

# Disability Law Service

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Offering free, confidential legal advice and  
representation for disabled people

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## **Disability Living Allowance (DLA)**

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DLA is a non-means tested benefit for adults up to the age of 65 and children, who are:

- Ordinarily resident in the UK
- Not subject to immigration control
- Have been present in the UK for not less than 26 weeks in the preceding 52 weeks

For babies under 6 months old there is a 13 week 'presence test' that applies until the baby's first birthday.

The 'presence in the UK' tests do not apply to terminally ill people.

## Two Components of DLA

### 1. Care Component

To qualify for the Care Component you must be so severely disabled **EITHER** physically **OR** mentally (that is to say, you must have some functional lack of ability due to a physical or mental cause, but a diagnosed medical condition is NOT essential) so that you need care with your bodily functions, supervision or watching over by another person, or you are unable to prepare a main cooked meal for yourself.

#### **Highest Rate**

To qualify for the highest rate of the Care Component you must satisfy **BOTH** the daytime and night-time conditions:

**During the daytime** you must reasonably require frequent attention at recurring intervals throughout the day in connection with your bodily functions **OR** require continual supervision throughout the day to avoid substantial danger to yourself or others

**AND**

**At night-time** you must reasonably need either prolonged attention (at least 20 minutes) or repeated attention (at least twice a night) with your bodily functions **OR** require another person to be awake for a prolonged period, or frequently, in the night to watch over you to avoid substantial danger

#### **Middle Rate**

To qualify for the middle rate of the Care Component you must satisfy **EITHER** one of the above daytime **OR** one of the above night time conditions

### **Lowest Rate**

For the lowest rate of the Care Component your disability must result **EITHER** in you being unable to prepare a main cooked meal for yourself (given you have all the ingredients for the meal) which is judged generally on the overall impression of your situation **OR** you must reasonably need attention with bodily functions for a significant portion of the day (at least an hour, either all at once or on a number of occasions spread throughout the day)

**In the case of children under the age of 16, their requirement for attention with bodily functions or supervision must be substantially in excess of the attention/supervision needed by most children of their age.**

**In addition, the lowest rate of the care component for inability to prepare a cooked meal is NOT available to anyone under the age of 16.**

## **2. Mobility Component**

The Mobility Component has two levels of award, the higher rate and the lower rate.

### **Higher Rate**

The higher rate is awarded to those people whose **physical** condition is such that judged by the distance, speed, length of time and manner which they are able to walk without severe discomfort, they can be regarded as virtually unable to walk. Usually, this means a limited walking distance of 40-50 metres. (It is available to children aged 3 and over)

**OR**

To those people who suffer from a state of arrested or incomplete development of the brain that gives rise to severe behavioural problems. This can include someone with Autistic Spectrum Disorders, but not Alzheimer's Disease because it results from deterioration of a developed brain.

### **Lower Rate**

The lower rate is awarded to those people who by reason of **EITHER** physical **OR** mental disablement need supervision or guidance from another person when they are walking in an unfamiliar place

**For children under the age of 16 their need for supervision and guidance must be substantially more than most children of their age**

### **Further Requirements**

There are two overall requirements for DLA:

- 1) That you have suffered the disability in question for 3 months preceding the date of the award
- 2) You are likely to continue to suffer from the disability throughout the period of six months from the date of the award

**A person who is terminally ill does not have to satisfy the prior 3 months requirement and qualifies automatically for the highest rate of the care component. Terminal illness is defined to mean expectation of death within the next 6 months.**

### **Legal Disclaimer**

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