

Child Trust Fund court fees waived for parents

- vast majority of affected families will not have to pay fees
- working group to look at further reducing administrative burden on parents of children who lack mental capacity
- vital safeguards for vulnerable young people remain

A Child Trust Fund (CTF) is a long-term, tax-free savings account for children. The money belongs to the young person and they can only take it out when they turn 18.

If a young person lacks mental capacity and as a result cannot handle their finances, a parent or guardian must apply to the Court of Protection to allow them to manage these funds. This vital safeguard exists to protect vulnerable people from fraud or abuse.

Parents and guardians who apply to the court before their child's 18th birthday already do not pay fees, unless the child has other substantial assets. The Ministry of Justice and HM Treasury are working closely with trust fund providers to ensure that parents are aware of this and can take necessary steps.

Today's announcement means that families who need to access the money in this fund to help support the young person's future can now ask for fees to be waived. Those who have already paid can request a refund under the plans. A new working group will also consider what more can be done to streamline the process and make it more accessible for parents.

This follows concerns from parents and campaigners that the system can be stressful and costly for families.

Justice Minister, Alex Chalk said:

We want to reduce the obstacles families face in supporting young people who lack mental capacity.

This fee remission will ensure that families who need to go to the Court of Protection to access these funds will not suffer financially as a result.

Our working group will look at improving this process even further, making it more streamlined and accessible.

Professor Baroness Finlay of Llandaff Chair of the National Mental Capacity Forum, said:

The Mental Capacity Act offers important protections for vulnerable people who cannot make decisions for themselves.

We need to balance the needs of families with children with a learning disability with ensuring appropriate safeguards are in place. Improving guidance and removing the need to pay fees are welcome steps to providing that balance.

Dan Scorer, Head of Policy and Public Affairs at the learning disability charity Mencap, said:

High costs and the complexity of the legal system are stopping families from accessing Child Trust Fund money for young people with a learning disability who can't manage the funds themselves.

We welcome the government's commitment that no one will have to pay fees to solely access a Child Trust Fund via the Court of Protection.

We hope that the establishment of an advisory working group will help streamline the legal process to help families access a Child Trust Fund.

Any changes made must both make it easier for family members and protect the best interests of people with a learning disability.

Eligibility for fee remission is based upon the capital and income of the person who is lacking capacity – in this case the child. The vast majority of those applying to the Court of Protection will not have to pay a fee if they:

- apply prior to the child's 18th birthday
- ask for a fee waiver through the Help with Fees scheme

or

- ask for a fee waiver due to exceptional circumstances, which includes the CTF being the only asset of the child (regardless of the amount), and where their monthly income is below £1,085

Updated guidance has been provided to the Court of Protection to address these circumstances and when a fee remission is applicable. This will ensure that parents, guardians, and young people do not suffer the consequences of not being informed they need to apply prior to the young person's 18th birthday.

Notes to editors

- The Lord Chancellor has the power in certain cases to grant a fee remission. This power can be used to grant a fee remission for those

applications to the Court of Protection made after the account holder's 18th birthday. Families can apply for this remission immediately.

- However, we strongly encourage families to make an application before the dependant's 18th birthday. If a property and affairs application is made to the Court of Protection before the dependent's 18th birthday, the balance in the Child Trust Fund does not count as capital. This means they can apply for a remission under the Help with Fees scheme and do not have to pay fees unless they have any other asset worth over £3,000 or income, not including certain benefits, over £1,085 a month.
- If the application is made after the 18th birthday, but the circumstances are as above, they are also be eligible for a fee remission.
- In cases where the application is made after the 18th birthday, and the amount is more than £3,000, then normally they would have to pay the fee. However, we are now encouraging families to apply for their fee to be reconsidered, which could then allow the Lord Chancellor, on a case-by-case basis, to determine that they will be eligible to not pay the fee. The government's intention is that no one who needs to apply to the Court of Protection solely to access a Child Trust Fund will pay fees.
- The Working Group, comprised of officials within the Ministry of Justice working with HM Treasury, will look into other options to make the process easier for those needing to go to the Court of Protection to access the Child trust Fund. They will report back in due course.
- A CTF is a long-term, tax-free savings account for young people. The government launched the CTF scheme in 2005 to provide each eligible child born between 1 September 2002 and 2 January 2011 with a financial asset upon reaching adulthood. Parents and guardians received a voucher from the government to deposit in a CTF account, and anyone can pay into the accounts. The money belongs to the young person and they can only take it out when they turn 18.