

Section 9 Capital

Information in this section is for all Fund Users (see Preface)

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9.1 Definition Of Capital

The Funds must be informed if a Fund user and/or their partner has **any** capital. If capital is less than £11,500 in value, the Fund can disregard this. To be eligible to receive payments from the Funds a Fund user, and/or their partner, must not have capital of more than £18,500 in value.

By 'Capital' the Funds mean:

- Savings (cash in a bank or building society account or somewhere else, such as a Save as You Earn Scheme)
- One-off lump sum payments (including a loan or compensation payment see 9.7)
- Stocks and/or shares
- Inheritance money or property
- Investments (not including annuity payments see 8.5.1.4)
- A house or other property that the Fund user owns but does not live in
- Land (other than as part of the house that a Fund user lives in)
- PEPS, TESSAs, ISAs or anything similar
- Any payment that is not made, or due to be made, regularly **and** is not made with reference to a period would be considered as capital.

This list is not exhaustive if you are unsure if something would be defined as capital; please contact the Funds to discuss.

Accumulated care monies such as those paid for the purposes of paying National Insurance Contributions, would not be considered as capital.

Trust Funds and Compensation payments are detailed separately (see 9.7)

9.2 Capital Between £11,500 And £18,500

If capital is between £11,500 and £18,500 in value, the Funds will take into account how much will be considered available in the Funds' financial assessment each week. The basic rule is that the Funds will take £1 per week into account for every £250 capital between £11,500.01 and £18,500. The money from capital that the Fund takes into account is called **tariff income**. A table to show how tariff income is calculated is included in Appendix C.

9.3 Capital Over £18,500 Earmarked For Disability Related Expenditure

The Funds may agree to temporarily disregard capital over £18,500 if it is earmarked to purchase an item related to a Fund user's disability eg to pay for home adaptations or an electric wheelchair. The Funds need to be informed if capital is to be used in this way. Capital that is intended to be used for a disability related purchase may be disregarded for no more than 6 months. If the Funds have agreed to disregard an amount for this purpose, the actual interest earned on the amount will be taken into account in the financial assessment.

9.4 Annuities

If the annuity is not related to a compensation payment or Trust Fund, the capital in the Annuity can be disregarded. Income from an annuity will be fully taken into account in the Funds' financial assessment.

9.5 Property

The capital secured in a property a Fund user lives in is not regarded as capital. If a Fund user has a property that they do not live in this may be regarded as capital or income. If a Fund user and/or their partner are in the process of selling a property they

do not live in, the value of this property may be disregarded for a period of 26 weeks. This period may be extended if the Funds decide it is reasonable to do so.

9.6 Capital Verification

The Funds may require verification, or further information, in relation to capital eg for savings the Funds may ask for the most recent bank or building society statements.

9.7 Trust Funds and Compensation Payments

Money NOT in a Trust Fund will be regarded as capital. (Exception see *9.7.9, 9.7.11 and 9.7.12)

9.7.1 Trust Funds Set Up Following Compensation Awards

There are different types of Trust Funds but the ILF needs to be told when any type of Trust Fund exists, where one of our users may be a beneficiary as it may affect whether we continue to offer financial assistance or not.

The ILF will decline to offer further assistance if **any** money from the Trust Fund is intended to be spent on qualifying support and services (personal care, and/or domestic assistance), for the user. This policy is regardless of what proportion of the total care costs the contribution from a Trust Fund makes, or how essential a component part the Trust Fund monies are to the overall viability of the care package.

It cannot be assumed that if Income Support remains in payment that the ILF will continue to pay as the Funds take into account the actual intention of spending of monies on qualifying support and services.

The ILF recognises that there can be a very long time between applying for compensation for personal injury, and eventually receiving compensation and the

creation of a Trust Fund. If the ILF has been paying the user and then a decision is made to no longer fund because of the terms of the Trust Fund set up, the ILF will not ask for repayment of the monies already paid out.

9.7.2 How The ILF Treats Monies Paid From The Trust For Those Not Receiving Income Support

If all conditions in 9.7.1 are met, the ILF will consider how to calculate monies in circumstances where a person does not receive Income Support.

9.7.2.1 Regular Payments

If regular payments are made the ILF will disregard the payments. This applies whether the Trust Fund pays money direct to the user, or pays for these items to a third party eg the supplier direct.

9.7.2.2 Irregular Payments

Any irregular payments are regarded as payments of capital. Providing the amounts paid when added to other capital do not exceed £18,500 payments from the ILF can continue. If the irregular payment when added to other capital exceeds £11,500 and the user does not receive Income Support, the ILF should be told as the amount the ILF pays may be affected (as the tariff income calculation would need to be completed).

9.7.3 Trust Funds - Information The Funds Require

The ILF will ask to see a signed copy of the Trust Deed, and ask questions of EACH of the named Trustees, to establish the following: -

- Amount of money in the Trust
- The level of control that the user has over the use of the monies
- Confirm the intentions of the Trustees of spending on qualifying support and services

- What happens to any interest from the capital in the Trust ie if it is reinvested back into the Trust, or spent for the user?
- Are regular, or irregular payments, for purposes other than qualifying support and services made from the Trust for the user?
- We will establish the full details of what amounts, how frequently, and for what purpose.

9.7.4 The Decision Making Process

The Operations Director makes decisions on all Trust Fund cases. The nature of the information needed does mean that a new application, where there is a Trust Fund, can take longer than average to process to the stage of making an offer.

9.7.5 What Happens After A Decision Is Made

The ILF would expect to be notified if the Trustees decided that they would spend money on qualifying support and services. Every year the ILF will write and ask to see a copy of the accounts of the Trust Fund.

9.7.6 Monies Held By The Public Trust Office From The Court Of Protection

The following also applies to the Financial Guardian in Scotland or the Controller in Northern Ireland. The same concerns apply on the use of any monies but enquiries would be with the Receiver or Deputy, rather than the Trustees.

Regular payments from the Court of Protection (or other UK country equivalents) are regarded as income and are disregarded.

9.7.7 Structured Settlements

There are some situations where the compensation award is in the form of a structured settlement where an annuity is purchased with the monies.

The same basic issue applies in that the ILF would need to know if any monies were to be spent on qualifying support and services. The ILF would decline to assist in such circumstances.

It is recommended that you let the ILF know as soon as possible if personal injury monies are involved in the user's financial circumstances so that the necessary enquiries can be made as quickly as possible.

9.7.8 Trust Fund Monies Set Up For Other Reasons

The ILF should be told as soon as it is known that our user is a potential beneficiary of monies from any other type of Trust Fund. For example, this can be because of monies left by a relative in a Trust created from a will.

The ILF will make enquiries to establish all the facts before a decision is made on how any monies will be regarded.

9.7.9 VCJD And Vaccine Damage And Ex-Gratia Payments To Former Far East Prisoners

VCJD and Vaccine Damage and ex-gratia payments to former Far East prisoners are disregarded from capital calculations.

Vaccine Damage Payments (VDP)/ Variant CJD payments The DWP have confirmed that if a **VDP** is paid to a person, this will be disregarded for ILF purposes. If the person receives the cash, then sets up his or her own Trust Fund, it would not be seen as deprivation of capital.

Money not paid as above to an ILF user, but inherited by an ILF user will be treated as capital.

9.7.10 Direct Payment (DP) - User Controlled Trusts

A User controlled Trust is a legal arrangement where a third party assists with the management of a DP for a recipient, with the recipient maintaining choices and preferences in decision making, and the recipient is accountable for any arrangements. User Controlled Trusts are not considered as capital by the ILF.

9.7.11 Thalidomide Trust Fund

The Thalidomide Trust was set up in 1973 as a charitable discretionary trust to help meet the needs of individuals damaged by the drug Thalidomide. The beneficiaries are not named individuals as in the type of Trust Fund the ILF usually see, and they do not have a right to the capital or interest in the Trust Fund but they have a right to remain beneficiaries if they meet certain criteria for their lifetime. The Trustees of the Thalidomide Trust provide a level of assistance in relation to the relative degree of disability.

Users who receive monies from the Thalidomide Trust (TT) do not receive large lump sum awards like other Trust fund situations; instead, 'periodical' payments are made into a nominee account for the beneficiary in April of every year.

ILF involvement in TT cases

The ILF will decline to offer assistance where any part of an annual TT payment is intended to be spent on qualifying support and services.

The applicant will be asked to sign a declaration confirming that there is no intention of spending the TT monies on qualifying support and services and that if they do so they will notify the ILF.

Individuals who are receiving ILF and have signed a previous declaration regarding the use of the TT monies will be expected to sign further declarations confirming that no TT monies have been spent on qualifying support and services since the last declaration was signed.

TT monies as Income

User not in receipt of Income Support

Where a user/applicant is eligible to apply to the ILF and is **not** in receipt of Income Support the ILF will totally disregard TT monies as income when completing a financial assessment.

Users will be asked to confirm that they have no unspent money from any previous annual TT payments. If there is any unspent money this will be deemed to be capital for the purpose of the financial assessment.

User in receipt of Income Support

Where an individual is eligible to apply to the ILF and receives Income Support the TT payment will be fully disregarded.

If the ILF has been paying a person and were notified previously that an application for assistance from the Thalidomide Trust had been made and a decision is then made to no longer fund because of the terms of the arrangement, the ILF will not ask for repayment of the monies already paid out.

However, if we were **not** notified at the time that an application had been made to the Thalidomide Trust and we find out later we may seek recovery of any overpayment deemed to have arisen.

9.7.12 Personal Injury Lump Sum Payments

Any lump sum payment to an ILF user or user's partner in consequence of a personal injury is ignored as capital for the first 52 weeks. This is in order to give people time to decide how to deal with that money. The 52 week period starts from the date of the first payment (if made by instalments). If the money, or part of it, is spent during that period ILF must be informed. If the expenditure is, for example, for disability related adaptations eligibility would probably be unaffected. If, on the other hand the money is expended in

another way, the payment may be treated as capital and eligibility might be affected. This new disregard was introduced to the Income Support Regulations in October 2006. ILF may need to seek advice from Income Support policy team on individual cases on the operation and interpretation of the new regulation.

Appendix C

Tariff Income Table

This table shows how much money the Fund will take into account if a Fund user and/or their partner has savings over £11,500

Total Capital Held £	Taken into Account £ pw
11,500.01 - 11,750.00	1
11,750.01 - 12,000.00	2
12,000.01 - 12,250.00	3
12,250.01 - 12,500.00	4
12,500.01 - 12,750.00	5
12,750.01 - 13,000.00	6
13,000.01 - 13,250.00	7
13,250.01 - 13,500.00	8
13,500.01 - 13,750.00	9
13,750.01 - 14,000.00	10
14,000.01 - 14,250.00	11
14,250.01 - 14,500.00	12
14,500.01 - 14,750.00	13
14,750.01 - 15,000.00	14
15,000.01 - 15,250.00	15
15,250.01 - 15,500.00	16
15,500.01 - 15,750.00	17
15,750.01 - 16,000.00	18
16,000.01 - 16,250.00	19
16,250.01 - 16,500.00	20
16,500.01 - 16,750.00	21
16,750.01 - 17,000.00	22
17,000.01 - 17,250.00	23
17,250.01 - 17,500.00	24
17,500.01 - 17,750.00	25
17,750.01 - 18,000.00	26
18,000.01 - 18,250.00	27
18,250.01 - 18,500.00	28