

Brain Injury: A guide to claiming benefits



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Introduction

The benefits system is very complicated and can be extremely difficult to access. The rules are changing all the time. At Digby Brown, as personal injury solicitors who specialise in dealing with cases where people have a brain injury, we recognise the additional difficulties this can bring. The last thing you need is to have to worry about finances and how you are going to manage.

This leaflet aims to give you some basic information on some of the benefits and other help you may be entitled to. It does not cover every benefit or help available. Also, because the information has been written in a way that is easier to understand, please be aware that this means not every circumstance has been covered. It is intended only as a guide to point you in the right direction.

The rates of benefit have not been inserted in this leaflet. This is because the amount you may be entitled to for most benefits varies widely depending on a number of circumstances such as your age, the length of time you have had a disability, the extent of your disability and any savings and income you may have. Please note that not all benefits are affected by these factors. For information on current benefit rates and criteria go to www.gov.uk

If you are incapable of work

Statutory Sick Pay (SSP)

Statutory Sick Pay is paid to certain employees for up to 28 weeks of incapacity for work. If you are unemployed or self employed when you became incapable of work, you will not be entitled to SSP.

SSP is paid by your employer. Your contract of employment may mean that your employer will also pay you occupational sick pay. SSP is, however, a legal minimum and, if you qualify for it, your employer is not allowed to pay you less than this.

SSP is not payable for the first 3 days of incapacity. In certain circumstances SSP is not payable at all. You cannot get SSP if your “normal weekly earnings” are less than the lower earnings limit for National Insurance contributions, which is £112 per week (April 2015 rate). However, it is not necessary for you to have paid National Insurance contributions to qualify for SSP. If you do not qualify, your employer should provide you with a statement (normally on Form SSP1), giving you the reasons for this.

Employment and Support Allowance (ESA)

ESA is a benefit for people who are unable to work because of illness or disability, and who are not entitled to Statutory Sick Pay, or whose SSP has come to an end. It is payable if you are employed, unemployed or self-employed.

There are 2 types of ESA.

Contributory ESA is paid if you satisfy the National Insurance conditions. There is no means test. Contributory ESA is normally only paid for 52 weeks, however there are circumstances when it can be paid for longer than this.

Income-Related ESA is paid if you satisfy the means test. You do not have to satisfy the National Insurance conditions. There is no maximum period for which Income Related ESA can be paid.

To claim ESA, phone Jobcentre Plus on **0800 055 6688** or go to www.gov.uk

If you are disabled

The following are benefits you may be entitled to if you are disabled, regardless of whether you continue to work.

Attendance Allowance (AA)

You may get Attendance Allowance if:

- you are aged 65 or over
- you have a physical and/or mental disability
- you need help caring for yourself, or you need someone to supervise you, for your own or someone else's safety

Normally, you must have needed this help for at least 6 months. However, if you are terminally ill, there are special rules to allow you to claim this straight away.

The amount you get depends on how much your disability affects you. It does not matter how much savings or income you have.

To claim Attendance Allowance, phone the Attendance Allowance Service Centre on **0345 605 6055** or **0845 605 6055**.

Disability Living Allowance (DLA) – for children under 16 years

DLA is a tax-free benefit which helps with the extra costs of looking after a child who has care needs or needs help getting around because of a disability or health condition. It is paid to a child's parent or a person who looks after the child as if they are a parent.

DLA is not affected by how much income or savings you have.

Many adults are still in receipt of DLA although it is no longer possible for an adult to make a new claim to DLA for the first time. This is because DLA for people of working age has been replaced by Personal Independence Payment.

To claim DLA for a child under 16, phone the DLA helpline on **0345 712 3456** or **0845 712 3456**.

Personal Independence Payment (PIP)

PIP is gradually replacing Disability Living Allowance for people aged 16 to 64.

PIP helps with the extra costs arising from a long term condition (ill-health or disability expected to last 12 months or longer)

There are two components to PIP:

Daily Living component and ***Mobility component***.

Each component has two rates; ***standard*** and ***enhanced***.

PIP is based on how a person's condition affects them, not the condition itself. It isn't affected by income or savings, it's not taxable and people can get it whether they're in or out of work.

To qualify for PIP, unless you are terminally ill, you must have needed help with your care or mobility needs for three months or more and be reasonably likely to need help for the next nine months (although you can submit a claim for PIP during the first three months of having a condition).

To make a claim for PIP you should phone **0800 917 2222**.

Industrial Injuries Disablement Benefit (IIDB)

You may be able to get Industrial Injuries Disablement Benefit if you are ill or disabled because of an accident at work, or because of a disease caused by certain types of work. In order to qualify for IIDB, generally you must reach a threshold of at least 14 per cent disablement.

You cannot claim Industrial Injuries Disablement Benefit if you were self-employed in the work that caused your accident or disease.

You cannot get IIDB until after 90 days from the date of the accident or the date of onset of the prescribed disease. How much you can get depends on your individual circumstances including your age and the severity of your disability. IIDB is not affected by how much savings or income you have. IIDB may affect your title to means tested benefits. If you are in receipt of means tested benefits, you should check if they will be affected before claiming IIDB.

To claim IIDB phone Jobcentre Plus on **0345 758 5433** or **0845 758 5433** or go to www.gov.uk

Medical exams and questionnaires

If you are claiming certain benefits because of incapacity for work or disability, you may be asked to complete a questionnaire or claim form about how your brain injury affects you. You may also be asked to attend a medical examination. It is vitally important that you make sure you provide details of all the ways in which you are affected by your brain injury. Not all problems relating to brain injury are immediately obvious, and brain injury is often referred to as a “hidden disability”.

The questions you will be asked on forms or by a medical examiner often relate to whether you can carry out a physical activity. There are numerous examples of how this could affect someone with a brain injury.

It may be that you are able to eat and drink without any physical difficulty, however you need to be reminded to eat, you may forget that you have had a meal, or you do not know when you are full. It is important to make sure you list all difficulties, not just the physical act of eating or drinking.

Another example is washing and dressing – you may be able to bathe independently and to get yourself dressed, but it may be that you would not bathe unless prompted, or that you may choose clothes not suitable for the weather. Make sure that you make all of these points clear.

Reminders and prompts. It may be that you manage your condition well, perhaps by setting reminders on your mobile phone, or keeping a diary or notebook. If this is the case, make sure you put details of what would happen if you were to lose your phone etc, and give any examples of the consequences of this happening.

These are just a few examples. The main point to consider is that your initial response may be “yes, I can do that”. However, you need to qualify this by going on to say “however, these are the problems I have or difficulties I face”. This is a point that is often missed and causes a lot of anxiety when benefits are disallowed, due to a lack of understanding by decision makers and even medical examiners in how brain injury may affect people.

Other benefits

Carers Allowance

You may be able to get Carers Allowance if:

- you are aged 16 or over
- you spend at least 35 hours a week caring for a person who gets either Attendance Allowance, Disability Living Allowance care component at the middle or highest rate, any rate of PIP daily living component or certain rates of Constant Attendance Allowance
- you earn less than £110 per week (April 2015) after certain deductions are made
- you are not in full-time education

Carers Allowance is not affected by your savings.

To claim Carers Allowance, contact the Carers Allowance Unit on **0345 608 4321** or **0845 608 4321** or go to www.gov.uk

Income Support

Income Support is a benefit for people with a low income, for example carers and lone parents with young or disabled children. It is not paid to people on Jobseekers Allowance, Employment and Support Allowance or Pension Credit.

Income Support is not paid to people in full-time paid work who may be able to claim Working Tax Credit. It is not normally paid to people in full-time study.

Your savings and capital must be £16,000 or less. You do not have to have paid National Insurance contributions to claim Income Support.

To claim Income Support phone Jobcentre Plus on **0800 055 6688** or go to www.gov.uk

Jobseekers Allowance

Jobseekers Allowance is a benefit for people who are unemployed or who work less than 16 hours per week, and who are looking for full-time work. You must normally satisfy what is known as “job-seeking conditions”.

To claim Jobseekers Allowance phone Jobcentre Plus on **0800 055 6688** or go to www.gov.uk

Pension Credit

There are two different types of Pension credit.

Guarantee Credit - To ensure that pensioners have a guaranteed level of income, by topping up your level of income to the guaranteed amount. You can claim Guarantee Credit from your state pension age.

Savings Credit - For people who have made modest provisions for retirement, such as savings, or pensions above the basic state pension.

You may be entitled to the savings credit if you, or your partner, are aged 65 or over.

To claim Pension Credit phone the Pension Service on **0800 99 1234** or go to www.gov.uk

Social Fund

The Social Fund helps people on certain benefits or on a low income to pay for one off expenses with a budgeting loan. There are restrictions on what the loan can be used for and you must be likely to be able to repay the loan.

Social Fund can also help with payments in specific circumstances such as Funeral Payments, Maternity Grants or with a short term advance if you need money to live on while waiting on a benefit application to be processed.

Contact your local Jobcentre Plus office or go to www.gov.uk

Scottish Welfare Fund

A crisis grant may be available if you need help with the costs that have arisen as a result of disaster, emergency or to keep you and your family safe from harm.

Community Care Grants may be available to you to help you live on your own in the community.

Contact your local council for information on the Scottish Welfare Fund.

Tax Credits

If you are responsible for at least one child or young person who normally lives with you, you may qualify for Child Tax Credit.

If you work, but are on a low income, you may qualify for Working Tax Credit. The amount you get depends on your circumstances.

To claim Tax Credits phone the Tax Credit helpline on **0345 300 3900**.

Universal Credit

Universal Credit is a new benefit that has started to replace six existing benefits with a single monthly payment. Universal Credit started to be introduced in stages from April 2013. At the time of writing this Guide, the Government plan to make Universal Credit available in each part of Great Britain during 2016. New claims to existing benefits, which Universal Credit is replacing, will then close down, with the vast majority of claimants moving onto Universal Credit during 2016 and 2017.

Universal Credit will eventually replace:

- Income-based Jobseekers Allowance
- Income-related Employment and Support Allowance
- Income Support
- Working Tax Credit
- Child Tax Credit
- Housing Benefit

Your eligibility to claim Universal Credit depends on where you live and your personal circumstances.

To check your eligibility for Universal Credit go to www.gov.uk/universal-credit/eligibility

Help with housing costs

Council Tax Reduction

You may get Council Tax Reduction if you pay Council Tax and your income and capital (savings and investments) are below a certain level. You could qualify if you are out of work, or in work and earning a wage.

If you have savings of over £16,000, you can't normally get Council Tax Reduction, unless you're aged 60 or over and getting the guarantee credit of Pension Credit.

Council Tax Exemption

If you have a severe mental impairment, you may not need to pay any Council Tax, regardless of your income. This includes water and sewerage charges, so even if you are currently in receipt of full Council Tax Reduction, it may still be worth considering whether you qualify for exemption for severe mental impairment. You should discuss with your GP, or other medical professional involved in your care, whether you meet the criteria for exemption.

Disabled Person's Reduction

The disabled person's reduction is available if a disabled person uses a wheelchair in your home, if certain adaptations have been made to the home or if extra rooms are needed for the disabled person's wellbeing. There are other examples of how you may be entitled.

Further information on getting help with Council Tax is available at www.gov.uk

If you think you may be entitled, contact your local council. The contact details for your local council will be on your Council Tax bill.

Housing Benefit/Local Housing Allowance

You may be able to get help with your rent if your income and capital are below a certain level. You could qualify if you are out of work, or in work and earning a wage.

If you have savings of over £16,000, you can't normally get Housing Benefit or Local Housing Allowance, unless you're aged 60 or over and getting the guarantee credit of Pension Credit.

If you think you may be entitled to help with your rent, contact your local council.

Mortgage costs

You may get help towards your mortgage interest if you are in receipt of Income Support, Income Related Employment and Support Allowance, Income Based Jobseekers Allowance or Pension Credit. The amount you are paid is calculated in a special way and is usually paid direct to the lender. Your mortgage interest costs may not be met during an initial 'waiting period' which is usually 13 weeks.

To claim help with your mortgage, contact the office paying your benefit.

What other help is available?

If you are disabled, there is some further assistance aside from benefits which you may be eligible for:

Road Tax

You may be entitled to a free tax disc, for example, if you're a disabled person who gets the higher rate of DLA mobility component or the mobility component of PIP

Contact the Disability Benefits Centre on **03457 123 456**.

Blue Badge

The Blue Badge scheme helps people with a disability to park near to where they need to go. You may qualify automatically, for example, if you are in receipt of DLA Higher Rate mobility component or the mobility component of PIP or if you are registered blind. You may also be eligible following an assessment.

To apply for a Blue Badge, contact your Local Authority. Some Local Authorities make a charge for the Blue Badge.

Travel Card

Eligible disabled people qualify for free Scotland-wide bus travel.

To check if you qualify, go to www.transportscotland.gov.uk or contact your local travel centre.

Health Costs

Most NHS treatment is free but there can be charges for some things such as dental treatment, and glasses.

You may be entitled to help with health costs if, for example, you are on certain benefits or are on a low income. You may also be entitled to help from the Hospital Travel Costs Scheme.

For information pick up a leaflet at your local GP, dentist, optician or pharmacy or go to www.scotland.gov.uk/healthcosts

Useful contacts

Headway

Headway promotes understanding of all aspects of acquired brain injury, provides information, support and services to people with brain injury, their families and carers.

Contact: www.headway.org.uk

Child Brain Injury Trust

The Child Brain Injury Trust supports children, young people and families affected by acquired brain injury.

Contact: www.childbraininjurytrust.org.uk

Momentum

Momentum Brain Injury Rehabilitation supports individuals with an acquired brain injury through structured rehabilitation to return to employment.

Contact: www.momentumuk.org.uk



About Digby Brown Solicitors

Digby Brown Solicitors are specialists in Personal Injury and Employment law – we're the only legal firm with a presence across Scotland to be top ranked for Personal Injury by both the Chambers and Legal 500 independent guides to the UK legal profession. Every year, we help thousands of people across Scotland who have suffered injury or loss claim fair and appropriate compensation.

It matters to Digby Brown that each and every client is given access to justice and receives rightful compensation which properly reflects their loss and suffering. We put our clients at the centre of everything we do and are committed to the very best customer service. In 2015 we were named Law Firm of the Year at the Scott & Co. Scottish Legal Awards, where we also won awards for our Litigation work, Corporate Social Responsibility activity and for being Employer of the Year.

All of our solicitors in our offices in Glasgow, Edinburgh, Dundee, Inverness, Aberdeen, Kirkcaldy and Ayr are specialists in their field.

Contact us on **0333 200 5925**, email us at **enquiries@digbybrown.co.uk** or visit **www.digbybrown.co.uk** for more information.



Because if it matters to you, it matters to Digby Brown.

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