

Department for Work and Pensions

DECISION MAKING AND APPEALS (PART OF STRATEGIC COMMUNICATIONS)

Decision Makers Guide

Volume 5 Amendment 50 – February 2017

1. This letter provides details on Amendment 50; the changes have already been incorporated in to the Intranet and Internet versions of the DMG.
2. PDF amendment packages are also available. These can be printed with the amended pages being reproduced in full. Each page will contain the amendment number in the footer

PDF amendment packages can be found on the **Intranet** at:

<http://intraLink/1/lq/acileeds/guidance/decision%20makers%20guide/index.asp>

or on the **Internet** at the 'Amdt Packages' tab on the following link:

<http://www.dwp.gov.uk/publications/specialist-guides/decision-makers-guide/>

Note: When printing PDF packages set the print properties to Duplex/Long Edge in order to produce double sided prints.

3. Amendment 50 affects chapters 26 & 28; The changes
 - make minor amendments to the rates at appendix 2 and 3 in DMG Chapter 26
 - make minor amendments to DMG Chapter 28
4. The last two amendment packages amending Volume 5 were
Amendment 49 [October 2016]

Amendment 48 [June 2016]
5. Using a PDF amendment package remove the sheets as stated in the left hand column of the Remove and Insert table below and insert the new sheets as stated in the right hand column (note the record of amendments at the back of the Volume).

Remove

Chapter 26

Appendix 2 – Appendix 3 (2 pages)

Chapter 28

28377 – 28384 (1 page)

Insert

Chapter 26

Appendix 2 – Appendix 3 (2 pages)

Chapter 28

28377 – 28384 (1 page)

Appendix 2

Maximum weekly amount

Payable under section 227 of the Employment Rights Act 1996.

	£
From 1.2.00	230
From 1.2.01	240
From 1.2.02	250
From 1.2.03	260
From 1.2.04	270
From 1.2.05	280
From 1.2.06	290
From 1.2.07	310
From 1.2.08	330
From 1.2.09	350
From 1.10.09	380
From 1.2.11	400
From 1.2.12	430
From 1.2.13	450
From 6.4.14	464
From 6.4.15	475
From 6.4.16	479

Appendix 3

Statutory guarantee payments

Amount payable to employees under section 31 of the Employment Rights Act 1996.

	£
From 1.2.00	16.10 per day
From 1.2.01	16.70 per day
From 1.2.02	17.00 per day
From 1.2.03	17.30 per day
From 1.2.04	17.80 per day
From 1.2.05	18.40 per day
From 1.2.06	18.90 per day
From 1.2.07	19.60 per day
From 1.2.08	20.40 per day
From 1.2.09	21.50 per day
From 1.2.10	21.20 per day
From 1.2.11	22.20 per day
From 1.2.12	23.50 per day
From 1.2.13	24.20 per day
From 6.4.14	25.00 per day
From 6.4.15	26.00 per day
From 6.4.16	26.00 per day

Payments for children and people living temporarily with the claimant

Foster children

28377 The DM should fully disregard payments¹ made by or on behalf of

1. a LA under its duty to provide

1.1 accommodation **and**

1.2 maintenance

for a child it is looking after (including under Continuing Care arrangements)² **or**

2. a voluntary organization under certain legislation³ **or**

3. a LA⁴

for children who are living with claimants under fostering arrangements.

Note: These allowances should not be treated as earnings.

1 JSA Regs, Sch 7, para 27; IS (Gen) Regs, Sch 9, para 26;

2 Children Act 1989, s 23(2)(a); Children (Scotland) Act 1995, s 26 or 26A;

3 Children Act 1989, s 59(1)(a); 4 Looked After Children (Scotland) Regulations 2009, regs 33 or 51

Kinship care

28378 In Scotland an LA may place a child with another person in an arrangement often referred to “Kinship care”¹. Any payment made by the LA to the person providing care should be fully disregarded².

1 Looked After Children (Scotland) Regulations 2009, reg 10;

2 JSA Regs, Sch 7, para 27; IS (Gen) Regs, Sch 9, para 26

Payments for the welfare of children

28379 Certain legislation¹ concerning the welfare of children applies in England, Wales and Scotland². This applies to certain children who were being looked after by a LA.

1 CLC Act 2000; Children (Leaving Care) SS Benefit Regs, reg 1(1);

2 Children (Leaving Care) SS Benefits (Scotland) Regs, reg 1

28380 The DM should fully disregard payments made by LAs under child-care law¹

1. to promote the welfare of children **and**

2. to prevent people being taken into care

unless the claimant or a member of the family is involved in a TD².

1 Children (Leaving Care) Act 2000 (Comm No. 2 & Cons Prov) Order, Sch 1, para (c) & Sch 4, para (c);

Children Act 1989, s 17, 23B, 23C or 24A; SW (Scot) Act 68, s 12;

Children (Scotland) Act 1995, s 22, 26A, 29 or 30; 2 JSA Regs, Sch 7, para 29(1); IS (Gen) Regs, Sch 9, para 28(1)

28381 Where

1. a former child (aged over 18) who was in the claimant's care still lives with the claimant **and**
2. the LA makes payments under certain child care law¹ to the former child in care **and**
3. the former child in care passes the payments on to the claimant

those payments received by the claimant are disregarded unless the claimant or a member of the family is involved in a TD².

1 Children Act 89, s 23C; Children (Scotland) Act 95, s 22, 26A or 29;

2 JSA Regs, Sch 7, para 29(2) & (5); IS (Gen) Regs, Sch 9, para 28(2) & (5)

28382 The DM should take into account the income in full in DMG 28380 or DMG 28381 if

1. the claimant **or**
2. a member of the family

is involved in a TD¹.

Note: These payments may be made to people who were in LA care.

1 JSA Regs, Sch 7, para 29(4); IS (Gen) Regs, Sch 9, para 28(4); JS Act 95, s 14;

SS CB Act 92, s 124(1), 126 & 127

Payments for people temporarily in the claimant's care

28383 The DM should fully disregard payments to a claimant or partner for a person who

1. is not normally a member of the claimant's household **and**
2. is temporarily in the claimant's care¹

when payments are made by a LA, HA, a voluntary organization, a clinical commissioning group, the NHS Commissioning Board, a Local Health Board or the person concerned under specified legislation².

Note 1: This could include payments to a claimant under the Adult Placement or Shared Lives Scheme from a LA's own resources.

Note 2: Payments made by a LA does not include payments of HB made in respect of the person concerned.

1 JSA Regs, Sch 7, para 28; IS (Gen) Regs, Sch 9, para 27;

2 NA Act 48, s 26(3A)

28384 This type of payment is often made to people providing "respite care". This is short-term care provided to give a disabled person's usual carer a break from their caring responsibilities. People providing respite care should not be treated as

1. engaged in remunerative work **or**
2. receiving earnings from S/E¹.

1 JSA Regs, reg 100(2)(b); IS (Gen) Regs, reg 37(2)(b)