cannot look after themselves without help from others	2	
(b)	Gets upset by ordinary events and it results in disruptive behavioural problems	2	
(c)	Mental problems impair ability to communicate with other people	2	
(d)	Gets irritated by things that would not have bothered them before they became ill	1	
(e)	Prefers to be left alone for six hours or more each day	1	
(f)	Is too frightened to go out alone	1	

## **Local Information**

### **Welfare Rights Service**

This Department's Welfare Rights Service publishes a range of briefing notes. All these are available at no cost from your local Social Services Office. If you have difficulty in obtaining these please ring the Advice Line (0116-277 9496). The Advice Line operates Thursday 9.30-12.30.

### **The Welfare and Employment Rights Advice Service**

**Leicester City Council** has its own Welfare Rights team for residents of the City, who publish a wide range of free leaflets, posters and booklets about benefits. For more details of these, contact the City Council Offices, New Walk Centre, Welford Place, Leicester.

Tel: City Benefits Advice Line, 0116 2543399 (1 pm - 4 pm Monday – Wednesday)  
Job Service Advice Line, 0116 2528643 (9.30 a.m. – 12.30 pm Tues & Fri)

### **Department for Work and Pensions**

Call Centre **0845 602 0175**

Enquiries about a particular claim **0845 6088525**

### **Local Job Centre Plus Offices**

(Claims for under 60's)

Wellington Street, Leicester	0116 2529000
Charles Street, Leicester	0116 2068000
2a New Walk, Leicester	0116 206 8200
52 Berners Street, Leicester	0116 2068401
2 Lemyngton Street, Loughborough	01509 831000
Bosworth House, Hinckley	01455 542000
4 Shambles Court, Lutterworth	01455 542100
8 Coventry Road, Market Harborough	01858 473900
Crown House, Melton Mowbray	01664 534200

If you have any comments to improve this Briefing Note, please send your comments on this detachable slip to:-

Welfare Rights

Social Services

Bassett Street

South Wigston

Leicester

---

—

Briefing Note on Claiming Incapacity Benefit April 2007

I should like to make the following comments/suggestions:-