

DWP Central Freedom of Information Team

e-mail: freedom-of-information-request@dwp.gsi.gov.uk

Our Ref: Fol 579

DATE: 8 March 2016

Dear Mr Paffvett,

Thank you for your Freedom of Information request of 15 February 2016. You asked:

I am severely disabled with a life threatening condition in great need of your help as a matter of urgency to save and give quality to my life.

I am in receipt of Disability Living Allowance at the Highest rate and Incapacity Benefits. Would you please furnish me with a legal determination with regards the following questions.

- 1. Can Disability Living Allowance be spent how and when that best suites the recipients medical and disability needs such as bespoke equipment?*
- 2. Can Personal Independent Payments be spent how and when that best suites the recipients medical and disability needs such as bespoke equipment?*
- 3. Is there a benefit cap on the amount of DLA and PIP that can be set aside into any bank account to purchase bespoke equipment that best suits the recipients disability needs?*
- 4. If Disability Living Allowance is set aside (point 3) is it classed as capital for the purpose of Housing, Council Tax, Income Support?*
- 5. If Personal Independent Payments are set aside (point 3) is it classed as capital for the purpose of Housing, Council Tax and Income Support?*
- 6. If Disability Living Allowance is set aside (point 3) is it classed as Income for the purpose of Housing, Council Tax and Income Support?*
- 7. Based on the above information are DLA/PIP Benefits fully*

disregarded for the purpose of Income Support, Housing and Council Tax Benefits?

8. Based on the above information are DLA/PIP Benefits fully disregarded for the purpose of Employment Support Allowance?

9. Based on point 8, what is the correct ESA to receive please?

10. Is it true that the Department of Work and Pension and Council adheres to the legislation. Income from DLA/PIP is not capped and is fully disregarded as income for the purpose of Housing Benefits as defined within the Housing Benefit Regulations: HB Sch 5(6) & HB SPC 29(1). Is point 10 a true and correct statement?

If there is anything else you could help me with that would be most welcome.

The Freedom of Information Act gives you a legal right of access to any recorded information held by a public authority. We do not have to provide opinions or explanations, generate answers to questions, or create or obtain information we do not hold.

If you ask a question, rather than requesting recorded information, we will provide you with the recorded information that best answers the question. Once we have provided the recorded information, we have met our obligations under the Act; interpreting the information provided is up to you.

Your request asks questions which would need answers to be created. However, in order to be helpful, I have answered your questions below.

Question 1, 2 and 3

I can confirm that there are no legislative (legal) restrictions on what people in receipt of Disability Living Allowance (DLA) or Personal Independence Payment (PIP) can use their benefit for; claimants are free to spend their benefit according to their own priorities. Similarly, claimants may set aside their DLA/PIP, for example so that they may purchase higher value items or services. You may wish to note that in certain circumstances DLA and PIP, but not the mobility component of either, can be treated as available income for the purposes of charging regimes such as those which may be in place for domiciliary (home) social care services. In such instances an individual may be expected to use some or all of their DLA/PIP to pay for services provided to them.

Questions 4 to 8

Council Tax Benefit ended in April 2013 and was replaced by the Council Tax Reduction Scheme which is the responsibility of the Department for Communities and Local Government. They can be contacted via the following email address: dclgkia@icasework.fcgs.gsi.gov.uk

I can confirm that both DLA and PIP are not treated as income for the purposes of calculating entitlement to Housing Benefit (HB), Income Support or income-related Employment and

Support Allowance (ESA). DLA or PIP is also not taken in to account as capital. However, if you choose to save your benefit in a bank account and the amount of your capital reaches £6,000 your income-related benefit may be affected.

Question 9

The rate of ESA payable depends on a number of factors such as what stage the claim is at and what the decision outcome is following the assessment. Further information on ESA, including the rates payable, can be found here: <https://www.gov.uk/employment-support-allowance>.

Question 10

I can confirm that DLA and PIP are not treated as income and are fully disregarded when calculating entitlement for HB.

If you have any queries about this letter please contact me quoting the reference number above.

Yours sincerely,

DWP Strategy FoI Team

Your right to complain under the Freedom of Information Act

If you are not happy with this response you may request an internal review by e-mailing freedom-of-information-request@dpw.gsi.gov.uk or by writing to DWP, Central FoI Team, Caxton House, Tothill Street, SW1H 9NA. Any review request should be submitted within two months of the date of this letter.

If you are not content with the outcome of the internal review you may apply directly to the Information Commissioner's Office for a decision. Generally the Commissioner cannot make a decision unless you have exhausted our own complaints procedure. The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow Cheshire SK9 5AF www.ico.gov.uk