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# DISABILITY LIVING ALLOWANCE POLICY AND PRACTICE GUIDANCE

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This document is for the use of Kent County Council foster carers



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<sup>1</sup> Review January 2021

## Introduction

Fostering a child on behalf of Kent County Council is an important and responsible role and children with a disability are perhaps some of the most vulnerable in our care.

As a foster carer, you make a wide variety of decisions on a day to day basis on behalf of your child. Management of your foster child's Disability Living Allowance is a small part of this. As with all things, good recording is important to evidence your practice and to safeguard both the child and you. This Disability Living Allowance Policy and Practice Guidance is to help you do this effectively.

Disability Living Allowance is a benefit paid to children and young people under 16-years old who have care or mobility needs as a result of a disability or ill-health and is paid on top of any benefits, tax credits or income carers may have.

Children and young people receiving Disability Living Allowance who reach 16-years old will be reassessed for either continued Disability Living Allowance or a Personal Independence Payment, depending on which part of the United Kingdom they live in. Although eventually all Disability Living Allowance claimants will be reassessed for Personal Independence Payment, this is a similar benefit but is based on a different type of assessment.

The criteria for Disability Living Allowance is complicated and there are many organisations, including the department of work and pensions, which offer support and advice.

Full information about the criteria and current payment rates are available on the department for work and pension website<sup>2</sup>. If you think your foster child might qualify for Disability Living Allowance, you should discuss this with their Social Worker and your Fostering Social Worker. As a foster carer, if you submit a claim on behalf of a child in care, you must advise the child's social worker and Fostering Social Worker that this has been completed.

Disability Living Allowance and Personal Independence Payment are both non-means tested, tax-free benefits, which you do not have to declare on your tax return, as the benefit belongs to the child. Disability Living Allowance can't be back dated, and a claim usually takes approximately 40-days to process.

You can claim an additional benefit called Carer's Allowance if you care for a child who receives the middle or higher rate of the care component of Disability Living Allowance, or Personal Independence Payment - daily living component, as long as you care for them 35-hours a week, and you earn under £110 net per week, foster payments are ignored as earnings.

Your income from fostering is disregarded for calculating Carer's Allowance, but it is taxable, so you would need to declare it on your tax return. The payment of Disability Living Allowance and Carer's Allowance by the department for work and pension is over and above your fostering allowances.

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<sup>2</sup> <https://www.gov.uk/disability-living-allowance-children>

## Foster carers status as appointee

The department for work and pension requires for all children under the age of 16-years old to have a parent or guardian appointed to manage their Disability Living Allowance, even if they can manage their own affairs. Your role as foster carer is to act as the nominated appointee for your foster child.

Wherever possible, the Disability Living Allowance, or Personal Independence Payment, should be paid directly to the young person once they reach 16-years old. The decision as to whether this is appropriate or not should be a joint decision with the child, if they have the understanding, and their Social Worker.

As the appointed person, you are considered by Kent County Council and the department for work and pension to be in a position of trust. The department for work and pension list the following as your key responsibilities:

1. You **must always** act in the best interest of the child or young person when managing and spending the Disability Living Allowance money you receive for them;
2. You **must** report any changes in the child's circumstances which could affect their entitlement to Disability Living Allowance;
3. You **must** report any changes in your own circumstances which may affect your ability to act as an appointed person, for example, if the child or young person no longer lives with you;
4. You **must not** take a fee or any payment from the Disability Living Allowance for acting as an appointed person.

## Using Disability Living Allowance

There are no conditions laid down by department for work and pension as to how the Disability Living Allowance should be spent. It is awarded to enhance the child's quality of life and to help with extra costs<sup>3</sup> of caring for a sick or disabled child or young person.

The way in which you use a child or young person's Disability Living Allowance will depend on their individual needs and is largely at the foster carers' discretion but should always support their practical and emotional needs.

It might be used in a wide variety of ways; the list below includes some possible uses:

- Outings and activities;
- Special toys and equipment not available through universal services;
- Extra costs involved in daily living, for example, laundry and heating expenses;
- Additional clothing and footwear for those children who need specialist provision or where there is heavy wear and tear;
- Special dietary requirements or allergy free products;
- Repair to property if caused by the child or young person;
- Looking after services or an extra helper for holidays or outings;
- Specialist holiday accommodation to allow the fostering family to go away with their child or young person;
- Appropriate use of the mobility component;
- Petrol costs or taxis;
- Adaptations to cars;
- Car seats;
- The full mobility component may be used to lease a Motability vehicle.

Disability Living Allowance is not to be used to fund support usually available through statutory services, for example, equipment or therapies normally provided by health, education or social services.

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<sup>3</sup> DAL1 2016

Nor should the Disability Living Allowance be used to fund placement support which would otherwise be provided through fostering services or the children's social work team, for example, to fund an assessed need for respite or transport to school or medical appointments.

Disability Living Allowance is not intended to be saved for the child or young person to use in later years as this could result in them being penalised if they need to apply for other benefits once they reach adulthood however, the benefit can be saved to fund larger specific items and activities which would benefit the child, for example, aids and adaptations not eligible for funding through universal services.

If you are considering spending a large amount on a specific item or activity it is good practice to discuss this with your Fostering Social Worker and the Child's Social Worker.

## Managing Disability Living Allowance

The Department for Work and Pension is responsible for monitoring the use of Disability Living Allowance and it is important that you as the appointee can give an account of how it is spent.

This will safeguard you from allegations of misappropriation and provide evidence for the Department for Work and Pension which may be needed at a future date, for example, if the child is reassessed or transferring from Disability Living Allowance to Personal Independence Payment.

To aid this, Kent County Council foster carers of children under 16-years old are advised to set up a specific bank account in their own name for each individual child into which their Disability Living Allowance can be paid, this account will act as a record of expenditure.

Whilst foster carers cannot be expected to evidence exact use of funds in all situations, for example, contributions towards costs of household cleaning products for children with incontinence, it is expected that they will be able to identify expenditure on larger items and give a general picture of how the regular contributions towards household budgets are used. Receipts should be kept for larger items and recorded in the child's diary record, so there is an ongoing account with dates, of how the Disability Living allowance has been used.

This information might be requested by the Child's Social Worker, Independent Reviewing Officer or the Fostering Social Worker and discussed at Child in Care reviews.

If the child changes placement, it is expected that any Disability Living Allowance accrued in the account will transfer to their new carer, unless there are specific reasons why this should not happen.

When the child regularly spends time away from their foster family, for example, on respite breaks or on visits to birth family, an early agreement should be reached regarding what proportion of the Disability Living Allowance is to be passed between carers.

The agreement should take into account the regular commitments of the main foster carer alongside the expectations placed upon the substitute carer.