

**Hertfordshire Children's Services  
The Management of Disability Benefits  
Children Looked After – 2016 - 2017**

<b>PUBLICATION SCHEDULE NUMBER:</b>	<b>Children's Services Number:</b>
<b>PUBLICATION DATE:</b>	<b>4<sup>th</sup> April 2016</b>
<b>ISSUE NUMBER:</b>	
<b>AUTHORS OF PUBLICATION:</b>	<b>John Short</b>
<b>REVIEW DATE:</b>	<b>1<sup>st</sup> February 2017</b>
<b>TARGET AUDIENCE:</b>	<b>Hertfordshire's Children's Services Safeguarding and Specialist Services Teams, Education and Early Intervention Teams and Foster Carers, Staying Put Carers and Supported Lodgings Carers</b>
<b>PUBLISHED BY:</b>	

**AUTHORISATION**

<b>ORGANISATON</b>	<b>NAME</b>	<b>SIGNATURE</b>	<b>DATE</b>
--------------------	-------------	------------------	-------------

## **Background**

The following information sets out guidance for social workers, residential social workers and foster carers regarding the management of benefits for children looked after who have a disability and claim - Disability Living Allowance (DLA) or a Personal Independence Payments (PIP) and/or Employment and Support Allowance (ESA).

Some children, who are not receiving a service from the Disabled Children Service, may be eligible for some benefits, and if the child is looked after, these should be claimed for him/her.

## **Recording**

The child's social work team, the fostering service, the residential service, Brokerage, the Independent Review Team, as appropriate, will record on the Child's Personal Finance Case Notes:

- all decisions about what benefits are claimed, and received or refused;
- details of all bank accounts in the child's name, or in an adult's name on behalf of the child;
- all documents stored on Livelink that account for carers' expenditure on the child, including the 'Disability Benefits - Expenditure Monitoring and Audit Sheet' & (bank statements);
- all scrutiny of the accounts and by whom and when – the 'Disability Benefits - Expenditure Monitoring and Audit Sheet' & (bank statements) should be signed and approved on a three monthly basis by the foster carers supervising social worker; and
- whether the case has been referred to the Money Advice Units Children with Disabilities Project (01438 843456) and any outcomes if so.

## **Using DLA/PIP/E&SA**

In principle all DLA/PIP should be used to meet any disability related needs of the child/young person and all ESA (16 & 17 year olds) should be used to meet day to day needs; once ESA is in payment, pocket money and clothing allowances cease. How the DLA/PIP/ESA is to be used should be set out in the child/young person's placement plan and must be agreed by the social worker with the carer/keyworker, taking account of any 'delegated authority'.

In exceptional situations where there is an amount of unused or accrued DLA/PIP/ESA, this should be added to the child/young person's Junior ISA. Where a child/young person has savings of £6000.00 or above, a Trust Panel Arrangements meeting should be held to consider how the savings should be managed. In addition, consideration should be given to not exceeding the yearly Junior ISA savings limit (£4080.00, 2016-2017).

Children/young people will be informed of the level of their savings (including Junior ISA's), accrued DLA/PIP/ESA (if applicable) and CIC Award monies at the end of each financial year. To access this, the social worker will view the case note which will be added to LCS via the Brokerage Workspace at the end of May each year stating the accounts and balance(s) held.

## **Disability Living Allowance (DLA)**

Disability Living Allowance (DLA) is paid to help meet the extra costs of a child under 16 who has a physical disability, learning difficulties or mental health problems. See [Disability Living Allowance for Children and the Money Advice Unit's \(MAU\) factsheet on benefits for disabled children on www.hertsdirect.org/benefits](#).

DLA has two components; 'Care' and 'Mobility'. The 'Care' component is paid at three levels/rates (lower, middle or higher) and the 'Mobility' component is paid at two levels/rates (lower or higher).

To claim DLA a child must have a care or mobility problem that has existed for the previous three months and the disability or special need will continue for at least a further six months. This requirement is waived for children who are terminally ill.

Therefore the lower age for DLA Care component is 3 months, unless a child is terminally ill.

However, the higher rate of DLA Mobility component cannot be claimed for a child under the age of 3 and the lower rate of DLA Mobility component cannot be claimed for children under the age of 5.

A claim can be made for a child with a physical disability (including sight, hearing or communication difficulties), or for a child with a learning or mental health problem – even if the cause of the problem has not yet been formally diagnosed. Children with developmental delay, ADHD, Autism or Asperger's Syndrome can make a claim for DLA; what is important is the effect that the child's condition has on their care and supervision needs, and whether it amounts to more care or supervision than a non-disabled child of the same age would require. The child does not need to attend a special school, have a Statement of Special Educational Needs or an Education, Health and Care Plan.

Payments are made to a parent or guardian for a child under 16.

DLA is paid on top of any other income and is not means tested. If a child is awarded DLA and is living at home it may entitle the parent or guardian to a higher level of child tax credit, housing benefit or council tax support (or, universal credit when introduced) or the parent or guardian may begin to qualify for one of these benefits. If the child is in foster care, this will not happen as the child is not seen as part of the foster carer's family, but the carer may still become entitled to Carers Allowance (see below).

If a child getting DLA becomes a CLA, the parent is required to notify the relevant DWP and council offices.

### Disability Living Allowance - 2016 – 2017 - Rates

#### *Care Component*

Higher Rate	£82.30
Middle Rate	£55.10
Lower Rate	£21.80

#### *Mobility Component*

Higher Rate	£57.45
Lower Rate	£21.80

A claimant (child or adult) who is in receipt of the 'Higher Rate' Mobility component can use this through the '[Motability](#)' Scheme to pay for a car by leasing or buying a car. To qualify for the '[Motability](#)' Scheme the claimant must have at least 12 months or more of their award remaining.

DLA is only payable to a child up to the age of 16. From age 16, clients in receipt of DLA will be reassessed regarding eligibility for a [Personal Independence Payment \(PIP\)](#). All people over the age of 16 will be transferred from DLA to PIP in a phased re-assessment that will be completed by 2018.

### **Children Becoming Looked After in Receipt of DLA**

When a child with a disability becomes looked after, the development of the initial care plan and placement plan (which, in most cases should be developed prior to the child becoming looked after) should clarify the arrangements for the transfer (from the parent) and management of the DLA being paid for the needs of the child.

Children in residential care cannot make an initial claim for DLA Care Component but can claim DLA Mobility Component.

Where a child under 16 who already gets DLA becomes looked after and is placed in a residential care setting, the 'Care' component may cease after 28 days in the placement, but the 'Mobility' component will continue.

Where a child is placed in foster carer both the 'Care' component and the 'Mobility' component will continue. However, the DWP take the view that the appointeeship should be switched from the parent to another appropriate person unless the stay in care is intended to be for less than 12 weeks.

Where a child is placed in a school with accommodation, discussion should take place with the Department for Work and Pensions (DWP) Disability Benefits Centre (DBC) regarding the status of the school and whether it is primarily designated as a residential care setting or a school with accommodation. This will often depend on whether the school is a 36, 42 or 52 week setting (residential or boarding). So long as DLA is actually payable, it will be paid to the original appointee for up to 12 weeks, in cases of temporary separation and without a limit if the child is at a school with accommodation, as opposed to a residential care home (school).

If the child 'looked after' episode is likely to be less than 12 weeks, the DLA payments should remain with the parent. The care plan should set out the mechanism for parents to continue to use the DLA to meet any of the specific needs of the child. Discussion should take place with the DBC regarding the child's DLA claim. The discussion with the DBC should be undertaken by both the parent and the social worker.

If the child 'looked after' episode is likely to be longer than 12 weeks, or turns out to be longer than 12 weeks, the DLA payment should be transferred from the parent to a foster carer or local authority representative.

The initial care plan and placement plan should set out who will take responsibility for transferring the DLA payment from the parent to the local authority representative and who will manage the DLA on behalf of the child.

Discussion should take place between the local authority legal section, the finance section, the social worker and foster carer regarding the process of appointing a person to manage/oversee the child's benefits and finances.

## **Children Aged Under 16**

Where a child is under the age of 16, consideration will need to be given to who will act as the 'appointee' for the child. If the child is in foster care this could be the carer who will manage both the child's claim and the expenditure of the DLA. The foster carers will need to open a bank account in their name to manage the DLA.

If the child is in residential care they will be eligible for DLA Mobility Component, and if they are in a school setting that is not designated as residential care, they may be eligible for both DLA Care and Mobility Components. As an individual member of staff cannot act as a child's 'appointee' or hold a bank account in their name for the child's DLA payment, the local authority will need to consider the appointment of a 'Corporate Appointee'.

## **Children Aged 16 and 17**

From age 16 all benefits for children aged 16 and 17 should be paid directly to the child and into an account in their name. Where a 16 or 17 year old has 'limited' ability, a 'Capacity' assessment ([Mental Capacity Act 2005](#)) must be undertaken to ascertain if the child's benefit is to be paid to them, or someone acting on their behalf. The 'Capacity' assessment should focus on the child's ability to manage a benefit claim and the associated income and not be based simply on whether they will spend the money wisely. If a child lacks 'Capacity' they will require an 'appointee' and/or 'Corporate Appointee'. Depending on the child's circumstances before their 16<sup>th</sup> birthday an 'appointee' and/or a 'Corporate' Appointee may already have been appointed. See [Mental Capacity Act Code of Practice](#).

## **Carers Allowance**

Foster carers can claim Carer's Allowance if they are looking after an ill or disabled person (child looked after) for at least 35 hours per week. The disabled person (looked after child) must be getting the middle or highest rate of DLA, or either rate of the daily living component of PIP. In addition the foster carer must not be earning over £110.00 per week (2016-2017). Foster carers' income is based on their taxable profit from fostering, as calculated by HMRC.

## **Foster Carers Acting as 'Benefit Appointees'**

Where a foster carer is prepared to manage the child's DLA claim and payment, they should contact the DLA claim unit and arrange to be designated the 'benefit appointee' for the child. As an 'appointee' the foster carer is responsible for all aspects of the child's DLA claim and management of the payment. For example, the foster carer will need to inform the DLA unit of any change of circumstance of the child. The DLA claim unit will undertake a home visit to the foster carer to assess that it is appropriate for the carer to act as an 'appointee' and that it is in the child's best interest.

To ensure there is a separation of the child's DLA allowance from the foster carers benefits or finances, it is recommended that the foster carers set up a bank account in their name, into which the DLA (and any other finances being paid for the child) is paid. Having a separate account will ensure that the foster carers can demonstrate an audit trail and highlight how the DLA is being used. The audit trail is important if the Department for Work and Pensions want to check on the use of the child's DLA or the foster carer's benefits (if they are in receipt of a benefit in their own right).

Any money or savings in an account in the name of the foster carer that is entirely belonging to the child, and from the child's DLA (or other benefits), is not counted by the DWP as part of the foster carers benefit/savings threshold.

Foster carers are advised to keep a record of all DLA income and all expenditure on the child from the DLA. This is a relatively straight forward process if the carers have a bank account solely for the DLA income and expenditure. All DLA income and direct expenditure/payments from the account will be evidenced on the bank statement. Foster carers should also record any cash expenditure from the account on the 'Disability Benefits – Expenditure Monitoring and Audit Sheet' (see appendix one)

All DLA (PIP) income should be used to meet any disability or special needs requirement of the child. For example; extra laundry, clothing and equipment, clothing and equipment wear and tear, travel or supervisory costs, domestic cleaning/gardening costs that enable additional time to be provided to the child.

In circumstances where a claim for DLA is made when a child is already looked after the care plan and placement plan should set out who will manage the money on the child's behalf. See above.

### **Junior Individual Savings Accounts**

Looked after children who have been in care for 12 consecutive months are eligible for a government initiated scheme whereby they are given a Junior ISA account with an initial payment of £200.00. The scheme is administered by the Share Foundation (and via Brokerage in Hertfordshire).

For more information see [www.sharefound.org](http://www.sharefound.org)

Foster carers should ensure any savings accruing in the bank account or any unused DLA, PIP, ESA is added to the child's Junior ISA account. The annual limit for each Junior ISA is £4080.00 (2016/2017) and a child can have a new Junior ISA each year. The main advantage of Junior ISA's is that they convert to an Adult ISA when the child reaches the age of 18, therefore keeping the savings amount it tax free into adulthood. Junior ISA's can be transferred between providers.

Children/young people will be informed of the level of their savings (including Junior ISA's), accrued DLA/PIP/ESA (if applicable) and CIC Award monies at the end of each financial year. To access this, the social worker will view the case note which will be added to LCS via the Brokerage Workspace at the end of May each year stating the accounts and balance(s) held.

### **Children Looked After in Receipt of DLA Reaching Age Sixteen**

Since June 2013 all **new** claims for those aged 16 and above will be for PIP not DLA.

When a child in receipt of DLA reaches the age of 16 they will be re-assessed regarding their eligibility for a **Personal Independence Payment** (PIP). Unlike DLA, this assessment is based on a specific 'point-scoring' system.

See the PIP factsheet on [www.hertsdirect.org/benefits](http://www.hertsdirect.org/benefits)

Before the end of 2018 all people aged between 16 and 64 claiming DLA will be re-assessed for PIP.

Young people need to claim PIP when invited. Their DLA will continue until a decision is made on the PIP claim. However, if they don't claim PIP when invited to do so, their DLA will stop.

PIP has two components; 'Daily Living' and 'Mobility'. The 'Daily Living' component is paid at two levels/rates (standard and enhanced), which are the equivalent of the top two rates of DLA Care. The 'Mobility' component is also paid at two levels/rates (standard and enhanced), which mirror the DLA Mobility rates.

#### Personal Independence Payment - 2016 – 2017 - Rates

##### *Daily Living Component*

Enhanced Rate	£82.30
Standard Rate	£55.10

##### *Mobility Component*

Enhanced Rate	£57.45
Standard Rate	£21.80

PIP should be paid to the claimant unless they lack 'Capacity'. In circumstances where it has been demonstrated that a 16 year old lacks 'Capacity' the allowance can be managed on behalf of the child by a representative of the local authority. Where a foster carer has been acting as the 'Benefit Appointee' for the child prior to the child's 16<sup>th</sup> birthday, this can continue after they reach 16, where it has been demonstrated that the child lacks 'Capacity'. See DLA section for advice on managing PIP.

#### **Employment and Support Allowance (E&SA) for Children Looked After Aged 16**

From their 16<sup>th</sup> birthday, young people who are deemed 'Ill or Disabled' can apply for Employment and Support Allowance, irrespective of their placement, legal status (section 31 or 20) or education status. If the child has 'Capacity' the ESA should be paid into a bank account in the name of the child. If the child lacks 'Capacity' the ESA should be paid into the same account as the DLA/PIP and should be managed in the same manner. ESA is provided to meet the basic needs of the child/young person, unlike DLA which is provided to meet the additional costs of a disability.

If the child has savings and/or money in their bank account amounting to more than £6000.00, the child's ESA will be reduced by £1.00 per week per £250.00 of capital above £6000.00. This is called tariff income). If the child's savings and/or money in their bank account is above £16,000.00 they will not be able to claim ESA.

#### Employment and Support Allowance - 2016-2017 Rates

##### *Personal Allowance*

Single Person under age 25	
Assessment phase	£57.90
Main phase (after 13 weeks)	£73.10

##### *Components*

Work-related Activity	£29.05
Support	£36.20

Enhanced Disability – single	£15.75
Severe Disability – single	£61.85

To claim ESA the child or their representative will need to phone the [ESA claim line \(0800 0556688\)](tel:08000556688). The claimant will need to demonstrate why they have only a limited capability for work (even if still in education); this is usually done by the DWP sending the claimant a questionnaire to complete. The claimant will generally need to obtain a 'Fit Note' from their GP or consultant. A young person in education can usually only get ESA if they are also getting DLA or PIP.

In addition to completing the questionnaire, the claimant will need to provide evidence of their National Insurance Number, savings, proof of address and two forms of identity.

When ESA is in payment, children looked after will cease to receive the pocket money, clothing and personal allowance (£48.54 – 2016-2017) provided by the foster carers or the residential placement that they are living in, as ESA is provided to cover personal living expenses.

Foster carers should continue to provide evidence of the child's DLA/PIP and ESA income and record expenditure for audit purposes on the 'Disability Benefits – Expenditure Monitoring and Audit Sheet'.

Where it is assessed, by Adult Services, that at the age of 18 the young adult will meet the 'Eligibility' criteria (Care Act 2014); case, placement and financial responsibility for the young adult should transfer to an Adult Service (at 18 or by July following the young person's 19<sup>th</sup> birthday).

At a date (yet to be set) between January 2017 and May 2018, the DWP will stop accepting new claims for ESA and will direct claimants to Universal Credit instead. Existing claimants of ESA will not be transferred to Universal Credit until 2019 or later. Although the new benefit shares many characteristics with ESA (savings limit, need to prove ill-health if claiming on that basis etc) it will be paid monthly not fortnightly, and may well include the young person's housing costs.

### **Unemployment and Employment**

If a young person fails their ESA assessment, the Job Centre will expect them to seek work as a condition of getting Jobseekers Allowance or Universal Credit. Seek advice from the MAU if this happens ([moneyadvice.unit@hertfordshire.gov.uk](mailto:moneyadvice.unit@hertfordshire.gov.uk)).

If a disabled young person in receipt of ESA gains employment, they can earn up to £115.50 a week (April – October 2016) 'permitted work' and keep their ESA. If they work 16 or more hours a week, they may be due working tax credit instead, in both circumstances, they may be due some housing benefit. DLA/PIP can also continue to be paid in full if a disabled person starts work, even if full-time.

Given the complex nature of an ESA claim where a young person is also working, social workers/personal advisers should liaise with the MAU regarding the individual circumstances of the claimant.

### **Children Looked After with a Disability Reaching Age 18 and Ceasing to Be Looked After**

Where it is assessed, by Adult Services, that at the age of 18 the young adult will meet the 'Eligibility' criteria (Care Act 2014); case, placement and financial responsibility for the young adult should transfer to an Adult Service (at age 18, or by July following the young person's 19<sup>th</sup> birthday).



The "Eligibility" assessment should be completed by the time the child reaches the age of 17½ in order to provide sufficient time to make the arrangements for case and placement transfer to Adult Services. The assessment of a foster carer as an adult placement carer (sometimes called a 'Shared Lives' carer) is similar to a fostering assessment and will take about six months and therefore should commence when the child reaches the age of 17½.

From the age of 18 young people will also need to claim housing benefit as a contribution to their adult placement/shared lives arrangement. In addition, Adult Services will assess a young person's income (including benefits) against the cost of the placement and will set the level of the contribution that the young person should make.

It is important to clarify any changes to 'Eligibility' and 'Ordinary Residence' stemming from the Care Act 2014 (implemented April 2015).

## **DISABILITY LIVING ALLOWANCE (FOR CHILDREN)**

There are three ways to claim Disability Living Allowance:

1. **Call the DLA Helpline** – to request a claim pack. The date you request a claim form will be the date the claim can be paid from if returned within 6 weeks. You can call Monday to Friday between 8:00am and 6:00pm.
  - a. **Telephone:** 0345 712 3456
  - b. **Textphone:** 0345 722 4433
2. **Download a claim form** - go to <https://www.gov.uk/disability-living-allowance-children> - this will provide a link to the claim form.
  - The DLA form requires a **statement\*** from someone who is involved in the child/young person's care – there is space on the claim form to write this. This can be from a foster/adult carer, doctor, social worker or therapist.
  - Hertfordshire's Money Advice Unit has a Children with Disability Project that specialises in helping parents and carers claim DLA/PIP and related benefits – contact them on 01438 843456 or [moneyadvice.unit@hertfordshire.gov.uk](mailto:moneyadvice.unit@hertfordshire.gov.uk)

## **PERSONAL INDEPENDENCE PAYMENT**

To claim a Personal Independence Payment:

1. **Call the PIP claim-line** – to register a claim. Basic information will be required, such as details of the claimant's doctor, bank account, national insurance number, any recent periods spent in hospital, abroad or residential care. You can make a claim on the claimant's behalf if you have been officially appointed to deal with their claim ('appointee'). Otherwise they will need to be with you when you make the call. After registering the claim, a form will be sent to the claimant requesting details of the claimant's daily living and mobility needs. You can call Monday to Friday between 8:00am and 6:00pm.
  - a. **Telephone:** 0800 917 2222
  - b. **Textphone:** 0800 917 7777

Alternatively a claim form can be obtained by writing to PIP, PO Box 1303, Blackpool, FY1 9HF

## **EMPLOYMENT AND SUPPORT ALLOWANCE**

To claim Employment and Support Allowance:

1. **Telephone** – you can claim via telephone/textphone. A DWP officer will go through the application form with you and fill it in whilst you are speaking to them. Lines are open Monday to Friday 8:00am to 6:00pm.
  - a. **Telephone:** 0800 055 6688
  - b. **Textphone:** 0800 023 4888You will need to provide national insurance number, bank details, rent details, employer details and savings details over the phone.
2. **Download a claim form** – <https://www.gov.uk/employment-support-allowance> will provide a link to download a form which will need to be completed and returned to Jobcentre Plus.
  - A medical certificate (**called a 'Fit-Note'**)\* from a doctor is also needed.

To assist with a benefit claim a number of the following documents will be required.

TWO forms of Identity (Three for Universal Credit):

- Birth certificate
- Passport
- Driving License
- UK residence permit
- Utility Bill in own name

ONE form of National Insurance:

- National Insurance Card
- Letter from DWP with National Insurance Number

ONE proof of Address:

- Utility bill in own name
- Bank Statements
- Letter from the local authority

Evidence of Disability or Illness

- Fit Note (Medical Certificated/Sick Note)
- Information from social worker/medical consultant
- Evidence of how the disability/illness effects daily living

