



Welfare Reform and Carers

Updated January 2017

This factsheet describes how welfare reform changes might affect you if you care for a disabled person. Some of the changes to the benefits received by disabled people are also highlighted. The information in this factsheet is relevant to you if you care for a relative or friend, but not if you work as a paid or voluntary carer for an agency.

In this factsheet, we use 'you' to refer to you if you are a carer; and 'the person you care for', or 's/he,' refers to someone with a long term health problem or disability.

WHAT ARE THE MAIN CHANGES THAT AFFECT CARERS?

- Personal independence payment (PIP) replaced disability living allowance (DLA) for new claimants (ie, disabled people who haven't already claimed DLA) aged 16 and under 65.
- The transfer of existing DLA claimants to PIP has begun for:
 - those turning 16 (unless terminally ill);
 - those reporting changes in their care or mobility needs; *and*
 - those whose DLA award is due to end.
- The transfer of DLA claimants with longer awards is gradually taking place. This was originally scheduled to be completed by late 2017 but may take longer.
- Housing benefit restrictions have been introduced for working age claimants living in the social rented sector who have a 'spare' bedroom, a policy often referred to as the 'bedroom tax'.
- The Scottish Welfare Fund, delivered by local authorities, provides community care grants and crisis grants.
- A benefit cap has been introduced, limiting total benefit entitlement for some out of work households. However you are exempt from this cap if you are entitled to carer's allowance or receive a carer element in your universal credit award.
- Universal credit (UC) has started to replace working age means-tested benefits and tax credits for some new claimants (although if you are a carer you cannot currently make a claim for UC in most areas).

Future changes

The following changes are also planned, although the date they will happen is unknown at the time of writing.

- The responsibility for the following benefits (amongst others) will be devolved to the Scottish Parliament:
 - carer's allowance;
 - disability living allowance;

- personal independence payment; *and*
- attendance allowance.

The Scottish Government will be able to change the amounts and entitlement conditions, or replace them with new benefits.

- The Scottish Government will be able to change some aspects of universal credit, such as the frequency of payments, whether they can be paid to different members of a couple and the amount of help you get towards your rent.

CARER'S ALLOWANCE

The most important change affecting entitlement to carer's allowance (CA) is that DLA for working age adults is being replaced by personal independence payment (PIP). PIP has a 'daily living' component, payable at two different rates. If the person you care for receives either rate, you can claim carer's allowance for looking after her/him. You will still have to meet the other carer's allowance entitlement conditions, including not being in full-time education and not earning more than £110 a week (£116 from April 2017) after certain deductions. There is more detailed information about the entitlement conditions for PIP available in the CPAG *Personal Independence Payment* factsheet.

Claiming CA may have an impact on the benefits of the person that you care for. If the person you care for claims universal credit, this does not happen. Only one person can get carer's allowance and/or the carer element of universal credit (see below) for looking after the same disabled person. You and the other carer can choose who this is, and if you cannot agree the DWP decides.

One reason that carer's allowance can stop is that the person you care for goes into hospital and so her/his DLA or PIP is no longer paid. From 29 June 2016, if the person you care for goes into hospital before her/his 18th birthday, DLA or PIP will continue to be paid. This means that you will be able to continue getting CA if you meet all of the entitlement conditions (so you must still spend 35 hours a week caring for her/him).

It is likely that the Scottish Government will increase the rate of carer's allowance in the future. Changes may also be made to the rules about work and education.

UNIVERSAL CREDIT

Universal credit (UC) is a new benefit that replaces the current system of means-tested benefits and tax credits for working age people. It has been introduced across Scotland (for limited groups of people). If you are a carer and you, or someone in your family, claim any of the following benefits, you will eventually be transferred to UC:

- income support
- income-based jobseeker's allowance
- income-related employment and support allowance
- working tax credit
- child tax credit
- housing benefit (for most claimants)

There is more detailed information available in the CPAG *Universal Credit* factsheet.

Who can claim universal credit?

In most areas, the groups of people who can claim universal credit are restricted. You can claim UC if you meet a series of 'gateway' conditions, including not having a partner or children, being fit for work and not being self-employed amongst others. If you are a carer you CANNOT claim UC in most areas unless your only caring responsibilities are as part of your paid or voluntary employment. This condition means that you cannot claim universal credit even if you do not qualify for carer's allowance, for example because the person you care for only gets a low rate of DLA.

If you are claiming UC and you later become a carer (or cease to meet one of the other gateway conditions that restrict who can claim) you remain on UC. If you move in with your partner who is getting UC you are normally treated as having made a joint UC claim together and any of the benefits above that you are receiving will end. Other benefits (such as carer's allowance) are not affected.

In some areas, where the UC 'full service' applies, the gateway conditions above do not apply and UC has replaced all new claims for the benefits mentioned above. This applies to anyone making a new claim for one of these benefits including carers. The UC full service currently applies in parts of East Lothian, Highland, East Dunbartonshire and Inverclyde regions. It will gradually be extended to other areas and is expected to apply everywhere in Scotland by October 2018. You can use the postcode checker at <http://universalcreditinfo.net> to see if the full service applies in your area.

Even once UC has been fully introduced there will still be restrictions on who can claim. You will be able to claim regardless of how many hours you work if your income is low enough, but there are other basic entitlement conditions.

- You can either claim as a single person, or jointly with your partner if you are living together.
- You must accept a 'claimant commitment', and so must your partner if you have one.
- You must normally be at least 18 years old and under the qualifying age for pension credit (if you qualify for the carer element (explained below) you can claim UC from the age of 16).
- You cannot get UC if you are in full-time education, with some exceptions.
- You cannot get UC if you have capital, such as savings or property you do not live in, worth over £16,000.

How much is universal credit?

Your maximum universal credit is made up of a standard allowance for you (or you and your partner if you claim as a couple), and additional elements for:

- each child (or qualifying young person), with additional amounts for disabled and severely disabled children. However from April 2017 the government plans to limit payments of the basic child element to the first two children. Except for certain limited exceptions, you will not receive a child element for a third or subsequent child born on or after 6/4/17 ;
- rent or a mortgage (support for mortgage interest is available if you are not doing any paid work, and usually includes a waiting period);
- a carer element if you have 'regular and substantial caring responsibilities for a severely disabled person' (see what this means below);
- limited capability for work element (being scrapped for new claimants from April 2017) or limited capability for work-related activity element if you have health problems or a disability; *and*
- help with formal childcare costs if you work. You and your partner must both normally work, although if one of you gets the carer element, or additional UC because you have limited capability for work due to illness or disability, it is only necessary for the other person to work.

Your award may be reduced if you have other sources of income.

- Some of your income is disregarded – eg, disability living allowance and personal independence payment; while other income is taken into account in full – eg, carer's allowance and occupational or personal pensions.
- If you have children or you or your partner has limited capability for work, some of your earnings

are ignored (this is called a 'work allowance'). £192 a month of your earnings are disregarded if you get a housing element in your UC award, and £397 a month if you do not. Earnings above the disregard will reduce your UC award with a taper rate of 65 per cent (so for every £1 of net earnings, your award is reduced by 65p). The government plans to reduce this taper to 63 per cent from April 2017.

The carer element in universal credit

A common route to the extra carer element in universal credit is that you are getting carer's allowance. If you are a carer who earns too much to claim carer's allowance, you still have a carer element included in your UC award if you meet all of the other entitlement conditions (caring 35 hours a week for a severely disabled person, not in education, no-one else gets a carer element for the same disabled person, etc.) Also, it is not necessary to have actually claimed carer's allowance to get the element – if you meet the entitlement conditions it can be paid even though no carer's allowance claim has been made. Be sure to tell the DWP if you are a carer but are not getting carer's allowance or become a carer whilst you are getting UC.

Only one person is able to get a carer element or carer's allowance for looking after an individual disabled person. If you and your partner care for different disabled people, then you can both qualify for a carer element. If the person you care for dies, your carer element continues to the end of the monthly 'assessment period' in which s/he dies, and for a further two months after that.

If you are a carer who also has health problems or disabilities, you cannot be paid for both a carer element and a limited capability for work element in a UC award. If you qualify for both then the one which pays the highest amount is usually paid. If you qualify for the carer element and your partner qualifies for a limited capability for work element, then both can be paid.

What work-related requirements are there for carers?

You must accept a 'claimant commitment' as a condition of receiving universal credit. You are then placed into one of the four following groups:

- no work-related requirements;
- a work-focused interview (WFI) requirement only;
- WFI and work preparation requirements; or
- all work-related requirements (including being available for and actively looking for work, although the DWP has the discretion to not restrict these requirements).

You have no work-related requirements if you get the carer element in your UC award. If you care 35 hours a week for someone on a qualifying disability benefit but do not meet the entitlement conditions for carer's allowance or the UC carer element - for example if someone else gets the carer element for looking after the same person - you may also have no work-related requirements. However, this only applies if it is considered to be unreasonable for you to look for any paid work in light of your caring responsibilities. This leaves the decision maker with discretion to decide if you should be subject to work-related requirements.

You and your partner are placed into groups depending on your individual circumstances. Your other personal circumstances may also be relevant to your work-related requirements. If you have to look for and be available for work, you can restrict your hours of work search and availability to fit your caring responsibilities, as long as you have a reasonable prospect of finding a job with those restrictions. The decision to allow a restriction is at the discretion the DWP. If the person you care for has claimed a disability benefit but the claim has not yet been decided, then you will need to try to use this rule to restrict the amount of time that you must spend looking for work.

There is a new concept of 'in-work conditionality', where if you already have a job you may be required to look for more or better paid work, unless you are earning at least the minimum wage for the number of hours you are expected to look for work a week. Normally you would be expected to look for work for 35 hours a week but if you can have been able to reduce the number of hours due to your caring

responsibilities, you would be expected to earn at least the amount you would get if you worked your agreed hours at the national minimum wage or have to look for more or better paid work.

Sanctions

Sanctions may be imposed on you if you fail to meet your work-related requirements and do not have 'good reason' for the failure. This may result in a reduction of your universal credit, for a period from seven days up to a maximum of three years, depending on the number and regularity of such failures, and which of the work-related requirements above you have to meet.

Hardship payments may be available if you have been subject to a sanction and are in 'hardship'. Hardship payments are a loan, and you must agree that they will be recovered from you. You must also comply with your work-related requirements to qualify.

Is there a right of appeal?

You have the right to appeal to a tribunal against most universal credit decisions. However, you cannot appeal about what work-related requirements have been imposed on you but you can appeal if you are sanctioned for failing to keep to them. You have to ask for a revision (referred to as a 'mandatory reconsideration') before being able to appeal. You should normally challenge a decision that you disagree with within one month.

CHANGES TO HOUSING BENEFIT

Normally, the amount of housing benefit that you are eligible for depends on the number of bedrooms that you are allowed by the rules. Similar rules apply to the housing costs element of universal credit if you rent your home. You are allowed one bedroom for each of the following who live in your home:

- a couple;
- a single person aged 16 or over (including your adult child if s/he is temporarily away at university or in the armed forces);
- one extra bedroom for an overnight carer (see below);
- a child who cannot share a bedroom due to disability (see below);
- two children of the same sex;
- two children under 10 (of either sex);
- any other child; and
- one extra bedroom for a child or children you foster or look after as a kinship carer if s/he or they do not count as part of your family for other benefits. This continues during some gaps between placements.

Overnight carers

To qualify for a room for an overnight carer, you, your partner or your joint tenant must get a qualifying disability benefit or convince your local authority that you require overnight care. That care must be provided by someone who does not live with you, but regularly stays overnight to care for you. As a result of the Supreme Court decision in the Rutherford case you should also qualify for an extra room for someone providing overnight care to a dependent child with disabilities. If a 'non-dependent' who is not part of your benefit claim needs overnight care from someone who does not live with you, you should seek specialist advice about how to challenge any decision restricting the amount of your housing benefit or Universal Credit.

Disabled people unable to share a bedroom

You are allowed an extra bedroom for a disabled child who is not able to share a bedroom due to disability. The child must get DLA middle or highest rate care component, and the local authority must accept that s/he is unable to share a bedroom with another child. If you live in the private rented sector,

you must actually have a bedroom in your home above the number you would otherwise be allowed by the rules.

As a result of the Supreme Court decision in the Carmichael case, you should also be allowed an additional bedroom if you are a couple who are unable to share a bedroom due to a disability. Seek specialist advice if you are a couple in this situation and you have not been allowed an additional room.

Social rented sector restrictions

Your housing benefit may also be restricted if you are under pension credit age and live in the social rented sector, if you have a spare bedroom under the rules above. This is commonly known as the 'bedroom tax'. If your home is 'under-occupied', then a reduction to your maximum housing benefit will be made. The reduction is 14 per cent if there is one spare bedroom, and 25 per cent if there are two or more spare bedrooms. You may not actually have a spare bedroom if, for example, two children have a room each but you are assessed as only requiring one room for them to share.

Private sector restrictions

Under the local housing allowance rules, the amount that your maximum housing benefit is limited to depends on the number of rooms that you are allowed under the rules above, and the price of properties this size in your local area. The maximum number of bedrooms is four and most single people under 35 are only allowed a special rate for shared accommodation, with some exceptions.

Discretionary housing payments and challenging decisions

Your housing benefit or universal credit housing costs element may be less than your rent because the rules do not allow you as many bedrooms as you need. For example, you may care for your partner and not be able to share a bedroom due to her/his disability or s/he may need an extra room for medical equipment. Contact your local authority and ask for a discretionary housing payment to meet the shortfall. You may also be able to challenge the rules restricting your benefit entitlement, but there are already similar cases being considered in the Courts which may hold up your case. You should seek specialist advice.

THE BENEFIT CAP AND CARERS

The maximum amount of certain benefits a working-age household can receive is subject to the 'benefit cap' – this is currently set at £20,000 a year for couples or lone parents, and £13,400 for single people. The cap includes benefits such as income support, child benefit and child tax credit, but is implemented by reducing the amount of housing benefit or universal credit (UC) that you get.

You are not affected by the cap if someone in your household (not including 'non-dependants' such as grown up children who still live at home) gets:

- disability living allowance, attendance allowance or personal independence payment;
- an industrial injuries benefit or ESA with a support component;
- certain war pensions and war widows benefits;
- any working tax credit, or universal credit if you are earning at least £430 per month (gross figure, including your partner's earnings if applicable);
- guardians allowance; or
- is entitled to carer's allowance (including an underlying entitlement) or gets a carer element in their Universal Credit award

For housing benefit, if you or your partner become unemployed after working and earning too much to get a DWP benefit such as income support for 50 of the last 52 weeks, you are exempt from the cap for 39 weeks after you stop work. If you get UC and your earnings drop below £430 a month you are exempt for nine months if your earnings were above £430 for the 12 months before they reduced.

THE SCOTTISH WELFARE FUND

You can apply to your local authority for either a community care grant or a crisis grant. You must be on a low income to qualify, and the local authority should treat you as being on a low income if you get a benefit like income support, have a similar level of income, or cannot access your money.

Crisis grants are intended for people following an emergency or disaster where there is a serious risk to health or safety.

Community care grants are intended to:

- help people establish or maintain a settled home, for example by stopping someone from needing to go into care or hospital, or help you set up home if you have been in one of those places, in prison or homeless; *or*
- ease exceptional pressures on a family, which might include extra needs of a disabled child.

There is more detailed information in the CPAG *Scottish Welfare Fund* factsheet.

CHILD POVERTY ACTION GROUP IN SCOTLAND

Advice line for frontline advisers and support workers

0141 552 0552

Monday – Thursday 10am – 4pm; Friday 10am – 12 noon

Email: advice@cpagscotland.org.uk

CPAG in Scotland's advice line is only for frontline workers in Scotland. If you are having problems with your own tax credit or benefit claim and are in need of advice you should contact your local Citizen's Advice Bureau or other local welfare rights service.

FURTHER INFORMATION

- View our full range of factsheets online at: www.cpag.org.uk/scotland/factsheets
- CPAG publishes the *Welfare Benefits and Tax Credits Handbook*, a comprehensive guide to benefits and tax credit for claimants and advisers. Find out more at: www.cpag.org.uk/bookshop
- We run a wide range of training courses on benefits and tax credits for workers of different levels of experience. Find out more at: www.cpag.org.uk/scotland/training
- Follow us on Twitter [@CPAGScotland](https://twitter.com/CPAGScotland)

EARLY WARNING SYSTEM

The Early Warning System (EWS) was developed by CPAG in Scotland to collect and analyse case studies about how changes to the benefit system are affecting the wellbeing of children, their families and the communities and services that support them. The case studies are helping us develop an in-depth understanding of the impact of changes to the benefit system and to identify how policies and services in Scotland can continue to contribute to the delivery of better outcomes for children.

Find out more about EWS at: www.cpag.org.uk/scotland/early-warning-system

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