

# Disabled young people

*Disabled young people* is one of a series of Child Poverty Action Group in Scotland leaflets giving guidance to advisers working with disabled children and their families. Child Poverty Action Group promotes action for the prevention and relief of poverty among children and families with children.

## Introduction

When you turn 16 you may be able to claim benefits and tax credits in your own right for the first time. Until then, a parent or another adult who you live with will usually have claimed benefits or tax credits that include an amount for you. (Note: in this factsheet whenever we say 'parent' we mean whoever is responsible for you.) At 16, if you have health problems or a disability you may have a choice of whether to claim for yourself or continue to let an adult claim for you.

This factsheet looks at the options for disabled young people under 20 who are still living at home. After your 20th birthday any benefits that your parents still receive for you will stop whatever happens. You will then have to claim any adult benefits that you are entitled to.

## Claiming for a child below 16

Before you reached 16 a parent will have been claiming child benefit (CB) for you. A parent may also be receiving disability living allowance (DLA) if you are disabled and carer's allowance (CA) if the award of DLA is paid at the middle or highest rate care component. They may have been receiving some of the benefits below because they are responsible for you. These might have included additional amounts because of your disability.

- Child tax credit (CTC)
- Working tax credit (WTC)
- Housing benefit (HB)
- Council tax benefit (CTB)
- Income support (IS)

## Disability living allowance at 16

Sometimes a DLA award stops at age 16 so that your entitlement can be reassessed to see if you still have the level of care needs or mobility difficulties needed to pass the disability tests. The forms are normally sent out about 6 months before your award ends to allow you time to re-apply before the benefit stops. From 16 there is an extra way to qualify for the lowest rate of the care component - a test of whether you could carry out the tasks needed to prepare a cooked main meal without any help.

At 16, if you can manage your own affairs, you can receive payments of DLA directly. You will need a bank or Post Office card account for this. If not, a parent will continue to be the 'appointee' and manage your claim. Normally the DWP will arrange a visit to discuss whether you will be able to take over managing your affairs before your 16th birthday.

## Choices at 16

What benefits you can claim and whether your parents can continue to claim for you after you are 16 depends on what you do. The rest of this factsheet explains the different options.

## 1. You stay on at school

If you stay on at school after 16 full-time, a parent can normally continue to get all of the benefits s/he was getting for you. This is because you are a 'qualifying young person' (see Box 1).

### Box 1 - Who is a qualifying young person

A 'qualifying young person' is someone whose parents can continue to claim child benefit for them after they are 16. You must be on a course of full-time '**non-advanced education**' or '**approved training**'. You must be either under 19, or 19 and have been accepted on, enrolled on or started the course before your 19th birthday. References to 'school' in this factsheet apply whether you receive non-advanced education or 'approved training' (see below).

Non-advanced education is study below degree and HNC level including Standard grades, Highers or advanced Highers, SVQ up to level 3 and National Certificates.

In order to be full time, a course of education must be more than 12 hours a week during term time. In counting the hours, include classes and supervised study, but do not include meal breaks or unsupervised study, whether at home or at school or college.

If you are on an approved training course, this is treated in the same way as if you were in full-time non-advanced education, regardless of how many hours a week the training is for. In Scotland the courses are Skillseekers, Modern Apprenticeship or Get Ready for Work; but not if the training is provided by a contract of employment and you receive a wage.

In certain circumstances your parent can continue to claim benefit after you leave school, college or training. This will be until the latest of these dates

- **1 September after age 16:** if you leave a course, your parent can continue to claim benefit for you until 31 August following your 16th birthday.
- **Extension period:** if you leave a course aged 16 or 17, and register with the Careers Service, your parent can continue to claim benefit for you for a further 20 weeks (unless you reach your 18th birthday before then).
- **Terminal date:** otherwise, your parent can retain the benefits s/he has been claiming until the next terminal date that falls after your course ends. This is the last day in February, May, August or November. Benefit stops if you reach your 20th birthday before then. If you are doing Highers or advanced Highers and your course finishes earlier than an equivalent one in England or Wales does, you are treated as being in education until the date that comparable course would end.

**The terminal date rule does not apply to child tax credit.**

If a parent's benefit runs out under the rules above, s/he can reclaim if you start another course of full-time non-advanced education or approved training, and you still count as a qualifying young person.

### Interruptions in education

Interruptions in your education can be ignored for up to 6 months, or for a longer period if the interruption is caused by your illness or disability. This allows a parent to continue claiming benefits during the gap. This only applies if the interruption is reasonable in the circumstances, and is not followed by you starting higher education or work.

### Employment and support allowance

You may be able to claim employment and support allowance (ESA) in your own right while still at school. If you do, CB and amounts for you included in any benefits or tax credits that your parent receives will stop. ESA is a benefit for people of 16 and over who are not able to work because of illness or disability. There are two relevant types of ESA: **ESA in youth** and **income-related ESA**. It might be possible to get one or both depending on your circumstances.

# Disabled young people

## Limited capability for work

To get ESA you must have **limited capability for work**. This test applies to you even if you intend to stay on at school. Demonstrating limited capability for work begins by submitting a medical certificate from your GP. Most people have to attend a medical examination called the work capability assessment within 13 weeks of claiming, and ESA will stop if you don't score enough points in the test. You can appeal against this decision if you disagree with it, but normally have to appeal within one month.

If you pass the medical you will be placed in either the work-related activity group or the support group, and paid an extra component in your ESA. The component is higher for the support group, which is for the most severely disabled people.

If you are in the work-related activity group you have regular interviews at the jobcentre, and may be asked to do other things that will help you get a job in the future. If you do not take part your ESA may be reduced. If you are in the support group you are not required to attend interviews, but you may still have to attend for further medical examinations.

## ESA in youth

Normally you need to pay national insurance contributions to qualify for contributory ESA. However, if you have health problems or a disability from a young age you can qualify. This is called ESA in youth. To qualify you must have had a health problem or disability for 196 days (28 weeks) before you claim. This can be confirmed by a backdated medical certificate and can cover a period from before age 16, so that benefit can start from your 16th birthday.

### Box 2 – ESA in youth and full-time education

If you are under 19 and still at school, entitlement depends on your education. You cannot qualify if you attend classes or supervised study for 21 hours or more per week. In adding up the hours, lunch breaks, breaks between lessons, free periods and unsupervised study or homework do not count.

Most school education involves more than 21 hours a week. However, for ESA in youth any hours of study unsuitable for a person of your age who does not have a disability are not counted. If you attend a school exclusively for young people with additional needs or a college course with all classes adapted due to your disability you are likely to satisfy this requirement.

If your education is integrated into mainstream schooling you will have to look closely at the number of hours you do that are not suitable for a non-disabled person. Both the way you are taught and the course content are important, including if you are set different coursework or get extra time for exams. You should look at any extra time spent with a teaching assistant and any special methods used such as signing or Braille. It may be helpful to consult any written statement of the support you need - such as an Individualised Education Plan (IEP) or Co-ordinated Support Plan (CSP) if you have one.

Once you are 19 it does not matter how many hours a week you are in education. ESA in youth normally needs to be claimed for a period starting before your 20th birthday. This age limit can be extended to 25 in certain circumstances if you started education before you were 20, and have now finished your course.

You do not have to be in receipt of DLA to get ESA in youth. The amount you get will depend on whether you are in the support group or not. It will not be affected by any other money you have coming in, except earnings over a certain amount (see section 5 below). ESA in youth is not affected by any savings you have or by the income of anyone else you live with.

## Income-related ESA

If you satisfy the test of limited capability for work and qualify for DLA at any rate then you may be entitled to income-related ESA while at school. The type of tuition you receive and how many hours you study are not important. You do not have to show that you have been sick for over 28 weeks when you apply. If you cannot qualify for ESA in youth while at school - perhaps because your education is regarded as being too mainstream - then you may qualify for income-related ESA instead.

As income-related ESA is means-tested it may be reduced if you have any other regular income, or savings of £6,000 or over. It is not affected by any aspect of your parents' income. The maximum amount of income-related ESA is higher than that of ESA in youth, so you may receive a 'top-up' of income-related ESA as well as ESA in youth.

## The amount of ESA

Assessment phase (first 13 weeks of claim)	£53.45
Main phase + Work-related activity component	£94.25
Main phase + Support component	£99.85

This is the weekly rate of ESA in youth. The rates of income-related ESA for a single claimant are the same except:

- Income-related ESA includes an extra amount of money called the enhanced disability premium of £14.05 if you either
  - receive DLA highest rate care component; or
  - are put in the support group by the assessment
- It can also include an amount called the severe disability premium, but this won't normally be paid to you if you live at home with your parents
- Income-related ESA can be reduced if you have other income or savings, and is paid at different rates if you live with a partner

All of the examples in this factsheet use the benefit rates for the year from April 2011.

### Example

*Jane is an only child. She is deafblind and lives with her mother. She is 16 and goes to a school for children with sensory impairments. She is entitled to DLA highest rate care component. She attends school for over 21 hours per week but because of the specialist teaching methods this does not stop her getting ESA in youth. If she submits a medical certificate going back for 28 weeks she will receive £53.45 ESA in youth for the first 13 weeks of her claim. This will be topped up by £14.05 income-related ESA because she is entitled to the highest rate of DLA care component (she has no other income and no savings). After 13 weeks the total amount of ESA will rise either to £108.30 or £113.90 per week depending on whether she is placed in the support or work-related activity group by the medical assessment. Jane's mother gets CB and CTC for her. She will no longer be entitled if Jane claims ESA.*

## Choosing between ESA and benefits for children

If you would qualify for either type of ESA while at school, you will have a choice of whether you claim that benefit or your parent continues to receive CB and any other benefit or tax credit that they get because they are responsible for you. Whether your household (including both you and your parents) is better off overall will depend on how the amount of ESA you receive compares to the amount that would be received by your parent.

ESA will be paid at a reduced rate for the first 13 weeks of your claim. After that point you could receive a variety of levels of ESA ranging from £94.25 to £113.90 so it can be difficult to determine in advance exactly how the overall income of the household would change. Some examples are given below.

### Example

*Jane's mother has quite a high income, and receives only CB and the family element of CTC for her. This is £30.73 per week. Regardless of what amount of ESA Jane receives the overall household income will increase as ESA will be higher than the CTC and CB.*

### Example

*Ali lives with his younger sister and mother who is a lone parent on IS receiving CB of £33.70 and maximum CTC of just over £161 per week which includes two child elements and the disability element for Ali, as he receives the low rate of the DLA care component. If Ali claims ESA there will be a drop in the overall income of the family of over £62 for the first 13 weeks of his claim. At the end of the assessment phase the family will still be worse off, as Ali's ESA award will be lower than the amount of CTC and CB his mother received for him. If he receives the support component the family will lose out by just under £2. If he receives the work-related activity component the overall loss will be just over £21.50.*

## Example

*Kirsty lives with her father. He works 16 hours per week earning around £120. He gets WTC and CTC of just over £185 per week plus CB of £20.30. If Kirsty claims ESA her dad will lose all entitlement to WTC, CTC and CB. The move to ESA may lose the family over £100 per week.*

In general terms, if you claim ESA and are the only child that your parent currently receives benefits or tax credits for, the total household income is likely to go down unless your parent only receives quite a small amount of tax credits. Removing you from the claim may also mean that your parent stops being entitled altogether to WTC, IS, HB or CTB as well as CTC stopping. No longer qualifying for these benefits may mean that your parent is not entitled to other help such as free prescriptions, housing costs towards a mortgage (for IS) and social fund payments.

Also, if your parent receives the maximum amount of child tax credit which includes a disabled child element for you, then your ESA will be less than the amount of CB and CTC that your parent loses, even if they can still claim these benefits for other children. This may change in future years. Your family should seek advice from one of the agencies mentioned below (see *Help with claiming and checking you are entitled*) to check how your total income will be affected by you claiming ESA, including the effect on any housing and council tax benefit your parent gets.

If you claim ESA, you can later choose to end your claim and go back to having your parent claiming CB and other benefits for having a child if s/he would still be entitled to claim for you (see Box 1).

## Part-time education

If your course is 12 hours or less then a parent cannot claim CB or other benefits for you. In this situation you can claim ESA in your own right. There is no requirement that the course would not be suitable for a non-disabled person for ESA in youth. You do not have to be on DLA for income-related ESA if your education is part-time. See Box 1 on page 3 for information about when a parent may be able to keep claiming for you for a time after your hours of education have reduced.

## 2. You leave school and start college

If you have left school and started college, your education may be treated as either 'advanced' or 'non-advanced'. Box 1 on page 3 explains how to work out if your education is advanced or not. If your education is non-advanced, section 1 applies to you. If the education is advanced, go to section 3.

### Income-related ESA and bursaries

As income-based ESA is means-tested, claimants do not usually receive a maintenance bursary from their college. If you receive a grant for travel, books and equipment or any additional support needs for learning allowance for disability costs, these will be ignored. Receiving an education maintenance allowance (EMA) does not affect your income-related ESA.

## 3. You leave school or college and go into higher education

A parent cannot continue to receive benefits or tax credits for you if you are in higher or 'advanced' education. Advanced education includes:

- Higher National Diploma (HND) courses;
- SVQ levels 4 or 5;
- Degree and postgraduate courses.

As a result you will only be able to claim ESA in your own right.

## ESA in youth

The rules regarding entitlement to ESA in youth are the same as for those in non-advanced education, including the rules about hours of education for people under 19 explained in box 2 above. These rules also apply if the college or university describes your course as part-time.

## Income-related ESA

You can only claim income-related ESA if you are in full-time higher education if you also receive DLA. 'Full-time' means that that your university or college says that it is full-time. As a full-time student in higher education who is on DLA, you will be exempt from the test of limited capability for work in the work capability assessment. You are not exempt from the assessment of whether you should be in the support group or not.

You may satisfy all of the conditions of entitlement to income-related ESA but not receive any during term time. This is because most available student income will be taken into account. Student loans will be taken into account whether you actually apply for the maximum possible amount or not. You may still be entitled in the summer holidays.

If your course is part-time, you do not need to get DLA to be able to claim income-related ESA, but you are not exempt from the test of limited capability for work.

## 4. You leave school and do not go into further education

If you leave school and do not continue with any form of education then you can claim ESA if you have limited capability for work. A parent may be able to claim for you instead for a short while. Box 1 explains when you can continue to count as a qualifying young person after leaving education.

## 5. You go into work

If you are in education and a parent still claims benefit for you, then you can work and their benefit will not be affected. However, if a parent is receiving extended payments as described in Box 1 above and you work 24 hours a week or more then any benefit your parent receives for you will stop.

Normally if you are working you cannot get ESA but it may be possible to combine some work with receipt of ESA. This can include:

- any work earning up to £20 per week;
- work earning up to £95 per week which is:
  - part of a treatment programme and done under medical supervision;
  - supervised by someone from an organisation which provides or arranges work for disabled people; or
  - for less than 16 hours a week for up to 1 year (indefinitely if you are in the support group).

If your work does fit into any of these categories then you cannot claim ESA. You can't get ESA if you are on a training course that is not classed as approved training, which is provided by an employer, or for which you get a training allowance.

Instead you may be able to claim WTC if you work 16 hours a week or more and have a physical or mental disability that puts you at a disadvantage in getting a job. See CPAG's *Tax Credits for Disabled Workers* factsheet for further details (available at [www.cpag.org.uk](http://www.cpag.org.uk)). If you do claim WTC then any benefits or tax credits a parent receives for you have to stop.

## How to claim ESA

You start a claim by phoning 0800 055 6688 (textphone 0800 023 4888) or you can start a claim online at [www.direct.gov.uk](http://www.direct.gov.uk). Paper claim forms should also be available if it is not suitable for you to use the telephone. You will usually be interviewed within 8 weeks of making a claim. If you aren't able to manage an ESA claim someone else can apply to the DWP to be your appointee.

## Help with claiming and checking if you are entitled

A local CAB, welfare rights adviser (usually based in the local social work department) or advice agency will have detailed information about benefits, tax credits and other financial help which may be available and should be able to help with claiming. For help over the telephone, call:

- Contact a Family Helpline 0808 808 3555 (Monday to Friday, 9.30am - 5pm)
- CarersLine 0808 808 7777 (Wednesday and Thursday, 10am-12pm and 2pm-4pm)

## Further information and advice from Child Poverty Action Group in Scotland

**Telephone:** 0141 552 0552 Monday to Friday 10am to 12 noon  
*Advice line for advisers on benefits and tax credits*

**Email:** [advice@cpagscotland.org.uk](mailto:advice@cpagscotland.org.uk)  
*Email advice for advisers on benefits and tax credits*

**Website:** [www.cpag.org.uk](http://www.cpag.org.uk)  
*For more leaflets from CPAG in Scotland*

CPAG in Scotland's advice line is only for advisers. If you are having problems with your own tax credit or benefit claim and are in need of advice you should contact the organisations listed above.

CPAG publishes the *Welfare Benefits and Tax Credits Handbook*, a comprehensive guide to benefits and tax credits for claimants and advisers.

**CHILD  
POVERTY  
ACTION  
GROUP**  
in SCOTLAND

© Child Poverty Action Group, April 2011

Child Poverty Action Group is a charity registered in England and Wales (registration number 294841) and in Scotland (registration number SC039339). Company limited by guarantee registered in England (registration number 1993854). Registered office: 94 White Lion Street, London N1 9PF

CPAG in Scotland's Disabled Children Project is funded by the Scottish Government.