

## WELFARE BENEFITS FOR CHILDREN & YOUNG ADULTS

The purpose of this article is to give a brief outline of some of the benefits that may be available to children and young adults with disabilities or special education needs, and their carers.

The Welfare Reform Act 2012 has radically changed the benefits landscape, and it is therefore important to access expert welfare benefits advice at the earliest opportunity.

### Disability Living Allowance (DLA)

DLA is a tax-free, non-means-tested benefit for children with mobility and/or care needs. An application for DLA can be made before the child's 16th birthday. Once a child reaches 16 years old, an application for Personal Independence Payment must be made instead. The high rate mobility component starts from three years of age, and the lower rate mobility component starts from five years of age.

There is no lower age limit for the care component, however, there is a three-month qualifying period applicable in most cases.

The care component is paid at three different rates and the mobility component at two.

### Personal Independence Payment (PIP)

When a child reaches 16 years old, they will be invited to make a claim for PIP instead of DLA.

Like DLA, PIP is divided into two parts:

- Daily living component (standard or enhanced only)
- Mobility component (standard or enhanced)

The rate payable is dependent on how the disability affects the young person's life. The claimant will usually be required to undergo a health assessment as part of the application process.

### Carer's Allowance

Carer's Allowance may also be available for carers caring for a child or young person who receives DLA or PIP. There are a number of criteria which must be met in order to qualify for Carer's Allowance including:

- Care must be provided for at least 35 hours per week
- The child must be in receipt of either the middle or high rate of Disability Living Allowance care
- The carer must not earn more than a set amount each week in terms of earned taxable income after deductions

Other points to note:

- Gratuitous care payments received by a carer from a child's compensation claim are completely disregarded for the purposes of assessing the carer's income
- A Class 1 National Insurance contribution is paid by the Department for Work and Pensions to Carer's Allowance Claimants which, in turn, will ensure full contributions towards State Retirement Pension

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## **Child Tax Credit / Universal Credit**

An award of Disability Living Allowance can substantially increase Tax Credits or the child element of Universal Credit.

### **Disability Reduction Scheme (Council Tax)**

This scheme can apply to any resident in a property who is substantially and permanently disabled and applies to both children and adults. In order to qualify, at least one of the following three conditions must also be met:

- You have an additional bathroom or kitchen needed by the disabled person; or
- You have a room (other than a bathroom, kitchen or toilet) needed by and predominantly used by that person; or
- You have enough space in your dwelling for that person to use a wheelchair indoors

If you qualify, your Council Tax bill is reduced to the amount payable for a dwelling in the valuation band immediately below or one-sixth if the property is Band A.

### **What happens when full-time non-advanced education ends?**

When the child ceases to be in full-time non-advanced education, the entitlement to Child Benefit will cease. You should seek specialist welfare benefits advice as soon as you are aware that Child Benefit will cease to be payable. Failure to apply for relevant benefits can lead to a loss of benefit income of £5000 + per annum. The likelihood of backdating is minimal. Other benefits that may be payable:

- Universal Credit
- Employment and Support Allowance (ESA)
- Council Tax support can be applied for once a child reaches 18 years of age if the property has been purchased in their name. This also applies to property bought in the name of their Trust. Non-dependents living in the property are disregarded if the young adult is receiving DLA care component, or the daily living component of PIP.

### **Universal Credit (UC)**

Universal Credit has replaced legacy benefits for the majority of claimants. This is still being rolled out to existing benefit claimants and full roll-out is not expected to be complete before 2023.

UC has replaced the following working age benefits:

- Income-based Jobseekers Allowance
- Income-Related Employment & Support Allowance
- Income Support
- Housing Benefit
- Child Tax Credit
- Working Tax Credit

Under the scheme, there is a benefit cap:

If you live outside a Greater London borough, the cap is:

- £384.62 per week (£20,000 a year) if you're in a couple, whether your children live

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with you or not

- £384.62 per week (£20,000 a year) if you're single and your children live with you
- £257.69 per week (£13,400 a year) if you're single and you don't have children, or your children don't live with you

If you live in a Greater London borough, the cap is:

- £442.31 per week (£23,000 a year) if you're in a couple, whether your children live with you or not
- £442.31 per week (£23,000 a year) if you're single and your children live with you
- £296.35 per week (£15,410 a year) if you're single and you don't have children, or your children don't live with you

People in receipt of disability benefits, as well as carers, are excluded from the cap.

### **Preserving entitlement to means-tested benefits**

If a child receives compensation, this could affect their entitlement to means-tested benefits once they become young adults.

In order to protect their entitlement, you should consider placing the compensation into a Personal Injury (PI) Trust (sometimes referred to as a Special Needs Trust). Placing the money in a PI Trust will ensure that compensation paid as a consequence of personal injury is ring-fenced, ensuring the continuation of means-tested benefits.

Monies administered under the auspices of the Court of Protection are also fully disregarded for means-tested benefits purposes.

An additional benefit of having a PI Trust is that it can be utilised to protect vulnerable young adults from financial abuse.

The PI Trust will also ring-fence a personal injury award if residential care is organised by the Local Authority at any point on a permanent basis.

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