



GUIDANCE ON CLAIMING, PAYMENT MANAGEMENT AND USE OF DISABILITY LIVING ALLOWANCE (DLA) BY FOSTER CARERS

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1. Disability Living Allowance

Disability Living Allowance (DLA) is a Department of Work and Pensions (DWP) benefit available to disabled children who require help with personal care and / or supervision over and above that of other children of the same age because of their illness or disability.

DLA has mobility and a care component. These are considered to be separate components but DLA is a single benefit for which you make only one application. The mobility component has two rates (higher and lower) and the care component has three rates (higher, middle and lower).

There are many different criteria under which an application can be made.

A child under 16 cannot make a claim in their own right. A claim must be made on the child's behalf by an adult. Any adult caring for such a child, providing the child is

not in hospital or residential care for more than 28 days, can apply for this benefit. This is usually the child's parent or guardian but when a child is fostered, the foster carer is the most appropriate person to claim the DLA. The Secretary of State will decide who should be appointed to act for the child when a claim for DLA is made.

An appointee takes on all the rights and responsibilities of the child. For example, the appointee must notify the Department for Work and Pensions (DWP) about changes in the child's circumstances.

An appointee must be over 18 years old and must normally apply in writing. DLA ceases to be paid to the appointee immediately the child is no longer living with them (except in some specific circumstances).

DLA is paid to the child not the carer. Normally if the child is under 16, the carer acts as an appointee. Otherwise the young person, providing they are capable, can have the benefits paid to them direct.

There are no conditions laid down by the DWP as to how the money should be spent. It is intended that the money be used to enhance the child's life so that the child derives maximum benefit from the payment of this benefit.

a. Care Component

This is paid to anyone who needs to be looked after because of a disability. There is no lower age limit for getting this part of the allowance, but the child must have needed extra care or supervision for at least three months preceding the application. In addition, the care must be more than is normally given to an able-bodied child of the same age. The allowance is split into three rates, depending on the level of care needed.

A foster carer should claim DLA on behalf of the fostered child if the disability is such that they need:

1. During the day;

help or supervision with washing, dressing, bathing, eating, going to the toilet, taking medication, physiotherapy, coping with the effects of deafness or

blindness and so on or help or supervision to prevent them harming themselves or others (for example, if the child has no sense of danger or has serious behaviour problems);

2. During the night;

Either

regular help with things like going to the toilet, turning in bed, settling back down, medication, changing clothing and bedding after bedwetting and so on;

or

the carer has to get up regularly in the night to prevent the child harming themselves (for example, if the child wanders around at night).

If the child needs help during the day and night, the highest rate of the care component may be paid. If only occasional help is needed during the day, the lower rate may apply.

Once a fostered child reaches the age of 16, they may qualify for the lower rate of the care component if they cannot undertake the activities required in order to plan or prepare a cooked main meal (unaided) given all the ingredients;

Payment of DLA care component will be suspended if the child is in a local authority residential home for more than four weeks (28 days), or if they go into hospital for more than 84 days;

However, a foster carer may claim for any periods that the child spends away from the home/hospital during the period that they are living at that home/hospital once the 28/84 day suspension of payment has been imposed.

b. Mobility Component

The child must be at least three years old. It must be shown that they have had mobility difficulties for at least three months preceding the application. The mobility

component is paid at two rates (children aged three or four can only get the higher rate). DLA can be paid for children who cannot walk or who can only walk very slowly for a short distance because of pain or breathing difficulties, or for whom the effort of walking leads to deterioration or damage to their health. Children who are both deaf and blind may also be eligible.

The lower rate is for children who can walk but need someone to guide, support or help them in unfamiliar areas. This might be because they need physical assistance or because they have no traffic sense and are at risk. Children with developmental delay, sensory impairment or hyperactivity may qualify for the lower rate.

Mobility component is paid even when a child is in residential care but will be suspended if the child is in hospital for more than 84 days.

It is unlawful for the local authority to take DLA (mobility component) into account when assessing fostering allowances.

2. Claiming DLA for a Fostered Child

Where a child is eligible or potentially eligible for DLA it is the expectation of City of York Fostering Service that a Foster Carer makes a claim on the child's behalf. DLA is provided by the Department of Work and Pensions to 'enhance a child's life' and therefore in the promotion of the best possible outcomes for a child, a carer must be willing to make the claim and manage any subsequent payments. Like any other additional need or care requirement, an unreasonable refusal by a carer to make a claim for an eligible child may result in a consideration of the approval of the Carer.

It is a requirement that a Foster Carer must notify their Supervising Social Worker if they are considering making a DLA claim on behalf of a child in their care. A record of the discussion and any subsequent claim will be noted on the carer's Supervision File.

Notification will also enable the Supervising Social Worker to support the carer in claiming DLA. It is not always an easy process as the claim form is quite long and the Supervising Social Worker will be able to help with it and obtain extra 'evidence' from the child's Social Workers, schools, health workers and so on.

It is also good practice for the child's Social Worker to inform the parent that the foster carer will be applying to claim for DLA. If a child is in receipt of DLA, prior to becoming a looked after child, the child's Social Worker should be involved in discussions with the parent concerning transfer of the DLA to the foster carer. The parent must notify the Department of Works & Pensions that the child is no longer in their care and the foster carer advised to make an application to receive it. In the same way if a child moves from one foster carer to another the foster carer must notify the DWP and any DLA money transferred to the new carer.

The application for DLA or transfer of DLA will be discussed and agreed at the Placement Planning Meeting, subsequent Care Team Meeting or statutory review. This will enable a record of any claim or proposed claim to be included within the Placement Plan or Review Record.

3. Who makes the decision to award DLA?

The DWP is responsible for awarding DLA to claimants. The DWP operates a periodic enquiry process' which allows them to check existing DLA awards. Currently DLA awards to children under 16 are not checked. However, this is subject to change as the enquiry process is continuously under review. Enquiries are made by postal questionnaire and the appointee has a duty to supply any information requested by the DWP that may affect benefit entitlement.

4. Payment and Management of DLA

DLA is normally paid every four weeks, in arrears. It is usually paid into a bank account by credit transfer. Higher rate DLA mobility component can be paid directly to Motability if a car has been purchased through the scheme. DLA can be awarded for a fixed or indefinite period. Both types of award are open to revision by the DWP. Although DLA has two components (care and mobility), it is a single award. The child may get an indefinite award for one component with a limited period award for the other. The child cannot be awarded both components for two different fixed periods.

Foster carers applying for DLA on behalf of a child in their care under the age of sixteen years old will be expected to set up a separate bank account, in their own name, into which the DLA will be paid. Foster carers caring for children over the age

of sixteen will be expected to support the young person to set up a bank account for receipt of their own DLA.

DLA is not intended to be saved for the child for use in later years as this could result in them being penalised. For example, if there is more than £3000 in an account when the child returns home this will affect any benefits claimed by the parents. For a child reaching 16 a sum of more than £8000 will affect their claim for income support and housing benefits. Accordingly, carers will be encouraged by their Supervising Social Worker to use the DLA for the immediate day-to-day benefit of the child in their care rather than to save the money for the child's future independence or care.

If there is accrued DLA within a bank account established for a child under 16 in the name of the carer and the child moves from their care, the management and transfer of such money must be discussed with their Supervising Social Worker. Ordinarily, any remaining money will be expected to be paid into a nominated account of the new carers once such an account is established. Exceptionally, the Local Authority may assist in the transfer.

Any retention of DLA money by carers after the move of a child from their care may result in the Local Authority referring the matter to the DWP to investigate as misuse of the benefit is a criminal offence. Misuse of DLA may also, dependent upon the circumstances, result in a consideration of a carers approval by Fostering Services.

If there is accrued DLA within a bank account established for a child under 16 in the name of the carer and the child becomes 16, upon prompt establishment of a bank account for the 16 year old, any accrued money must be paid into the child's own account and future payments of DLA made to the child's account.

5. The use of DLA

There are no conditions laid down by the DWP as to how DLA should be spent. It is intended that the money be used to enhance the child's life so that the child derives maximum benefit from the payment of this benefit. Therefore, Foster Carers acting as an appointee for a fostered child receiving DLA have primary responsibility to use the benefit appropriately to support the practical and emotional needs of the child

and to save any surplus for the child to use in the future. Foster carers are accountable for their use of DLA to the DWP and not to the Local Authority.

Whilst it is not the responsibility of the Local Authority to monitor the use of DLA by a foster carer, if the Local Authority suspects that DLA is being claimed or used inappropriately and/or fraudulently, the Local Authority will refer the matter to the DWP to investigate as misuse of the benefit is a criminal offence. Misuse of DLA may also, dependent upon the circumstances, result in a consideration of a carers approval by Fostering Services.

Where a foster carer is an appointee receiving DLA on behalf of a child or young person in their care, the Supervising Social Worker will seek to support the carer in the appropriate and effective use of DLA. The use of DLA may be used, but is not to be limited to, the following:

- Activities that are costly e.g. horse riding, after school clubs.
- Provision of an escort to enable social events to be attended.
- Extra helper for an outing or holiday.
- Taxi fares for trips out.
- Special holiday for the child, which could include covering the foster family's expenses.
- Caravan expenses so that the child can have regular breaks in a familiar place.
- Extra support such as child sitting service
- Individual equipment such as computer or communication aids.
- Laundry service and appliances.
- Replacement clothing where there is excessive wear and tear on clothing.
- Additional heating costs.
- Additional help with personal care.
- Special toys to meet child's needs – which may be of therapeutic value.
- Domestic help to allow carer to spend more time with the child.

Upon reasonable request and notice, a foster carer may be required to evidence to their Supervising Social Worker how they are using DLA on behalf of a child or young person in their care. A Foster Carer's use of DLA will inform the overall review of their ability to meet the needs of a child or young person in their care and may be a consideration of their continued approval by the Local Authority.

DLA is not intended to reduce or substitute support for carers by the Local Authority. The Local Authority cannot require that the carers purchase items or commission services from money received by DLA that should be provided by the Local Authority. This policy is clear that DLA and Local Authority support for carers are two distinct financial support arrangements for an eligible child and should be seen as complementary. In practice, this means that the foster carers and the Supervising Social Worker should work closely to agree on the effective use of DLA, purchasing items or services which are not or would not be funded by the Local Authority but which would nevertheless enhance the life and outcomes of a child in care.

The way in which a foster carer may use the DLA will depend on the individual child's needs. The DWP is ultimately responsible for monitoring the use of DLA. A carer may wish to contact the DLA general enquiries helpline (0845 712 3456) to clarify situations in which it is appropriate to use the DLA to support a particular activity or purchase.

6. DWP Contact Details

For general enquiries about DLA call the DWP on 0845 712 3456 or write to:

Disability Living Allowance
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Date of Implementation: 02 June 2014

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City of York Council