

## **Benefits and Shared Lives**

### **This guidance applies to Scotland only**

#### **Shared Lives**

Shared Lives (SL) is a service provided by individuals and families (SL Carers) in local communities and is distinguished by the following features:

- Placements are part of organised and legally registered SL Schemes that approve and train the SL Carers, receive referrals, match the needs of service users with SL Carers and monitor the placements
- People using Shared Lives services have the opportunity to be part of the SL Carer's family and social networks
- SL Carers can use their family home as a resource
- Placements provide committed and consistent relationships
- The relationship between the SL Carer and the person placed with them is of mutual benefit.
- SL Carers can support up to two people at any one time. (HMO Licensing requirements have to be met if more than two people are supported)
- SL Carers do not employ staff to provide care to the people placed with them

SL Carers can provide:

- Long term accommodation and support or
- Short breaks or
- Day time support or
- Rehabilitative or intermediate support or
- Kinship support where the carer acts as 'extended family' to someone living in their own home.

This guidance covers Shared Lives Arrangements where the person lives with the SL Carer on a long term basis or stays with them for short breaks.



## Introduction

This guide is a brief introduction to benefits for carers and service users involved in SL.

This guide is not an authoritative or detailed statement of the law and, because it is essential to use the right reference books, NAAPS strongly recommends that readers obtain and use an up-to-date copy of the Disability Rights Handbook or the Welfare Benefits and Tax Credits Handbook<sup>1</sup> as well as obtain independent welfare rights advice in individual cases.

The Disability Alliance has also published a Guide to Employment and Support Allowance. Both the Disability Alliance and Child Poverty Action Group have a range of factsheets on their websites which explain aspects of benefits entitlement in detail.

NAAPS is grateful to Neil Bateman ([www.neilbateman.co.uk](http://www.neilbateman.co.uk)) for helping draft this guidance and to Child Poverty Action Group in Scotland ([www.cpag.org.uk/scotland](http://www.cpag.org.uk/scotland)) which has approved this version for use in Scotland.

### Seek advice

This is just general advice and there will be many exceptions and unusual scenarios not covered in the guidance. If you are at all unsure, seek independent advice about the effect of a Shared Lives arrangement on people's benefits. Indeed, it will often be worth seeking advice the first time you deal with a particular situation in order to learn for the future.

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<sup>1</sup> Available from [www.cpag.org.uk](http://www.cpag.org.uk)



## **Benefits for Service Users**

### ***Attendance Allowance (AA) and Disability Living Allowance (DLA)***

Service users will usually qualify for one of these benefits – if they do not receive AA or DLA (or if they receive no care component or the lower rate care component of DLA), seek advice.

AA is a non means-tested benefit for people aged 65 and over. It is paid at two levels: Higher rate & Lower rate.

AA cannot be paid if Disability Living Allowance (see below) is already in payment.

DLA is a non means-tested benefit for people aged under 65. Once awarded, it may remain in payment after people reach the age of 65. DLA consists of a care component paid at three levels for help with care needs and a mobility component paid at two levels for help with walking difficulties:

A DLA award can be made of just the care component, just the mobility component or both components together. AA is awarded at one of the two rates.

The two rates of AA are the same as the middle and highest rate of the DLA care component

DLA and AA are not means-tested and will not reduce any Income Support/ Pension Credit award and may result in higher amounts being paid. It is particularly important to try and obtain at least the middle rate care component of DLA because this can act as a passport to the severe disability premium when their means tested benefits are assessed.

The lower rate mobility component can be awarded when someone has a disability (either mental or physical in origin), which means that they need guidance or supervision most of the time in unfamiliar places. This applies to many people with a learning disability.

A typical “benchmark” DLA award for a Shared Lives Service user is the middle rate care component and lower rate mobility component. If either of these is not being paid, you should find out why.

### **Qualifying criteria for AA and DLA**

Please refer to one of the reference books recommended on page 2 of this document.

### **AA/DLA in publicly funded care**

AA and DLA care component cannot normally be paid when someone lives in publicly funded care. There are important exceptions to this rule which should include all Shared Lives Arrangements.

“Publicly funded care” means accommodation where the cost of accommodation, board or personal care is paid wholly or partly out of public or local funds and is provided under:

- Part III of the National Assistance Act, 1948
- Part IV of the Social Work (Scotland) Act 1968
- the Mental Health (Care and Treatment) (Scotland) Act 2003
- the Community Care and Health (Scotland) Act 2002, or
- any other legislation covering services to persons under disability ,

These rules apply after the person has been in the accommodation for 28 days. The days of entry and leaving do not count and shorter periods separated by less than 28 days are linked together and if they add up to 28 days or more, AA/DLA is suspended for any further days.

Where a service user has been assessed as not having capacity and does not have the capacity to agree to a licence agreement for their accommodation, please refer to Mental Welfare Commission for Scotland guidance for adults with incapacity at [www.mwscot.org.uk/advice\\_and\\_information/adults\\_with\\_incapacity/adults\\_with\\_incapacity\\_and\\_us.asp](http://www.mwscot.org.uk/advice_and_information/adults_with_incapacity/adults_with_incapacity_and_us.asp)

### **The exceptions**

The following important exceptions apply to the above rule exclusions. The law states that the “cost of accommodation” does not include the cost of:

- Domiciliary services including personal care provided in a private dwelling<sup>2</sup> , or
- Improvements made to, or furniture or equipment provided for ,a private dwelling or
- Social or recreational activities provided outside the accommodation

(Note – there are some other exceptions but these are not referred to because they are not relevant to SL).

This means that AA/DLA should be paid to anyone in SL because any payment made by the local authority to the carer is for “personal care provided in a private dwelling”.

### **AA/DLA in hospital**

AA/DLA (including the mobility component) are also affected by a stay of 28 days or more in an NHS funded hospital or in an institution which is similar to a hospital and where the NHS also funds the placement.

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<sup>2</sup> A change with effect from October 2007. Ss67(4) and 72(10) Social Security Contributions and Benefits Act 1992; reg 7(3) Social Security (Attendance Allowance) Regs; reg 9(6) Social Security (Disability Living Allowance) Regs



## **Income Support**

Income Support is a means-tested benefit payable to people aged under 60, because, for example, they are incapable of work (if they claimed before 27 October 2008), a lone parent of a child aged under 10 or is a carer. It should usually be payable to the service user in a SL Arrangement. There is a maximum capital limit of £16,000.

If people do not live in a registered care home, capital under £6,000<sup>3</sup> is ignored, though capital between £6,000 and £16,000, is deemed to produce "tariff income" of £1 for every £250 (or part of each £250) thus reducing the amount of Income Support paid.

Income Support will be awarded after calculating the service user's applicable amount' (a minimum amount of income the law says a person must have to live on). If they have no income or their income is less than their applicable amount, Income Support will make up the shortfall.

In most cases for service users in SL, the applicable amount will consist of a single person's Personal Allowance plus the Disability Premium and the Severe Disability Premium. Also, if the highest rate of DLA care component is being paid, the Enhanced Disability Premium will also be added to their applicable amount calculation.

The applicable amount varies depending upon age and added premiums. For an explanation of Income Support please refer to one of the reference books recommended on page 2 of this document.

## **Income Support for Students**

Income Support is payable in the usual way if someone otherwise qualifies and they are studying on a part-time course (fewer than 16 guided learning hours a week).

If studying on a full-time course (more than 16 guided learning hours a week) Income Support is payable (if claimed before 27 October 2008) providing the claimant's applicable amount includes a Disability Premium or Severe Disability Premium (or if they are a lone parent). If you are unsure whether a course is full or part-time, seek advice from the respective educational institution.

A Student Loan and/or grant can effect entitlement to Income Support. Some payments are disregarded entirely while others can be taken partly or fully into account. Where necessary, specialist advice should be sought.

## **Pension Credit (PC)**

PC is means-tested and is payable to those aged 60 and over.

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<sup>3</sup> £10,000 in Registered Residential Care/Nursing Home

There is a lower capital limit of £10,000 Any capital held under this limit is ignored but capital above the lower capital limit will be deemed to produce tariff income.

Tariff income means that for each £500 (or part of each £500) above the lower capital limit, £1 will be added to the income calculation when Pension Credit is worked out. Unlike Income Support, Pension Credit has no upper capital limit but the higher the capital, the greater the level of tariff income, so some people can lose entitlement to Pension Credit this way.

Pension Credit has two elements: Guarantee Credit and Savings Credit.

Guarantee Credit is very similar to Income Support. It is designed to ensure that the person's income is at least the same as the "appropriate minimum guarantee" (equivalent to the 'applicable amount' for under 60s, but set at a higher rate).

If the person has no income or their income is less than their 'appropriate minimum guarantee,' the difference will be met by the Guarantee Credit element of Pension Credit. In most cases for SL Service Users, the appropriate minimum guarantee will consist of the 'Standard Minimum Guarantee' and the Severe Disability Addition (which has identical rules to the Income Support Severe Disability Premium).

For a more detailed explanation of Pension Credit please refer to one of the reference books recommended on page 2 of this document.

The second part of Pension Credit is Savings Credit. This is only payable to people aged 65 and over and awards extra money (in addition to the appropriate minimum guarantee) to those with modest savings and/or higher than average 'Qualifying Income'. The method of calculating Savings Credit is quite complex and is not covered here – please refer to one of the reference books recommended on page 2 of this document.

Unlike Income Support which requires claimants to notify DWP of changes in capital/income, in most cases the same does not apply for awards of Pension Credit if someone is aged at least 65.

If aged over 65, Pension Credit will usually be awarded for an 'Assessed-Income-Period' (AIP) of up to five years and indefinitely for people who are aged at least 75.

An AIP means that DWP do not have to be advised of any financial changes during the AIP term (for example, increases in capital regardless of the sums involved).

During an AIP, Pension Credit can be reviewed at the claimant's request but it will only be adjusted if to the claimant's advantage (eg the claimant's capital has reduced and the award will then increase).

However, for any "significant life change" such as marriage/civil partnership cohabitation or a move into residential care or hospital for more than 28 days

resulting in loss of AA/DLA, DWP should be informed and the AIP will end.

### **Entitlement to the Severe Disability Premium/Addition (SDP)**

A single person is entitled to have SDP included in the calculation of their Income Support Applicable Amount or Pension Credit Appropriate Amount in the following circumstances. The same rules apply to the Premium when working out income related Employment and Support Allowance:

1. They receive AA (either rate) or the middle or highest rate of the care component of DLA and
2. They have no non-dependants aged 18 or over normally residing with him or with whom he is normally residing, and
3. No person receives Carers Allowance for caring for him (this does not include people who, for example, receive Retirement Pension and then claim Carers Allowance to qualify for higher Pension Credit as a carer).

Condition 1 is straightforward.

Condition 2: A non-dependant is a person who normally resides<sup>4</sup> with or with whom the claimant normally resides except the following (unless they are a close relative<sup>5</sup>):

1. Any person who is liable to make payments on a commercial basis to the claimant or
2. Any person whom the claimant is liable to make payments to on a commercial basis (ie payments to a landlord) or
3. The partner or any other member of the household to whom the above applies or
4. Any person who is separately liable to make payments to the landlord (eg other service users within the same placement) or
5. Someone under 18 years old or
6. Anyone who also receives Attendance Allowance/middle or highest rate DLA care component or
7. Anyone who is jointly liable to make rent/licence fee payments with the service user.

In SL, the service user is liable to make payments on a commercial basis – there

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<sup>4</sup> This excludes temporary residents, even if they have been resident for some time, who do not regard it as their permanent home. See Commissioner's decision CIS/14850/1996 available on [www.osspsc.gov.uk](http://www.osspsc.gov.uk)

<sup>5</sup> Seek advice in such cases. Close relatives are defined as: Parent, parent-in-law, son, daughter, step-parent, step son, step-daughter, brother or sister). Reg 2 Income Support (General) Regulations 1988.



does not need to be a tenancy for the liability to be on a commercial basis and licensees come within the commercial basis rule.

There has been inconsistency within DWP on the non-dependant issue where, in some instances, SDP has been refused on the basis that the claimant *is* residing with non-dependants. Examples of this include where:

- the carer/landlord is also appointee for the service user or;
- there are other tenants residing in the property.

This is wrong. If SDP is refused, seek advice on appealing against the decision.

There can be problems when carer/landlord's own parent/s and/or adult/non-dependant children also live in the property. It would appear that they should usually count as non-dependants for SDP purposes, meaning that SDP is not payable if they normally reside in the property.

In the event that SDP is refused due to the presence of the landlord's adult children/parents, it is important to request a full explanation from DWP for the reasons for any such decision and to seek advice about appealing without delay. Appeals should be submitted within one month of the date of a decision. Outside this time limit (up to thirteen months after the decision), appeals can still be admitted but leave must be granted because of the reasons for lateness.

### **Severe Disablement Allowance/Incapacity Benefit**

Severe Disablement Allowance (SDA) was abolished in April 2001 although it continues to be paid to claimants who were originally awarded SDA before April 2001. If the person has less than the maximum capital limit, this should also be topped-up with Income Support (including, where appropriate, SDP) to bring service users' overall income up to their applicable amount.

Incapacity Benefit (IB) replaced SDA for new claims from April 2001. Normally IB is only awarded if certain National Insurance contribution conditions are met except when the claimant has been incapable of work since before the age of 20 or 25 if they have been in education or training.

Incapacity Benefit can't be claimed after 27 October 2008 unless the person was already receiving it and has made a new claim within 12 weeks of claiming previously, or is covered by the 104 week "welfare to work beneficiary" rule which allows people to work or do approved training of at least 16 hours a week for up to 104 weeks, provided that they return to benefit immediately that their work/training stops.

Unlike SDA, the standard amount of long terms IB is usually higher than the Income Support 'applicable amount', which would mean that Income Support can't be paid. However, SDP or EDP will increase an individual's applicable amount and mean that IB can then be topped-up with Income Support.

IB is only payable up to pensionable age at which point State Retirement Pension should be claimed.

### **Employment and Support Allowance**

From 27 October 2008, Employment and Support Allowance (ESA) I replaced IB and SDA and Income Support (for those who claim on the grounds of incapacity for work) for new claims made on or after this date. The government also intends to transfer people receiving IB or SDA onto ESA by 2013. From 2010, the new medical assessment will start to be applied to existing IB/SDA/IS claimants aged under 25.

There are both contributory and income-based versions of ESA. For the first thirteen weeks of a claim, most people will be paid ESA at the same rate as Jobseeker's Allowance (with extras if they qualify for SDP and/or EDP) and they have a medical assessment to assess whether or not they have Limited Capability for Work. This medical assessment is tougher than the one used for IB, SDA and IS.

Unlike IB, SDA and IS, there are very few exemptions from the medical assessment (eg for people with a severe mental illness or severe learning disability) as there are now. If people do not score enough points under the new test, they may be treated as having Limited Capability for Work if there would be a substantial risk to anyone's health if they were found to be capable of work – this also exists for the old benefits.

People who are subject to the medical assessment also have an additional test to decide whether or not they participate in work-related activity and take part in work-focused interviews.

The Work Related Activity Component ESA is paid if they are required to take part in work-related activity (such as attending work focussed interviews and drawing up an action plan to go to work)

If they are not required to take part in work-related activity because they have a higher level of disability/impairment, they will be paid the Support Component, which is at a higher rate than the Work-Related Activity Component.

### **Students and ESA**

A full-time student may be entitled to contributory ESA if they have sufficient national insurance contributions. Contributory ESA in youth may be payable for people under 20 (or under 25 in some cases) who do not have sufficient contributions. A full-time student aged under 19 is not eligible for contributory ESA in youth but any education which is not suitable for people without a disability is ignored when working out whether the hours of tuition count as full-time. A full-time student can qualify for income-related ESA only if they also receive Disability Living Allowance.



## **Calculating ESA**

The amount of ESA depends on whether or not the person qualifies for the contributory ESA or income related ESA –the income related version can top-up the contributory version.

During the first 13 weeks (or until such time as they are accepted as having met the conditions for ESA at higher rates), the amount paid is the same as Jobseeker's Allowance.

If the person's income is less than the "prescribed amount" and they have less than £16,000 capital and they work less than 16 hours a week and any partner works less than 24 hours a week, they will qualify for income related ESA (IRESA). IRESA includes the same premiums as Income Support, except that it has no disability premium.

After 13 weeks, or if it is accepted sooner that someone has limited capability for work, they then qualify for an additional payment of ESA and either the Support Component or the Work Related Activity Component is paid. This can be paid as part of contributory ESA or as part of IRESA.

If the person qualifies for the Support Component (via either IRESA or contributory ESA), then their prescribed amount of IRESA is automatically increased to include the Enhanced Disability Premium.

SL Service Users most likely to be initially affected by ESA initially will be younger people with a disability. There is likely to be a need for independent advocacy on issues such as people being awarded the Work Related Activity Component rather than the Support Component and when people are refused ESA altogether.

## **Housing Benefit**

A person who is liable to make payments in respect of their occupation of premises is entitled to Housing Benefit (HB) if they also meet the normal means test. A service user on a low income who has a licence to occupy the dwelling, should be entitled to HB in the normal way. It is not necessary to be a "tenant" (which has a particular legal meaning) in order to qualify.

People who receive Income Support, guarantee credit of Pension Credit, income based Jobseeker's Allowance or IRESA, receive the maximum amount of HB.

The upper capital limit for HB is normally £16,000 (same as Income Support, etc). However, for Pension Credit there is no upper capital limit and service users aged over 60 can still qualify for the Guarantee Credit element of Pension Credit even if they have capital above £16,000. This means that these service users will still qualify for maximum HB even if they have more than £16,000.

HB cannot be paid towards "ineligible service charges" such as water, meals or fuel

(except fuel for heat and light in communal areas). It is therefore important to seek advice about which services should be included in any rent/licence fee payable by a service user.

The maximum amount of HB does not include any ineligible service charges and for SL Service Users. If meals are not included in the agreement between service user and carer, then the Local Housing Allowance rate of HB should be payable. Otherwise, the Local Reference Rate of HB is paid and this is proving to be significantly lower than the rate for Local Housing Allowance (but still enough to make a placement economically viable with subsidy from the local authority).

The “Exempt Accommodation Rule” which can mean that very high rates of HB are paid does not apply to SL because the landlord is a private person and to satisfy the Exempt Accommodation Rule, the landlord must be a County Council, voluntary or charitable body or a Housing Association and also meet certain other conditions.

In cases where there is a delay in paying HB, private tenants/licensees (including Housing Association tenants/licensees) should be awarded an interim payment of HB unless they have failed to provide any information which has been requested by the local authority without a good reason. This rule is often not applied properly by local authorities.

### **HB for people in mainstream education**

Students in mainstream education can be paid housing benefit if:

- They receive Income Support or IRESA
- They receive DLA (care) and/or (mobility) or
- They have been receiving Incapacity Benefit, contributory ESA or credits for incapacity or limited capability for work, for more than 28 weeks or
- They are aged under 19 and in further education or
- They are in part time education.

### **Council Tax Benefit**

Service users living with SL Carers should not be liable for council tax and therefore are not entitled to Council Tax Benefit. Seek advice if they are liable for council tax (and also make a claim for Council Tax Benefit).

Carers whose property has been adapted or which has had a room put aside to meet the needs of a disabled person, or which needs sufficient floor space for a wheelchair user, may qualify for a Disability Reduction in their council tax valuation band.

Carers looking after someone aged at least 18 who is not their partner who also gets the highest rate of AA or DLA may qualify for a “carer discount” in their council tax.

People who are severely mentally impaired and who also receive IB, ESA, AA or the



middle or high rate of DLA care component also qualify for a discount. Whether a discount reduces council tax depends on whether or not there are other adults living in the property.

Discounts and reductions can be backdated without time limit. Some local authority staff say that this is not possible, but they are wrong. Likewise, if the person ceases to qualify for a discount or reduction they must inform the local authority to avoid a backdated increase in their council tax.

## **Social Fund**

SL Service Users should be eligible for Social Fund payments in the same way as anyone else who qualifies. It may be particularly useful to apply for a Social Fund Community Care Grant when they move into a SL arrangement on the grounds that the SL arrangement will help them remain in the community rather than enter institutional care at a later date.

## **Other benefits**

Other benefits are not affected by a person living with a Shared Lives Carer including in-work benefits like Tax Credits. If a service user is in paid work for 16 or more hours a week, seek advice, as each benefits/tax credits scenario will be different.

## **Appointees**

An appointee is someone who “steps into the shoes” of a benefit claimant and takes full responsibility for administering and spending their benefits. Separate appointeeships are needed for DWP benefits and HB.

An appointeeship is not compulsory and one can only be created when:

- The service user is “unable to act”
- There is no Intervention Order or Guardianship Order on the service user
- Someone aged 18 or older has applied to the DWP/LA to become appointee.

An appointee can resign by giving one month’s written notice and the DWP can also revoke an appointeeship if money is being misused or for any other reason.

The appointee is entitled to receive and deal with any benefits payable to the service user and they must also report changes in circumstances. They may be personally liable for any overpayments. The benefit must be used on behalf of the service user.

The DWP does not monitor or review appointeeships to see whether or not they are still appropriate.

## Benefits available to Shared Lives Carers

The carer may be entitled to benefits in their own right.

### Entitlement to benefits

For Shared Lives Carers providing “temporary” placements, they are treated as **not** in full-time paid work for employment and support allowance, jobseeker’s allowance and income support (but see below if on incapacity grounds), and any payments made by a SL Scheme are fully disregarded and do not affect these benefits, pension credit and housing/council tax benefit.

However, it is not clear how long a placement will be accepted as “temporary” – seek advice if a situation is unclear.

### Incapacity for work

If a SL carer is on incapacity benefit or income support on incapacity grounds, there is a risk that they could be treated as fit for work, even for a temporary placement, unless it is less than 16 hours a week. It may be necessary to argue that the activities are domestic tasks carried out in their own home, which do not count as work. You can also argue that even if it is treated as work of 16 hours or more it should be exempt because ‘earnings’, calculated in accordance with the benefit rules for temporary placements, do not exceed £20 a week.

For non-temporary placements, SL carers who work on a self-employed basis for 16 hours or more a week may be treated as in work which means they are not entitled to income support, employment and support allowance or jobseeker’s allowance.

Payments by an SL scheme for non-temporary care count as self-employed earnings for these benefits, and also for pension credit and housing/council tax benefit. To calculate self-employed earnings, net profits are taken into account after a disregard.

Payments made by a service user for rent, board etc, can be treated differently – either as earnings for some non-means tested benefits, or as income other than earnings for means tested benefits. In either case, disregard the first £20 and half of any payments above this for each person.. If treated as earnings, these payments can have a particularly damaging effect on entitlement to a carer’s Incapacity Benefit – thus undermining government policy to encourage economic activity among this group of claimants.

### Income tax and Tax Credits

For income tax and tax credits purposes, Her Majesty’s Revenue & Customs (HMRC) treat SL payments by SL Schemes as profits after deducting expenses. The fixed expenses allowance is up to £400 per week for the first placement and £250 per week for the second/third placements. Generally, adult placement care will count



as qualifying remunerative work for working tax credit purposes. HMRC have also recently confirmed that it is within their power to allow carers receiving a payment in excess of the fixed expenses allowance to pay tax on the difference between their payments and the fixed expense allowance.

Payments by the service users for rent (including anything paid via Housing Benefit) may be ignored for tax credits and income tax if they are less than the “rent a room” allowance – currently £4,250 a year. For more information, please refer to HMRC guidance at [www.hmrc.gov.uk/individuals/adult-placement-carers.htm](http://www.hmrc.gov.uk/individuals/adult-placement-carers.htm)

It would appear that, in some instances, the DWP have agreed, in effect, to treat payments to carers in the same way as HMRC by disregarding these payments for the purposes of benefits. However, this is not in accordance with the law.

Because the position about carers’ benefits is complex and often unclear, it is best to seek advice in each case as part of agreement planning.

### **Carers Allowance**

A person caring for a service user in receipt of AA or DLA care (at the middle or high rate) may be entitled to Carers Allowance (CA).

However, the level of income from the SL scheme and/or the service user via their rent, may take net earnings above the threshold for CA (currently £95.00 per week).

Where a carer qualifies for CA, it would prevent the service user from qualifying for SDP in their Income Support etc, unless the carer also receives an “overlapping benefit” such as Retirement Pension or Incapacity Benefit.

There is also a conflict of interest if carers claim CA to the detriment of the service user receiving SDP. This concern is further highlighted when, as with many SL Carers, they act as an appointee because as part of the CA application, the person being cared for is required to sign a declaration, acknowledging that the payment of CA may affect their own benefits (ie their entitlement to SDP). However, when they are the service user’s appointee, the carer will sign this declaration themselves.

CA is only payable for the person being cared for, regardless of how many people the carer may be providing care to. A situation could arise where an SL carer, with more than one service user, claims CA for one (whose entitlement to SDP is therefore lost) whereas the other service user/s retain their eligibility for SDP and consequently receive a higher Income Support/Pension Credit award.

It has been suggested that some service users are no better off receiving SDP in situations where the Local Authority may include it within any financial assessment for charges and thus it is preferable for CA to be claimed. However, this would depend on each LA’s individual policy and, as highlighted above, there remains a potential inequity where some service users within the same placement will retain entitlement to SDP and others will not.



A carer may of course qualify for CA for looking after someone else – for example a relative. This would not affect the service user’s right to SDP because the CA would then not be “received” by the carer for the service user, but for the carer’s relative – when CA is claimed, is claimed for a specified person.

A carer may qualify for Income Support or Pension Credit. However, the carer will not receive CA if they receive an overlapping’ benefit (eg Retirement Pension) which is more than the amount of CA. In such a case, CA will not be paid but they can still apply, as this will create “underlying entitlement” to CA. This underlying entitlement will then mean that the carer’s applicable amount is increased by the addition of the carer premium and any Income Support/IRESA/Pension Credit will increase accordingly.

Because CA is not actually being “received”, the service user keeps their SDP and the carers’ income will also increase. Seek advice if you are unclear how this works.

## **Charges**

The SL service user may be assessed to pay a charge towards the services. The NAAPS guidance on Funding and Charging Rules for People in Long Term Adult Placements does not apply to Scotland. Please refer to the Convention of Scottish Local Authorities (COSLA) Charging guidance for non-residential social care services available at [www.cosla.gov.uk](http://www.cosla.gov.uk). Note that COSLA guidance states that people with a mental illness who are subject to a Community Care Order or a Supervision Order are exempt from charging for non-residential social care services.

### QUICK CHECKLIST FOR SERVICE USERS' BENEFITS

Benefit	Amounts paid pw	Comment
Disability Living Allowance Care component Mobility component		Have the appropriate components and rates of these been awarded?
Attendance Allowance		Have the appropriate rates of these been awarded?
Incapacity Benefit or Severe Disablement Allowance		If in payment, seek specialist welfare rights advice if service users plans to go into paid work.
Employment and Support Allowance		Check that the correct additional component is in place - should they qualify for Support Component?
Income Support/ Income Related ESA/Pension Credit		Are the correct premiums being paid? Particularly check for enhanced disability and severe disability premiums.
Housing Benefit		Is Local Housing Allowance or Local reference Rent, the appropriate level? Have the correct amounts been deducted for any ineligible service charges which are included in the rent?
All income related benefits		Has income and/or capital been assessed correctly?