

Benefits



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There is a range of benefits available, particularly from the age of 16 upwards. The information in this section is a guide and further advice should be sought from a benefits adviser, or care manager or social worker if you have one, as benefits change fairly frequently.



1 Changes at 16



When your son or daughter reaches 16 you will need to decide which benefit option to choose. If they continue in full time non-advanced education you can continue to receive Child Benefit and/or Child Tax Credit (if your income is low enough) for them up to age 20. Or the young person can choose to claim Employment and Support Allowance in their own right (see Section 5).

If they do, you will need to give up Child Benefit and Child Tax Credit you get for them. You will need to get advice about which option to go for. As a general rule, you will be better off staying as you are if you get Child Benefit and maximum Child Tax Credit. If you just get Child Benefit, your son/daughter will get money for themselves by claiming Employment and Support Allowance. It will not affect your child allowances for any other children.

When someone reaches 16, any existing award such as Disability Living Allowance (DLA) is automatically looked at again. The Department for Work and Pensions (DWP) will contact you about this. After the age of 16, DLA is paid directly to the young person.

If however you feel your adult son or daughter will not be able to manage their benefits without your support, the DWP can make you the appointee - you will then handle everything to do with their benefit claims. (see Appointees - page 95) To claim benefits in their own name, the young person will need to open and manage a bank account.

2 Help with forms



Benefit forms are long but try to fill them in as fully as possible. Decisions on your eligibility to receive a benefit will be made on the information you give in the forms. There are now a variety of ways in which you can claim different benefits – by post, telephone or online. You should choose which one you feel most comfortable with.

- Your local job centre or social security office should be able to help you with filling in forms. You can ring the Jobcentre Plus national claim line on 0800 055 6688.
- Carers Support Workers will also help with filling in most benefit claim forms. Ask your local district or borough council for the contact details of your local Carers Support.

- Other people who may be able to help you are local Citizens Advice Bureaux, or a care manager or social worker if you have one.
- The Benefit Enquiry Line (BEL) will help you fill in forms for DLA or Carers Allowance over the telephone.

However, BEL do not have access to your personal records, so any information provided will be of a general nature. DLA claim forms can now be completed or downloaded online - www.direct.gov.uk



3 Disability Living Allowance (DLA)

This is a tax-free, non-contributory non-means tested social security benefit for disabled people. It is paid on top of earnings or other income the young person has.

- It is for people who need support to look after themselves and for people who find it difficult to get around.
- DLA is for the person with a disability and not for a carer or parent.

DLA can be spent on what the person wants. It can be paid for an indefinite period or can be given as a time limited award with the need for renewal claims at required intervals.

It is divided into two parts, the Care Component and the Mobility Component. Each part can be paid on its own or they can both be paid at the same time:

Care Component



This is paid at three different levels (higher, middle and lower), for help with **personal care needs**.

- The rate someone gets will depend on how much of the day or night they need help for.

The care component of DLA is payable from **age 3 months**.

- The young person must need care, supervision or watching over by another person because of their disabilities (physical and / or learning).

It can be claimed by anyone who has needed a lot of looking after for at least 3 months.

- This care must be likely to continue for at least a further 6 months

Mobility Component

This can be claimed from age 3 for anyone who has had mobility difficulties for at least 3 months and is likely to have these for a further 6 months. There are two rates.



Higher Rate:

- The higher rate is for people “suffering from physical disablement”. (This includes people whose learning disability has a physical cause.)
- It can also be paid if the person has a “severe mental impairment” and exhibits extreme disruptive behaviour and is in receipt of the higher (day and night) care award.
- This rate can be claimed and paid from the age of 3 years
- From April 2011, people who are severely visually impaired automatically qualify for this component.

Lower Rate:

- The lower rate is for those who are able to walk but because of their disabilities will need support or guidance when travelling.
- This rate can be claimed and paid from the age of 5 years

Children and Disability Living Allowance

There is an extra disability test for children under 16 for all components. This is because the DWP have to consider whether the stated needs are substantially more than average for any child of the same age.

What if the young person's condition changes?

If their condition becomes worse and they are receiving DLA, ask for a review. If they are not already receiving DLA or have been refused in the past, make another claim.

What if the young person's condition improves?

Write to the Disability Benefits Unit (see Useful Contacts) to give them details. Their rate of DLA may then drop or stop. If it does drop or is stopped, but they have a relapse within 2 years, they can then regain their former rate of benefit and they do not have to go through the same qualifying period.

If you are unhappy with a decision that is made, you can ask for a reconsideration within ONE month of the date the decision was sent to you.

If you are not clear as to the reason for the decision you are entitled to ask for a 'written statement of reasons' and copies of all the evidence used to make the decision. You should write to the Disability Benefits Centre which handled your claim, explaining why you want a reconsideration.

If you are still unhappy with the decision you have the right to appeal to an independent tribunal within one month of the date the decision was sent to you.

It is essential you get expert advice and, if possible, representation about appealing. Ask your local Citizens Advice Bureau or your social worker/care manager (if you have one) for advice.

You can get a pack for claiming Disability Living Allowance by calling the Benefit Enquiry Line on 0800 88 22 00.

To get information on an existing claim, ask for a reconsideration or report a change of circumstances or increased needs, call 08457 123456.



Young people who are in residential care or at a residential boarding school will not be paid the care component of DLA when they have been resident for more than 4 weeks - but they can be paid the care component for each day that they are home, for example, at weekends or school holidays.

The mobility component of DLA is unaffected by stays in residential care or boarding school but these payments are currently being reviewed and may stop from October 2012 (including any Motability contract).

To receive the care component, parents / carers or appointees have to fill in a claim form for the days the young person is at home.

IMPORTANT NOTE: From 2013, the government intends to replace DLA with a new benefit called a Personal Independence Payment based on a different assessment and criteria. It will provide help with care and mobility needs and will not be means tested. Further details to be announced.

4 Housing Benefit and Council Tax Benefit



If you are on a low income, **Housing Benefit and Council Tax Benefit** could help towards your rent and Council Tax. Your local council pays these benefits. Housing Benefit does not cover all your housing costs. Contact your local district or borough council for details.

Young people under 18 are not liable for Council Tax, and so cannot claim Council Tax Benefit. Once a young person becomes liable for rent or Council Tax, they may be able to claim, depending on their circumstances.

There are other forms of non-means tested help you may be able to get such as Council Tax discounts and help under the disability reduction scheme. Contact your district or borough council to find out more.

Prior to November 2008, disabled young people who were incapable of work (whether in education or not) could claim Incapacity Benefit and Income Support if eligible. Incapacity Benefit was paid on a non-contributory basis and Income Support was means tested.

Both these benefits were replaced by an integrated non-contributory and means tested benefit called Employment and Support Allowance. Income Support can therefore no longer be claimed as a means tested benefit for young people incapable of work - you have to claim ESA instead.

Young people getting Income Support before November 2008 will continue to receive it until their claim is transferred to ESA.

5 Employment and Support Allowance



This is a new integrated means tested and contributory benefit for people who are incapable of work. It can be paid to disabled young people who are still in education (including residential education). Young people who have not paid any National Insurance contributions can claim it on a non-contributory basis if they are at least 16 or under 20 (or 25 in special circumstances) at the time of their claim.

There is a 28 week qualifying period (which can include the 28 weeks before their 16th birthday) if you are claiming on a non-contributory basis. Your claim will need to be supported by a medical certificate.

Employment and Support Allowance while still at school/college:

16-18 year olds will qualify if they are not able to work and are attending classes or supervised study for less than 21 hours per week.

They will qualify even if attending more than 21 hours per week if the extra lessons would not be “suitable for persons of the same age and sex who do not suffer from a physical or mental disability.”

For people over the age of 19 (or under 19 and at University) there is no limit on hours of study.

Whilst claiming Employment and Support Allowance:

- The person can still get DLA
- Any savings that the parents / carers have will not be taken into account

Work and Earnings

Employment and Support Allowance is paid because the person is not able to work. However, it is possible to do certain kinds of work – known as ‘permitted work’ – and still keep your benefit. There are different rules on how much you can earn from different types of work and further advice should be sought.

National Insurance

Employment and Support Allowance gives a person National Insurance credits. The person will be credited with Class 1 National Insurance contributions.

Hospital

Employment and Support Allowance will not be reduced if a person goes into hospital, however long they stay there providing they intend to return home.

Child Benefit

If your child is aged 16 - 20, still in full time non-advanced education and is receiving Employment and Support Allowance, you cannot claim Child Benefit or Child Tax Credit as well.

To find out more about Employment and Support Allowance, call 0845 608 8757.

Appointees

If someone is considered incapable of managing their own benefits, the Department for Work and Pensions (DWP) can appoint someone else (an appointee) to claim and receive benefits and spend the money on the person's behalf.

An appointee does not have authority to deal with savings, property or any other financial matter. A close relative who lives with or often visits the claimant is normally considered the most suitable appointee.

6 Working Tax Credit and Child Tax Credit



If you are responsible for a child or young person who normally lives with you and who is in full time non-advanced education, you will probably be eligible to get payments called **Child Tax Credits**. You don't have to be working to get Child Tax Credits.

If you work and you're on a low income, you could get Working Tax Credit as well. You may get extra Working Tax Credit if you pay for childcare, if someone in your household is disabled, or if you are aged 50 or over.

7 The Social Fund



The Government administers a **Social Fund** (through Jobcentre Plus) to help people with costs for certain essential items.

The Regulated Social Fund

The **Regulated Social Fund** provides for four different kinds of payments - **SureStart Maternity Payments, Funeral Payments, Cold Weather Payments and Winter Fuel Payments**. To qualify for help, you must be in receipt of certain kinds of benefit. If you qualify, you get paid as of right. There is an independent right of appeal against any decision.

The Discretionary Social Fund

The **Discretionary Social Fund** provides for three different types of payment - **Crisis Loans, Budgeting Loans and Community Care Grants**. There are different qualifying rules for each payment. It is not advisable to apply for loans unless there is no alternative, as they are recovered by direct deductions from your benefits.

Community Care Grants can be important particularly for carers and people with disabilities. Grants can be provided for things such as essential household items, clothing and footwear (subject to heavy wear and tear) and travelling expenses to visit people who are ill.

You must be getting Income Support, income-based Job Seekers Allowance, means tested Employment and Support Allowance or State Pension Credit. Help is discretionary and limited. Although there is no independent right of appeal, you can have any decision reviewed.

8 Carer's Allowance



Carer's Allowance is a taxable benefit for informal carers, such as a parent looking after a disabled child.

If the person you care for gets middle or higher rate DLA care component, you may be able to claim Carer's Allowance. You need to be earning below a certain limit and must not be in full-time education. You do not have to be living with the person.

Your other benefits may increase or decrease:

- Certain benefits for the person you look after may sometimes reduce.
- You must spend at least 35 hours a week caring, which need not be everyday.
- Carer's Allowance is not affected by any savings you may have.
- The person you care for could be a relative, partner, friend or neighbour.
- Carer's Allowance can be paid to more than one person in a household, such as a couple caring for each other.
- You may also qualify for extra means tested benefit, known as a carer premium.

To find out more, call the Carer's Allowance Unit on 0845 608 4321 or email cau.customer-services@dwp.gsi.gov.uk or go to www.direct.gov.uk.

9 Banks and Building Societies



Many people with disabilities can successfully manage their own financial affairs with support. In this case, banks are now required to make “reasonable adjustments” so that customers with disabilities can access the bank services.

For someone with a learning disability, for example, the bank can provide documents in large or clear print and in plain language, or provide material using colour code and illustrations.

Mencap has a leaflet called “Disability Legislation: You and Your Bank - Information for personal customers about their rights” (see Useful Contacts)

A customer with a learning disability must be capable of entering into a legally enforceable agreement and give informed consent to transactions such as opening a bank account. If the person does not have this capacity, they are not able to open a bank account.

Instead, a family member will have to operate one in their own name on behalf of the person with a learning disability, and declare that they are holding the account “on trust”.

You may also wish to open a joint account with the disabled person. However this is a complex area and you are advised to seek advice from your bank, or a voluntary organisation such as Mencap.

Mencap have a leaflet: “Consent and decision-making: Financial matters for people with a learning disability aged 18 or over” (updated March 2010). (See Useful Contacts)

Lasting Power of Attorney (LPA)

Even if someone with a learning disability is not able to manage their own affairs, they may understand the concept of handing this responsibility over to another person. In this case, they can make a Lasting Power of Attorney (LPA), which gives someone else the power to make decisions about personal, healthcare and welfare issues, or about property and financial affairs, for them.

The Public Guardianship Office publishes a range of leaflets about LPA.
(see Useful Contacts)



An LPA is different from an ordinary Power of Attorney, which only lasts for a temporary period, for example while someone is in hospital or abroad. An ordinary power is only valid if the donor has the capacity to manage their own affairs.

Deputies

Some people with learning disabilities are unable to make an LPA, because they lack legal capacity, (i.e sufficient understanding in all circumstances to enter into a valid and enforceable contract). If they have property or a large amount of money the Court of Protection will consider the appointment of a Deputy.

Again, the Office of Public Guardianship publishes leaflets on this topic.

LPA's were created under the Mental Capacity Act (2005) which came into force in 2007. Any Enduring Powers of Attorney created before that time will still be valid.

Further information will be provided on the Public Guardianship Office website as it becomes available.

10 Leaving money by will to people who receive benefits



This can be a complex area and although some information is included here, you must get advice from a solicitor with knowledge of this subject.

Parents or carers of people with learning disabilities are often advised to set up discretionary trusts.

This is for two reasons:

You may feel that your son or daughter will be unable to manage money / property that you leave to him or her.

If the young person has more than a certain amount of money, some benefits will be withdrawn or reduced until savings fall below the relevant level. If the local authority fund a residential care place or care package they may also begin to charge for the care service.

Once assets are put into a trust, they belong to the trust, not your son or daughter. A trust can be set up at any time so that other friends and relatives can also leave money to the disabled person without affecting their benefits or care.

The trust will give responsibility for the money/property to trustees who you have decided upon. They will handle this money as specified by you before your death in either a trust deed or a will. These can be other family members, friends or professionals like solicitors.

If you do leave your money directly to a person with a learning disability who does not have the ability ('mental capacity') to manage it, then it is likely that the Court of Protection will be involved. They will appoint a receiver who will have a similar role to a trustee.

However, the receiver will not have the guidance from you as to how the money /property should be dealt with. You will not have decided who the receiver is.

Discretionary payments, ie. from time to time, can be made from the trust rather than regular payments. Regular payments may be seen as providing for the same purpose as income support.

Payments from the trust made to third parties, such as shops, can be ignored as income if these are outside the scope of income support.

Mencap has a Wills and Trusts team which can give advice to parents, carers and trustees. See Useful Contacts for more details.

Useful Contacts



National

Benefit Enquiry Line

Telephone: 0800 88 22 00

The Benefit Enquiry Line is a Social Security benefits helpline for people with disabilities, their carers and representatives.

They offer confidential advice and information on all Social Security benefits, Working Family and Disabled Persons Tax Credits and disability-linked organisations.

They also send out an extensive range of leaflets and claim packs to customers. This service can also be provided in braille and large print if required.

Disability Benefits Unit

For information about DLA and Attendance Allowance

Address: Government Buildings
Warbreck House
Warbreck Hill
Blackpool
Lancashire FY2 0YJ

Telephone: 08457 12 34 56

Email: DBU-Customer-Service@dwp.gsi.gov.uk

Disability Alliance

Address: Universal House
88-94 Wentworth Street
London
E1 7SA

Telephone: 020 7247 8776

Email: office.da@dial.pipex.com

Website: www.disabilityalliance.org

The Disability Alliance publishes the Disability Rights Handbook. This book contains “everything you need to know” about social security benefits, tax credits and related services for disabled people. It is fully updated each year.

Mencap Wills and Trusts Team

Telephone: 020 7696 6925

Email: legaciesweb@mencap.org.uk

Website: www.mencap.org.uk/legacies

Many of the major national voluntary organisations, such as Mencap, Scope and the National Autistic Society, are able to provide general advice on Wills and Trusts and may be able to put you in touch with specialist solicitors.

Mencap has its own Wills and Trusts team.

The Mencap Wills and Trusts Team provides free services including:

- helpful guides and booklets about Wills and Trusts
- free “Planning for the Future” seminars across the country - see website or call the team for details about events in your area
- a recommended directory of solicitors
- an in-house Wills and Trusts solicitor who can advise by phone or email

Department for Work and Pensions (DWP)

The Department for Work and Pensions (DWP) publishes booklets for people who are sick, disabled or caring for someone. These are regularly updated. You can obtain these from your local job centre or from:

Website: www.dwp.gov.uk
www.direct.gov.uk

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Pension Disability and Carers Service (PDCS)

The Pension Disability and Carers Service (PDCS) is part of the Department for Work and Pensions. They help disabled people and carers to lead independent lives by administering and delivering disability benefits, providing advice on benefits, and supporting the Government’s commitment to increasing the inclusion of disabled people in society.

You can contact them via the **Benefit Enquiry Line:** 0800 88 22 00

Website: www.dwp.gov.uk/lifeevent/benefits/dcs/

Public Guardianship Office

Telephone: 0845 330 2900

Website: www.publicguardian.gov.uk

Information about the Mental Capacity Act, Powers of Attorney, Deputies and the Court of Protection, including forms and guidance materials.

Citizens Advice Bureaux

Find your local Citizens Advice Bureau by going to www.citizensadvice.org.uk or look in your local Yellow Pages or telephone directory.



Local

Carers Support

The local Carers Support Schemes in Surrey provide information, advice and support to Carers. Find details of your local scheme on www.carersnet.org.uk, in the Childrens Service directory at www.surreycc.gov.uk or ask your local district or borough council.

Jobcentre Plus

Jobcentre Plus publishes a range of booklets and guides for people with disabilities and their carers, as well as more general information about employment. You can download these from:

Website: www.jobcentreplus.gov.uk

To find your local Jobcentre Plus office call 0845 604 3719 or go to the Direct.gov website. There are offices in Camberley, Epsom, Guildford, Redhill, Staines, Weybridge and Woking. For full details see page 34.

A guide for carers - 'What can I claim if I am a Carer'.

Available from Surrey County Council area offices or from the website below.

Telephone: 03456 009 009

Website: www.surreycc.gov.uk