

## What happens to your benefits when a child can no longer live with you

### References

**SSCBA:** Social Security Contributions and Benefits Act 1992

**CBR:** Child Benefit (General) Regulations 2006 SI 223

**CTCR:** Child Tax Credit Regulations 2002 SI 2007

**HBR:** Housing Benefit Regulations 2006 SI 213

**HB(PC)R:** Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 SI 214

**CTBR:** Council Tax Benefit Regulations 2006 SI 215

**CTB(PC)R:** Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 SI 216

**ISR:** Income Support (General) Regulations 1987 SI 1967

#### **Section 1.01**     *Have you come from abroad?*

If you have come from abroad to live in the UK, you should check that your immigration status does not prevent you from applying for benefit – and that any claim for benefit will not harm any application you are making to the Home Office.

You should get specialist advice from your immigration solicitor, if you have one, or an advice centre like a Citizens Advice Bureau (CAB).

Managing money can be complicated, especially when dealing with welfare benefits and when local authorities become involved in the lives of children and their families.

Social security law is very complicated and the rules change frequently. It is not possible to cover all of the benefit rules in this advice sheet. For more comprehensive benefits advice, contact your local advice centre or Citizens Advice Bureau.

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Foster carers may also find it helpful to read the Fostering Network's detailed pamphlets on benefits. To obtain this publication call their information line on 0207 261 1884 or visit their website: [www.fostering.net](http://www.fostering.net).

There are some benefits that you can only get if you are looking after a child who lives with you; these benefits will stop if the child moves out. There are other benefits that might be reduced if the child moves out. This section explains what will happen to your benefits if your child is taken into care or begins living with someone else.

➤ ***My child is now being looked after by the local authority – what will happen to my child benefit and tax credits?***

**Child Benefit:** Your child benefit will stop once your child has been in care for eight weeks in a row.

SSCBA  
schedule 9,  
para 1(c);  
CBR regs 16  
and 18

**Child Tax Credit:** Your entitlement to child tax credit will have stopped as soon as your child went into care. You should let the Revenue (tax credits office) know that s/he does not live with you and you will probably have to pay back any child tax credit you have been paid since s/he moved out.

CTCR reg 3,  
Rule 4.1

➤ ***Can I get any benefits if my looked-after child comes to stay with me?***

**Child Benefit:** If Child Benefit for your child has stopped, then it will take your child coming back to live with you for at least a week for it to start again.

CBR reg 16(b)(i-  
iii)

If your child ordinarily stays with you at least one day a week (consisting of one whole day and two nights), then Child Benefit need not stop at all (even after an 8 week period of being in care).

CBR reg  
16(b)(iv)

**Child Tax Credit:** You will not be able to get child tax credit during any visits.

CTCR reg 3,  
Rule 4.1

**Housing and Council Tax Benefit:** You should tell the local authority when your child comes to stay because you may be able to get more housing and council tax benefit for any weeks in which your child visits.

HBR reg 21(5);  
CTBR reg 11(4);  
HB(PC)R reg  
21(5);  
CTB (PC)R reg  
11(4)

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➤ ***My child is now living with her grandparents – what will happen to my child benefit and child tax credit?***

If your child has been away for 56 days in the last 16 weeks, you will no longer be able to claim child benefit because s/he is not living with you.

SSCBA section 143(2);

Your claim will end sooner if your child's grandparents make a child benefit claim themselves. If they do this you will be able to keep getting child benefit for three weeks and after this the claim should be transferred to them.

SSCBA schedule 10 para 1

You should let the Revenue (tax credits office) know that your child does not live with you anymore. You may have to pay back some tax credits. You should try to let the Revenue know within one month of the change in where your child normally lives, to keep the overpayment low and avoid paying a penalty.'

➤ ***What will happen to my income support now that my child benefit has stopped?***

If you are getting income support because you are a lone parent, then once you stop getting any child benefit you may no longer be able to claim income support. You may need to claim jobseeker's allowance instead. However, if you are sick or disabled you may be able to carry on getting income support, or you may need to claim another benefit called Employment and Support Allowance instead. You should get advice.

ISR reg 15(1);  
schedule 1B para 1

➤ ***Will my housing benefit and council tax benefit change now that my child benefit has stopped?***

You will not usually be able to get these benefits for your child once the child benefit has stopped; this means that your entitlement to both housing and council tax benefit will probably reduce. You will need to tell your local authority that the child benefit has stopped otherwise you may be overpaid.

HBR reg 20;  
CTBR reg 10;  
HB(PC)R reg 20;  
CTB(PC)R reg 10

➤ ***Will my benefits change because my child is now being looked after in residential accommodation because of his disability?***

Your child benefit should carry on for at least 12 weeks. It will continue indefinitely if you are 'incurring expenditure' for him/her, for example giving pocket money or making visits.

SSCBA section 143(3)(c) & (4);  
CBR reg 10

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Your child tax credit will also continue, for as long as your child is living away from you because of their disability, or because their health would be at risk if s/he were not in this residential accommodation.

CTCR reg 3(1)  
Rule 4.2;  
CBR reg 9

➤ ***How can I challenge decisions about my benefit?***

Mistakes are often made when benefit applications are processed. Most decisions about benefits can be challenged and there is usually a four-week time limit for doing this. Because the law is complicated it is usually best to get specialist advice. See below for details of where to go for further help.

## **Where to get further help**

### ***Community Legal Advice (CLA)***

If you need legal advice and you are not sure where to go you should look in the CLA directories. They will provide you with information on advice services and legal help available in your area. You can find the directories in your local library or look on the CLA website: [www.communitylegaladvice.org.uk](http://www.communitylegaladvice.org.uk).

Or you can phone the CLA on 0845 354 4 345 for legal help and advice including:

- Free initial advice from a qualified legal adviser about a range of issues including welfare benefits, debt or education.
- If you are eligible for Legal Aid you can get further help with your case by phone and post.
- Finding quality local advice services.
- Ordering legal information leaflets.

## **Family Rights Group**

The Print House  
18 Ashwin Street  
London E8 3DL  
020 7923 2628  
[www.frg.org.uk](http://www.frg.org.uk)

Freephone Adviceline 0808 801 0366 (freephone)

Monday-Friday 10am-3:30pm

Or email [advice@frg.org.uk](mailto:advice@frg.org.uk)

## **Fostering Network**

87 Blackfriars Road,  
London SE1 8HA

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020 7620 6400

Information line 020 7261 1884 10- 4 Monday to Friday

[info@fostering.net](mailto:info@fostering.net)

Fosterline – an advice service for foster carers

England - Freephone 0800 040 7675

Wales – Freephone 0800 316 7664

[www.fostering.net](http://www.fostering.net)

### **The Grandparents' Association**

Moot house

The Stow

Harlow

Essex

CM20 3AG

Helpline: 0845 434 9585

Welfare benefits: 0844 357 1033

[info@grandparents-association.org.uk](mailto:info@grandparents-association.org.uk)

[www.grandparents-association.org.uk](http://www.grandparents-association.org.uk)

### ***Citizens Advice***

115 - 123 Pentonville Road

London N1

020 7833 2181

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

[www.adviceguide.org.uk](http://www.adviceguide.org.uk)

Can give details of your local CAB. Your local CAB can provide details of local groups that could help.

### **The Local Government Ombudsman**

PO Box 4771

Coventry CV4 0EH

Adviceline: 0300 061 0614

Website: [www.lgo.org.uk](http://www.lgo.org.uk)

Will investigate complaints about local authorities

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## **Law Centres Federation**

293-299 Kentish Town Road

London

NW5 2TJ

0207 428 4400

[www.lawcentres.org.uk](http://www.lawcentres.org.uk)

Can give details of local law centres

Child Benefit

PO Box 1

Newcastle-upon Tyne

NE88 1AA

0845 302 1444

Working Tax Credit/Child Tax Credit

0845 300 3900

Pension Credit

0800 99 1234

Benefit Enquiry Line

(people with disabilities and their carers)

0800 882200

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