

Disability Law Service

Fighting injustice for disabled people

A Guide to Disability Living Allowance

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Introduction

This factsheet has been created to provide you with helpful information should you decide to apply for Disability Living Allowance (DLA) for your child.

DLA is available to children with disabilities to help them get about and/or with their care needs. It is a non-means tested benefit for children up to the age of 16. This means that your child is entitled to it regardless of your income.

DLA has two components, which are paid at different rates depending on the level of need.

Note: For new DLA claims, **it is now only available to children under 16** (although, it was previously available to adults who claimed before June 2013).

In this factsheet, we will cover the main points you should be aware of when claiming DLA:

- General Conditions;
- DLA Rates;
- The Mobility Component: Who is Eligible; • The Care Component: Who is Eligible; **and**
- How to Claim DLA.

General Conditions

DLA has two components (or parts): the **Care Component** and the **Mobility Component**. Each component has its own eligibility criteria.

However, before we get to that, your child will need to meet two important requirements in order to be eligible for DLA at all: **Age** and **Residence**.

Age and Residence Test

To qualify for DLA, you must be:

- Habitually resident in the UK (which means you have a right to reside in the UK, or you intend to settle in the UK);
- Not subject to immigration control; **and**
- Have been present in the UK for at least 104 weeks in the last 156 weeks.

For babies under six months old there is a 13 week 'presence test' that applies until the baby's first birthday.

The 'presence in the UK' test does not apply to terminally ill persons.

Time Requirements

DLA has a **further time requirement**, which looks at how long your child has had their care or mobility need(s). To be eligible, your child must:

1. have experienced the disability in question for three months preceding the date of the award; *and*
2. that they are likely to continue to experience the disability throughout the period of six months from the date of the award.

Note: A person who is terminally ill does not have to satisfy the first requirement and qualifies automatically for the highest rate of the Care Component. (Terminal illness is defined to mean an expectation of death within the next six months.)

DLA Rates

If your child is entitled to DLA, they will receive –

Mobility Component	Weekly Rate
Lower	£28.70
Higher	£75.75

Care Component	Weekly Rate
Lowest	£28.70
Middle	£72.65
Highest	£108.55

Note: DLA is usually paid every 4 weeks. However, if your child is terminally ill, you can request for it to be paid every week.

The Mobility Component

There are two rates to the Mobility Component:

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- **Lower Rate** is for children who can walk but need guidance or supervision to do so; *and*
- **Higher Rate** is for children who are unable to, or virtually unable to, walk without severe discomfort.

Note: Your child can only get help with their mobility needs if they are aged at least three for the higher rate, and at least five for the lower rate.

The Lower Rate

This is for children who may physically be able to walk but need help or guidance from another person when walking in unfamiliar places.

The test for this rate is: could your child manage to use routes with which they are not familiar without *substantially more* guidance or supervision than a child of the same age?

For example, your child may not be able to follow directions, or may wander off and be in danger if they were on their own, more so than a child of the same age. This could be taken that they require substantially more guidance.

The Higher Rate

There are seven possible ways to qualify for high rate mobility. The first five in the following list only relate to physical disability or visual impairment so these are only described briefly.

1. Due to a physical disability your child is unable to walk. This relates to children who cannot walk even a few steps due to a physical disability.
2. Your child is both deaf and blind. This relates to children who have 100% degree of disablement resulting from loss of vision and 80% degree of disablement resulting from loss of hearing, and who cannot walk outdoors without another person.
3. Your child has no legs or feet (from birth or through amputation).

4. Your child is blind or severely visually impaired. Your child must have been certified blind or severely sight impaired and must meet certain additional criteria relating to their degree of visual impairment.
5. The exertion required to walk would lead to a danger to life or serious deterioration in your child's health. The danger to health has to be caused by the physical exertion, so could for example apply to a child with a very serious heart condition. This criterion does not apply to children whose behaviour causes danger.
6. Your child meets the '**severe mental impairment**' criteria.
7. Due to a physical disability your child is '**virtually unable to walk**'.

The 'Severe Mental Impairment' criteria

To get high-rate mobility under the severe mental impairment rules you have to meet every one of the following points.

1. Your child gets DLA high rate care. This means that if your child qualifies for none of the care component of DLA, or low or middle rate care, the 'severe mental impairment' criteria cannot be considered.

2. Your child has a state of arrested development or incomplete physical development of the brain which results in severe impairment of intelligence and social functioning. We can split this rule into three parts to make it easier to consider:

(a) Your child must have arrested or incomplete physical development of the brain. Where your child has a diagnosis of autism it should be accepted that they have arrested or incomplete physical development of the brain. If you are still going through the diagnostic process you might struggle to show that this point applies, however there are other diagnoses such as global development delay that could also be accepted as being arrested or incomplete development of the brain.

(b) The arrested development results in severe impairment of intelligence. This part of the criteria is the main reason that only a minority of children with autism qualify for high rate mobility, because many children with autism have average or near average intelligence and so do not meet this point. The impairment must be 'severe' and it must be the intelligence that is impaired. What sort of things are considered depends on the child's age, but issues to consider are:

- Does your child have a Learning Disability?
- What sort of specialist educational provision does your child have?

- Has your child been significantly delayed in meeting developmental milestones such as developing speech, feeding themselves, toileting etc?
- Does your child understand danger (in a way appropriate to their age)?
- What difficulty do they have applying the intelligence that they do have to the real world?

(c) The arrested development results in severe impairment of social functioning. This part of the criteria is usually straightforward to meet because it so obviously applies to autism. Your child's ability and interest in playing with other children is relevant to this.

3. The Severe Behavioural Problems Rule

(a) Your child has disruptive behaviour which is extreme. For this part give examples about the extreme and disruptive behaviour. All behaviour is relevant, not just how your child is when outdoors.

(b) Due to the disruptive behaviour your child regularly requires another person to intervene and physically restrain them in order to prevent your child causing physical injury to himself or others or damaging property.

For this part give examples of when and how you have to restrain your child. Again it is not just things that happen outdoors that count. Give examples from at home and school as well. Physical restraint means physically stopping your child from doing something, so holding a child's hand to physically hold them back them from doing something that would cause injury could count but holding a child's hand to keep them calm would probably not count.

(c) The disruptive behaviour is so unpredictable that your child requires another person to be present and watching over them whenever they are awake. Explain why someone needs to be with your child all of the time and explain what dangerous thing could happen if they were left in a room on their own.

Virtually Unable to Walk

This criterion is for children who have a physical disability which makes their ability to walk very limited. If behavioural issues are caused by something with a physical origin, then these behavioural problems can be taken into account.

Issues of safety, and the need for supervision and guidance, are not relevant to this part of the criteria. This criterion is not dependent on your child also being awarded high rate care.

Interruptions in walking, or refusing to walk, can be taken into account if it happens frequently enough to mean that on most days your child is very

physically limited in how far they can walk. Although there is no set distance in the law below which you are considered 'virtually unable to walk', generally if your child is limited to less than approximately 50 metres they may qualify.

If you feel that the 'virtually unable to walk' criteria applies to your child then it is important to provide a high degree of very practical detail about their physical walking ability. It is not essential to answer the following questions, but we hope that they will help you to think about the sort of detail that would show whether your child qualified under this criterion:

Describe what happens when your child tries to walk.

- How many paces do they normally manage?
- How many seconds do they normally manage to walk for?
- Do they walk in the right direction?
- When they stop do they sit down or lie down?
- What happens when they stop? Do you have to carry them? If they are too big to carry how long do you have to wait before they will get up again?
- Are there any sensory issues that you think make them stop walking?
- Do you usually have to carry the child or put them in a buggy or major buggy? How often does this happen?
- How do they travel to school? If they go by car how far is it from your front door to where the car is? How far is it from where the car stops to the doors of the school? How do they get from the front door to the car? If they usually try to walk from the front door to the car how long does it take?

The reason that it is important to provide this level of detail is to show that your child is physically very limited in how far they can walk.

The Care Component

There are three rates to the Care Component:

- Lowest Rate;
- Middle Rate; **and**

- Highest Rate.

They can be awarded for a limited period, or indefinitely.

The Lowest Rate

You can get the lowest rate if your child needs care and attention, because of their bodily functions, for 'a significant portion of the day' (usually for at least an hour).

Note: Your child's needs must be '*substantially in excess*' of what is required by a typical child of the same age, or your child must have a substantial need(s) that a non-disabled child of the same age would not have.

The Middle Rate

To get the middle rate, you will need to satisfy either one (or both) of the day conditions, or one (or both) of the night conditions:

1. Day conditions –

- a) Your child requires frequent attention throughout the day in connection with their bodily functions; or
- b) Your child requires continual supervision throughout the day in order to avoid substantial danger to themselves or others.

or

2. Night conditions

- a) At night, your child requires prolonged or repeated attention in connection with their bodily functions; or
- b) At night, your child needs someone to be awake for a prolonged period or at frequent intervals, to watch over them in order to prevent substantial danger to themselves or others.

Note: Your child's needs must be '*substantially in excess*' of what is required by a typical child of the same age, or your child must have a substantial need(s) that a non-disabled child of the same age would not have.

The Highest Rate

To get the highest rate, you will need to satisfy one (or both) of the day conditions, and one (or both) of the night conditions.

What Tasks Can I Claim for Help With?

For the Care Component, you can only claim assistance for tasks related to a bodily function that your child cannot perform, or may be too dangerous for them to perform, without help. A bodily function could be, for example, sight, hearing, dressing and undressing, communication or eating.

The help with which they require could either be attention (physically helping them) or supervision (watching over them to make sure they are ok). What matters is that they require help; even if they did not actually receive the help.

Some Examples of Help

The following are some examples of the type of help you provide for your child that you can claim assistance for:

- Getting in or out of a bed or chair.
- Getting up and down stairs or moving around within the home.
- Washing and bathing, including help with drying, getting in and out of the bath, washing hair and dressing and undressing, including managing zips, buttons and shoelaces.
- Getting to and using the toilet.
- Taking medication or having medical treatment (e.g. physiotherapy).
- Seeing and hearing (e.g. needing help with reading school books).
- Motivation to carry out the above.

Rebecca

Rebecca is 9 years old and has severe atopic eczema. She needs help getting out of bed, washing and dressing in the morning, and help with undressing at bedtime. She doesn't need help during the rest of the day.

Because she does not need help 'throughout the day', she is unlikely to get the middle rate. She is, however, likely to get the lowest rate because she needs care for a 'significant portion of the day'.

Michael

Michael is 15 and is a wheelchair user. He needs help washing, dressing, feeding himself, and getting around in the home. He normally sleeps well during the night.

He is likely to get the middle rate because he needs a lot of care throughout the day. He won't get the highest rate because he doesn't need help at night.

Davinder

Davinder has a learning disability. She needs somebody to supervise her at all times because she wanders off and becomes lost. She is liable to walk into traffic and has no sense of danger. She frequently gets up and tries to go out at night and needs somebody to be awake for long periods to supervise her.

Davinder is likely to get the highest rate because she needs supervision both during the day and at night.

How to Claim DLA

To claim DLA, you will need to complete an application form. You can do this online or by post:

- To apply online, please click [here](#).
- To apply by post, you will need to order and complete a claim form by calling 0800 121 4600 (textphone: 0800 121 4523).

Legal Disclaimer

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