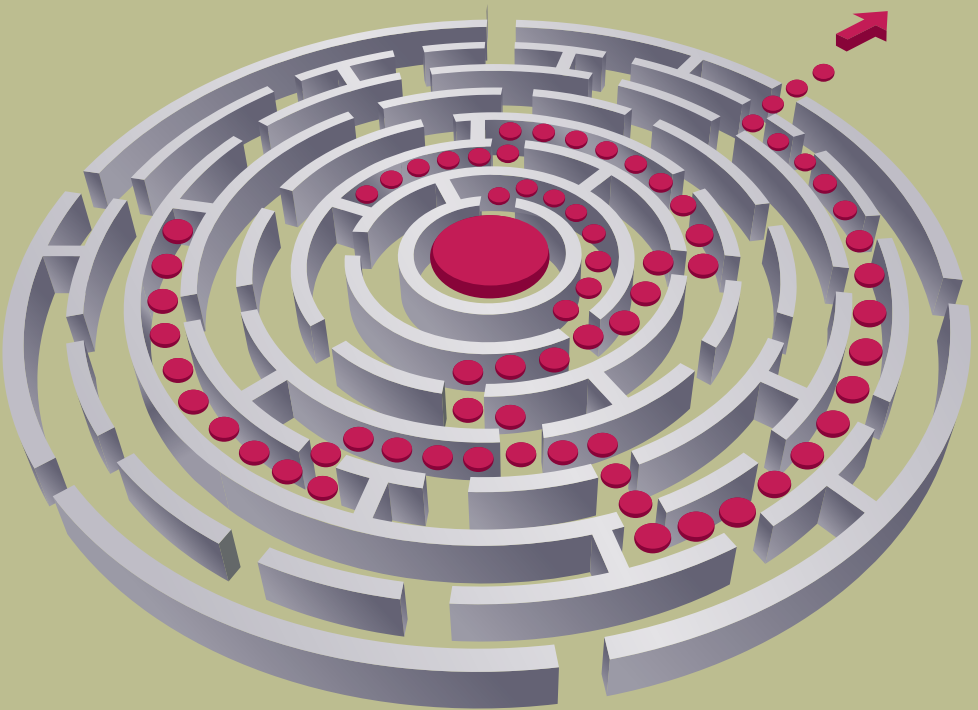


Brain injury

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 to worry about is finances and how you are going to manage.

This leaflet aims to give you key 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.

Not all rates of benefit have 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/browse/benefits

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. However SSP is 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 three 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 £125 on average per week, or £542 per month (April 25 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.

New Style Employment and Support Allowance (NESA)

NESA is a benefit for people who are

unable to work because of illness or disability. Initial entitlement is based on having paid the minimum national insurance contribution over the last two complete tax years. Once the claim is in payment the DWP will initiate a work capability assessment which involves completing a questionnaire then taking part in what is usually a telephone-based assessment.

You will either be told the DWP believe you are capable of work in which case the benefit will stop, that you have a ‘limited capability for work’ which means you may have to take part in work related activity with entitlement subject to means testing after 52 weeks, or that you are incapable of both work and work related activity. If placed in this third category, known as the ‘Support Group’, no conditions are attached to entitlement and you’ll receive an additional payment on top of the basic rate. A further advantage of being in the Support Group is that entitlement is not means tested if you remain in this category.

A new work capability assessment will be carried out after a variable review period determined by the DWP. Should you wish to talk to the DWP about the benefit or to manage an existing claim call **0800 169 0310**.

If you are disabled

The following are benefits you may be entitled to if you are disabled, regardless of whether you continue to work. Each of these benefits is delivered by Social Security Scotland and function in a similar way to those delivered by the Department for Work and Pensions for the UK government.

Pension Age Disability Payment (PADP)

You may get Pension Age Disability Payment if:

- you are over state pension age
- 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 six 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.

You can apply for Pension Age Disability Payment online or by phone or paper. More information may be found at <https://www.mygov.scot/pension-age-disability-payment> or through calling Social Security Scotland on **0800 182 2222**.

Child Disability Payment

Child Disability Payment provides support for the extra costs that a disabled child might have with care and/or mobility needs. It is paid to the child's parent or the person who looks after the child as if they were the parent.

Child Disability Payment is not affected by how much income or savings you have.

To claim Child Disability Payment for a child under 16 you can -

- Apply online at <https://www.mygov.scot/child-disability-payment/how-to-apply>
- or
- Telephone **0800 182 2222** (8am to 6pm, Monday to Friday) to obtain a paper form.

For parents living in the rest of the UK, the benefit to claim is Disability Living Allowance – telephone **0800 121 4600**.

Adult Disability Payment

If you claim a disability benefit after a brain injury you'll be asked to answer questions about how it affects you. It's likely this will initially be in a form and may be followed up with an assessment which can be face to face but nowadays is more likely to be a phone or video call. Because the effects of a brain injury aren't always obvious it's often referred to as a hidden disability. If you feel it will be difficult to explain your difficulties you can ask someone you know and trust to sit in and support you during the assessment.

The questions relate to different activities and ask if you have physical, cognitive or emotional barriers that make them harder to complete independently. There might be a simple yes or no answer but usually it's less straightforward so it's important to provide as much detail as possible.

You may be able to eat and drink without any physical difficulty but forget when you last had a meal so need reminding. You could know you need to shower but balance issues mean it takes a long time to do properly. Even if you're able to carry out a task on your own you need

to consider whether you can do it safely, in a timely manner and to a reasonable standard when answering a question about it. An activity you are still able to do independently after a brain injury but takes far longer and with greater risk should always be noted. Benefit claims of this kind are assessed on the help you need rather than the help you get, which can vary a great deal. In other words, claimants who have lots of help are not more or less entitled than those who have very little.

It can be useful to keep a diary or journal when you know an assessment is coming so you can note day to day problems, what help makes them easier and how dealing with them affects you. The complexities of brain injury are often poorly understood by benefit agencies who don't have the specialist understanding that experienced professionals do so if you can get evidence from Doctors, carers or support workers explaining these difficulties it's always useful in support of a claim

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 entitlement 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 **0800 121 8379** or go to www.gov.uk/industrial-injuries-disablement-benefit

Medical exams and questionnaires

If you claim a disability benefit after a brain injury you'll be asked to answer questions about how it affects you. It's likely this will initially be in a form and may be followed up with an assessment which can be face to face but nowadays is more likely to be a phone or video call. Because the effects of a brain injury aren't always obvious it's often referred to as a hidden disability. If you feel it will be difficult to explain your difficulties you can ask someone you know and trust to sit in and support you during the assessment.

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Other benefits

Universal Credit

Universal Credit was introduced to replace six 'legacy' benefits including Jobseekers Allowance, Housing Benefit and Employment and Support Allowance with a single means tested monthly payment comprised of different elements, depending on the circumstances of the applicant(s).

People of working age can claim Universal Credit with couples living together required to make two separate claims which are then linked. UC is best claimed online and usually paid monthly. The amount of UC you're paid depends on your circumstances at the end of each monthly 'assessment period'. It takes account of employment earnings, savings over £6k and income from other sources including occupational pensions which you must keep up to date. If certain other benefits are in payment it may increase or reduce entitlement.

To claim Universal Credit you must:

- Be under state pension age
- Be unemployed or on low earnings
- Have savings below £16,000
- Accept a 'Claimant Commitment'

As an income replacement benefit full

time students normally can't apply however exceptions can be made for single parents or disabled students. Each applicant will be asked to agree to certain conditions in return for the benefit depending on their situation, known as the 'claimant commitment' The conditionality for two joint claimants may differ.

The government are migrating the remaining claimants of the legacy benefits to Universal Credit so if in receipt of one you may get a 'migration notice' letter which provides details of how to claim UC with a twelve week deadline to do so. To claim Universal Credit go to www.gov.uk/universal-credit

Details of how to claim are included on the letter but they may be contacted through the Universal Credit helpline on **0800 328 5644** (or textphone **0800 328 1344**).

Scottish Social Security

Social Security Scotland is an executive agency of the Scottish Government. It is responsible for managing the benefits devolved to Scotland.

The benefits that Social Security Scotland deliver are:

- **Child Disability Payment** – varying financial support covering the extra costs incurred for a disabled child with additional care and/or mobility needs.
- **Adult Disability Payment** – varying financial support covering the extra costs incurred by a disabled adult of working age with additional care and/or mobility needs.
- **Pension Age Disability Payment** – varying financial support covering the extra costs incurred by a disabled adult of pension age with additional care needs.
- **Best Start Grant Pregnancy and Baby Payment** – one off payment of up to £767.50 from 24 weeks in pregnancy up until a baby turns 6 months for families who get certain benefits.
- **Best Start Grant Early Learning Payment** – one off payment of £319.80 when a child is between two and three years and six months for families who get certain benefits.
- **Best Start Grant School Age Payment** – one off payment of £319.80 when a child would normally start primary one for families who get certain benefits.
- **Best Start Foods** – a pre-paid card from pregnancy up to when a child turns three for families on certain benefits to help buy healthy food.
- **Carer's Allowance Supplement** – an automatic payment of £293.50 made twice a year to people who get Carer's Support Payment or Carer's Allowance.
- **Funeral Support Payment** – available to partially cover funeral costs when the person responsible for them is in receipt tested benefit, with the average payment £2065.
- **Job Start Payment** – £319.80 for 16 to 24 year olds who have been on certain benefits for six months or more to help with the costs of starting a job.
- **Young Carer Grant** – an annual payment of £390.25 for young people aged 16-18 who spend an average of at least 16 hours per week caring for someone in receipt of a qualifying disability benefit.
- **Winter heating payments** – A range of one-off payments are available from the Scottish

Government for people in receipt of certain means tested benefits or disability benefits. There are various kinds of support available with up-to-date details here <https://www.mygov.scot/browse/benefits/heating-and-housing>

Further information is available by telephoning **0800 182 2222** or www.socialsecurity.gov.scot

Carers Support Payment

The Carers Support Payment has replaced Carers Allowance for people claiming in Scotland. You may be able to get Carers Support Payment if:

- you're 16 or over
- usually live in Scotland
- provide care for 35 hours or more a week, this includes if you provide care all day every day
- not earn more than £196 a week after tax, National Insurance and expenses

Carer's Allowance is not affected by your savings.

The person you care for must be entitled to Child, Adult or Pension Age Disability Payment or their UK equivalents with

either the standard or enhanced rate of the Daily Living component. Some full time or part time students may also be able to claim the benefit whilst studying. Although entitlement to Carers Support Payment is not affected by capital or savings it may have an impact on other means tested benefits. Detailed information may be found at <https://www.mygov.scot/carers-support-payment>.

Existing claims of the UK Carers Allowance are being migrated to Carers Support Payment but no action is required on the part of claimants to facilitate this.

Carer's Allowance Supplement (CAS)

The Scottish Government offers two top up payments each year to people in Scotland claiming Carers Support Payment or Carers Allowance. Anyone entitled to either benefit on 14th April 2025 will be paid £293.50 in June. A second payment of £293.50 is paid in December to anyone entitled to either of these benefits on 13th October 2025. These payments do not have any impact on other benefits. More information can be found at <https://www.mygov.scot/carers-allowance-supplement>

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 will not be eligible for savings credit if you reached State Pension Age (SPA) after 6/4/16. Only those who reached SPA before 6/4/16 may be eligible. If you are a couple and one of you reached SPA before 6/4/16, you may be eligible to claim.

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

Please note: From 15 May 2019 both members of a couple must be of state pension age to claim Pension Credit.

Social Fund

The Social Fund helps people on legacy 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/budgeting-help-benefits

For people on Universal Credit budgeting loans are not available. Should these claimants require extra money urgently for a one off expense they may apply for a Budgeting Advance. This payment is recovered at a set rate each month from ongoing entitlement to UC. Details can be found here <https://www.gov.uk/universal-credit/other-financial-support>

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.

Help with housing costs

Council Tax Reduction

You may get Council Tax Reduction to help cover all or some of the bill, excluding the charges from Scottish Water. This is a means tested benefit available to anyone who is 16 years old or over and liable to pay as noted on the bill. Income from employment or other sources as well as savings can affect the amount of benefit you receive.

Council Tax Exemption

If someone liable to pay council tax has a 'severe mental impairment' and is in receipt of certain disability benefits they can apply to their local authority for an exemption. The term is defined loosely but the applicant must get a healthcare professional, typically a GP or specialist doctor, to sign off the form. Once this is done the local authority calculates council tax liability excluding them from the household composition.

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/council-tax/discounts-for-disabled-people

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.

Mortgage costs

You may get help towards your mortgage interest if you are in receipt of a means tested benefit. From April 2018 the help you receive will be in the form of a loan. 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 for most benefits is usually 39 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 Exemption

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

You can claim the exemption when you apply for vehicle tax.

Blue Badge

The Blue Badge scheme allows disabled people with access to a car to make use of restricted parking and avoid certain parking charges. You can apply to your local council for a Blue Badge if registered blind or in receipt of the higher rate of the Mobility component of PIP, DLA or ADP. Depending on the specifics of the award qualification may be automatic but in other cases entitlement is at the discretion of the council and could require further assessment or medical evidence. The application process varies across different local authority areas although entitlement rules are the same across the country. It's important to bear in mind the badge holder doesn't need to be the driver but it can't be displayed unless they are in the vehicle. To apply for

a Blue Badge contact your local authority or visit www.gov.uk/apply-blue-badge

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.transport.gov.scot/concessionary-travel/60plus-or-disabled or contact your local travel centre.

NHS Low Income Scheme (LIS)

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.nhs.uk/nhs-services/help-with-health-costs/nhs-low-income-scheme-lis



The Head injury information Directory is an online resource for anyone affected by or working in the field of brain injury in Scotland.

The website contains useful information about:

- Services in your area
- News articles & blogs
- Legal & benefits advice
- Local events

DIGBY BROWN
because it matters...

Digby Brown Solicitors is widely recognised as Scotland's most experienced firm dedicated to helping people affected by personal injury,

specifically in the areas of serious brain and spinal injury.

Our excellence has long been recognised – we are the only Scottish firm in our specialist area to be consistently top ranked for Personal Injury in the independent guides to the UK legal profession - Chambers & Partners for the last 19 years, and in The Legal 500 for the last 15 years.

In 2020 our Serious Injury Team was named as Catastrophic Injury Team of the Year, which we are incredibly proud because this wasn't just Scotland, this was across the whole of the UK and in 2021 it was recognised by the Scottish Legal Awards as Litigation Team of the Year. The firm has won multiple awards especially for our work in the community – supporting key charities in Scotland for those affected by brain and spinal injuries

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 **enquiries@digbybrown.co.uk**
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Offices across Scotland - see website for details

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