

**Welfare**

**R I G H T S**

# ***DISABILITY LIVING ALLOWANCE:***

***What is it?***

***How to claim***

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# SECTION ONE

## INTRODUCTION TO DISABILITY LIVING ALLOWANCE

### Who is this briefing note for and how will it help?

- \* *You will find these notes useful if you are thinking of claiming Disability Living Allowance yourself, or trying to help someone else to claim.*
- \* *It will not answer all your questions, but it will cover the main rules about Disability Living Allowance.*
- \* *It is a practical guide, which tells you **how** to claim and **who** to contact for help.*
- \* *It tells you about which people are **likely** to qualify, and the kind of questions you need to think about.*
- \* *You will find it helpful to read this in conjunction with **Completing Disability Allowance Claim Forms**, which is also available from your local Social Services office.*

### WARNING:

The information in this briefing note is as accurate as possible at the time of printing. However, it is only a guide, and therefore cannot be completely accurate in every respect and cover every possible situation.

We therefore always recommend that you seek advice from a competent person in cases of doubt.

## What is Disability Living Allowance?

- \* *Disability Living Allowance is a tax-free, cash payment.*
- \* *It is paid to people who have care or mobility needs due to a physical or mental illness or disability.*
- \* *It is paid in two parts called **components**. One reflects care needs, and the other mobility needs.*
- \* *Either or both parts can be paid. There is one claim form, covering both the care and mobility components. There are different claim forms for adults and children under 16.*
- \* *Disability Living Allowance is **not** affected by how much income or savings you have.*
- \* *It will **not** reduce your existing benefits. If you get **Income Support, (Income-Related) Employment & Support Allowance, Pension Credit, Housing Benefit or Council Tax Benefit** already, notify the Department for Work and Pensions and your local council as payment of **Disability Living Allowance** will sometimes entitle you to **extra benefit** (see page 15).*
- \* *An award of Disability Living Allowance may entitle you to **tax credits** (see page 16).*
- \* *You can still claim Disability Living Allowance even if you live alone.*
- \* *Disability Living Allowance is paid to the person who needs help with their care or mobility. It doesn't matter if you receive home care, care at a day centre, or even if there is no one to look after you.*

## Disability Living Allowance or Attendance Allowance?

Disability Living Allowance is payable if you become disabled **before the age of 65** and claim before your 65th birthday.

If your disability started after your 65<sup>th</sup> birthday, or you did not claim before then, you will have to claim Attendance Allowance instead. Attendance Allowance only provides help with care needs, not with mobility needs. For advice about claiming this benefit please ask for a copy of our briefing note, **Attendance Allowance: What is it? How to claim.**

## How much is Disability Living Allowance?

**Care Component** is paid at either a higher, middle or lower rate (see Care Component page 5).

Mobility Component is paid at either a higher or lower rate (see Mobility Component page 7).

Please ask for a copy of the Welfare Rights Service's **Guide to benefit rates** for current weekly amounts.

### **Special Rules**

There are special rules for claiming Disability Living Allowance if you have a terminal illness. You are regarded as terminally ill if you are suffering from a progressive disease, and in the opinion of a doctor, death can reasonably be expected within six months as a result of that disease. This only means that you **may** not live longer than six months. A Special Rule award will last for the remainder of the claimants life or 3 years whichever is the shorter. If the claimant is still alive after 3 years a renewal claim will have to be made, and may be awarded on Special Rules again if the criteria are met.

If you qualify under these rules you do not have to wait three months before DLA can be paid. You will automatically be entitled to the care component at the higher rate (but not the mobility component, although you can claim this under the normal rules).

Disability Living Allowance claims under the special rules are simpler to make and dealt with more quickly. The Welfare Rights Service also produces a briefing note, which covers this issue in much greater detail, called **Disability Living Allowance/Attendance Allowance for the terminally ill**.



It is best to consider these tests before completing the DLA claim form. In order to help you to understand what the tests actually mean, we have provided an explanation of the language used in the tests.

Understanding the rules will help you to complete the claim form, and increase your chances of a successful result. This briefing note will now go on to examine the disability tests starting with the care component.

## **Care Component**

### **The disability tests**

You will qualify for Disability Living Allowance if, due to your disability, you need help during either the day and/or during the night. For the Higher or Middle rate care component the kind of help will need to be:

### **During the Day**

***EITHER*** frequent help in connection with your personal care.

#### **THIS COULD MEAN YOU NEED HELP WITH THINGS SUCH AS:**

using the toilet or commode;	getting dressed or undressed;
getting in or out of bed;	getting around your home;
taking a bath or shower;	washing or shaving;
getting up or downstairs;	getting in or out of a chair;
seeing or hearing;	taking medication or other treatment at home.
eating;	

***OR*** you need continual **supervision** to avoid danger to yourself or others.  
**THIS COULD MEAN THAT YOU NEED SOMEONE CLOSE BY BECAUSE...**

You are unsteady on your feet;	you cannot see or hear very well;
You get confused;	you find it hard to make simple decisions;
You may neglect yourself;	you find it difficult to control your behaviour.
you are liable to falls or accidents;	You suffer from fits or attacks which you cannot cope with alone;

## ***During the Night***

You need:

***EITHER*** prolonged or repeated help in connection with your personal care.

This means that you need help for at least 20 minutes, or more than once.

***OR*** another person to be awake for prolonged periods or at regular intervals to avoid substantial danger to yourself or others.

This means that you need somebody to get up during the night several times, or for long periods to check that you are safe.

### ***Higher rate care component***

You will qualify for the higher rate care component if you satisfy one of the day time **and** one of the night time tests and therefore need help during the day and night:-

### ***Middle rate care component***

You will qualify for the middle rate care component if you satisfy one of the day time tests **or** one of the night time tests and therefore only need help during either the day or night.

### ***Lower rate care component***

You will qualify for the lower rate of the care component if you need

***EITHER*** Help with the type of care needs outlined above less frequently, but still need help for a significant portion of the day, whether during a single period or a number of periods. A significant portion of the day is usually considered to be about an hour.

***OR*** You are over 16 and cannot prepare a cooked main meal for yourself. This takes into account how your disability limits your ability to cook. For example, eyesight, balance, strength, memory, comprehension, dexterity etc. The test is whether you would be able to cook a proper meal for yourself even if you do not normally do this.

## **Disability Living Allowance for Children**

There is an extra test for children under 16. A child must show that:

***EITHER*** Their needs are substantially greater than the normal requirements of a child of their age;

***OR*** They have substantial care or supervision needs which children without a disability may also have but not at their age.

## **Night Time Care Needs**

The definition of night will depend on the household's habits, but it normally starts when you go to bed, or if you have a carer, when they go to bed or would go to bed if they were not staying up to care for you.

## **Other Issues**

It is important to note that what counts is whether you need help rather than whether there is somebody actually there to help you.

If you are physically capable of managing your personal care but, due perhaps to mental health problems, you would not do this without prompting, reminding and encouragement, then this help will be considered in exactly the same way.

The definition of help with your personal care includes help a person with disabilities needs with *social, recreational and cultural activities*, for example help to pursue interests, hobbies or religious beliefs.

Help needed with domestic chores cannot usually be considered when claiming Disability Living Allowance unless these need to be carried out when the disabled person is present.

Assisting a disabled person so that they are able to perform some household tasks for themselves may count. For example, helping a disabled person to do the cooking or shopping for themselves.

Some kidney patients who receive dialysis at home or in a self-care unit may qualify for the middle rate of Disability Living Allowance regardless of the disability test., if this is the case seek advice.

## **Mobility Component**

### The disability tests

#### ***Higher rate mobility component***

There are 6 possible ways you could qualify. If you satisfy one of the following tests, you should receive help.

***EITHER*** You cannot walk at all;

***OR*** You are virtually unable to walk;

*This test takes into account how far you can walk without severe discomfort; how fast you walk; how long you can walk for; and the way that you walk. All these factors should be taken into account. There is no set walking distance beyond which you will not qualify.*

***OR*** the exertion needed to walk could threaten your state of health or endanger your life;

*This will often apply to help people with serious lung, chest or heart conditions.*

***OR*** you have had both legs amputated at or above the ankle, or you were born without legs or feet;

***OR*** you are severe mentally impaired; and  
you have severe behavioural problems; and  
you qualify for the higher rate care component;

*In practice, this only applies to people with severe learning difficulties and challenging behaviour. It excludes people whose behavioural problems started after childhood.*

***OR*** You are both deaf and blind.

(From April 2011 claimants with a severe sight impairment will be eligible for the higher rate of mobility DLA)

#### ***Lower rate mobility component***

You will qualify if you **can** walk, but need **guidance** or **supervision** when walking outdoors in unfamiliar places most of the time. This means you may qualify, if for example,

- \* You have learning disabilities.
- \* You are blind or partially sighted (even if you use a guide dog).
- \* You have epilepsy.
- \* You have mental health problems.

Remember that any walking undertaken via familiar routes is disregarded for this test.

## SECTION THREE

### MAKING A CLAIM AND DEALING WITH PROBLEMS

#### How do I make a claim?

You will need to fill in a Disability Living Allowance claim form **DLA1A - Adult** or form **DLA1A - Child** for children under 16. You can get a claim pack by:

- \* *Telephoning the **DWP Benefit Enquiry Line (Tel: 0800 882200)**, or contacting your local Department for Work and Pensions (DWP) office and asking for a Disability Living Allowance claim pack.*
- \* *Asking for a **Disability Living Allowance claim pack** at your local Social Services office, Citizens Advice Bureau, or other advice agency.*
- \* *Claim online at [www.direct.gov.uk/](http://www.direct.gov.uk/) where you can download a claim form and complete it and then forward to the Disability Benefits Centre or complete a form online and forward it electronically.*

*The address for the office dealing with claims for Leicestershire is:*

FREEPOST PLUS  
DLA Benefit Centre  
PO Box 34  
Birmingham  
B99 1AR

It is important to claim as soon as possible as new claims **cannot** be backdated. The date that you first ask any DWP office or the Benefit Enquiry Line for a Disability Living Allowance claim pack is treated as your date of claim, as long as you return the completed claim form within **six weeks**.

It is proposed that in 2008 all successful claims for DLA will be automatically backdated for 2 weeks. This will end the double-dating method outlined above. At the time of publishing there is no date for this to come into practice.

Remember that an award of Disability Living Allowance may entitle you to extra help with other benefits (page 15).

## **Filling in the form**

Please refer to our briefing note **Completing Disability Living Allowance Claim Forms**.

- \* *If the disabled person is unable to act for themselves, it is possible for a friend, relative or carer to apply on their behalf to act as their **appointee**. Benefit will then be paid to you as appointee and you will be responsible for notifying the DWP if circumstances change.*
- \* *If a claim is made under the special rules, for someone who is terminally ill, then the claim can be made by another person without the authority or knowledge of the disabled person. There is no need to complete the whole of the Disability Living Allowance claim form in these cases. The medical evidence to support this claim is provided on form **DS1500**. This completed and sent by your GP or hospital specialist.*

## **Can anyone help me fill the form in?**

The claim forms are quite lengthy, so you may need help to complete them. A friend or relative who knows you well could be very helpful here. Citizens Advice Bureaux or other advice agencies may be able to help to complete the form. Forms can be completed over the phone by phoning the DWP Benefits Enquiry Line on 0800 88 22 00.

## **Whose name should I give at the end of the form?**

The form asks for someone who knows about your disabilities to sign a statement. This can be a friend, relative, or someone who helps care for you. However, we recommend that the statement is completed by your GP or another health care professional if possible.

If you cannot get anyone to complete the statement, return the form to the Disability Benefits Centre in Birmingham anyway.

## **What happens next?**

When a claim for Disability Living Allowance is received by the DWP, a decision may be made using the information provided on the claim form alone. However, if further information is required, the DWP may write to your GP or arrange for an independent doctor to visit you.

- \* *If a doctor visits, tell them exactly what help you need, even if you do not actually receive this help. Make notes beforehand to remind you what to say. Explain very clearly all the difficulties you have. Do not assume that the doctor will know your needs.*
- \* *It usually helps if you have a friend, relative or carer with you when the doctor comes. They can help you to explain things and confirm what care you need. If you have difficulty explaining things in english, ask somebody to be there to interpret for you. You may request that the doctor who visits is able to speak your preferred language, but this may not always be possible.*

## **Getting a decision**

Initial decisions are usually made within six weeks of a claim. If you are successful, the decision will tell you the rate at which you will be paid, the date from which you will be paid, and the length of your award. The DWP are presently encouraging everyone to receive benefit payments through a bank account, as order books are being phased out

**Check that:**

- \* *You have been awarded Disability Living Allowance at the correct rate.*
- \* *You have been awarded Disability Living Allowance from the correct date.*

Disability Living Allowance is normally awarded from the date that you made your claim provided you have already needed help for three months. Otherwise it should be awarded from three months after the date your needs first arose (unless you are terminally ill).

If you do not think you have been given the right rate of Disability Living Allowance or have not been awarded this benefit from the correct date, you can ask for the decision to be looked at again (see below).

**Who is responsible for paying the money?**

Once the regional office in Birmingham has decided that you are entitled to benefit, payment will be made by the national office at Blackpool. If you are also entitled to Income Support, or Pension Credit, Disability Living Allowance can be paid by your local office.

**What if you are refused or are unhappy with a decision?**

If you are refused Disability Living Allowance or are not happy with your decision you can challenge this. There are three ways of challenging a DWP decision. These are:

***Revision***

This is usually the quickest way to get a decision changed. You are simply asking the DWP to look at their decision again.

A request for a revision must be made within one month of the initial decision being sent to you. This period, known as the dispute period, will be increased by 14 days if you ask for written reasons for the decision. If the written reasons for the decision are not supplied within the month, the 14 day extension will begin from the date they are provided.

Further information or evidence should be submitted to the DWP to support your request. It is possible to request a late revision outside of the dispute period in limited circumstances. If you have missed the deadline, then seek expert advice.

***Supersession***

These rules do not prevent you from asking the DWP to look at a decision again at any time. This can be done by asking for a supersession when there is a change in your circumstances. If you do this within one month of it happening, then benefit can be backdated to the date of the change, otherwise no backdating is possible.

### **Appeals**

If the DWP refuse to change a decision, you should consider **appealing** to The Tribunals Service for an independent hearing. Applications should be made on form GL24 within one month of the date of the letter notifying you of the initial decision, revision or supersession, giving full reasons why you disagree with the decision. The GL24 is available from your local DWP office or the Disability Benefits Centre.

Always seek expert advice if you wish to appeal. Appeals are heard by independent panels sitting locally. You will be given a choice of going to the hearing or having this heard without you. It is best to go along so that you can explain your situation. You will always be allowed to have your say. In some circumstances it may be possible to have a representative with you. To find out whether this is possible ask your local Citizens Advice Bureaux, advice centre or call our Advice Line (see page 16) and speak to an experienced advisor who will talk you through the process and explain how best to present your case.

If you are still dissatisfied with the decision after the Appeal Tribunal, in some circumstances you can ask for the decision to be 'set aside' or appeal to the Social Security Commissioners. You can only appeal to the Commissioners on a 'point of law', so it is essential to seek expert advice at this stage.

### **Help with your revision/supersession/appeal**

If you have asked an adviser to assist, you may be asked to complete the following:

- \* *Authorisation for your adviser to receive details of your medical history from your GP or specialist.*
- \* *A diary – to be kept by the disabled person or their carer, showing the times they needed assistance, why and the amount of help that was needed.*

If you have any further difficulties writing down the information you have been asked for, or understanding what details your adviser requires, please let your adviser know and they will be happy to assist you.

## SECTION FOUR

### WHAT HAPPENS IF I GO INTO RESIDENTIAL/NURSING CARE OR HOSPITAL?

#### Residential / Nursing Care

Your Disability Living Allowance is affected if you go into a local authority or private residential or nursing home, or similar types of accommodation, and the local authority is paying towards the cost of your care.

In these situations your Disability Living Allowance care component is withdrawn after four weeks. Any stays in residential/nursing care or hospital in the previous 28 days will be linked together. *Please note that, unlike hospital in-patients you should continue to receive Disability Living Allowance mobility component.*

It is important to notify the DWP if you go into residential/nursing care for more than four weeks, to avoid being overpaid benefit and having to repay this. Let them know when you go home, even if it is for a short period, as Disability Living Allowance can be put back into payment.

Payment of Disability Living Allowance will normally continue when you enter residential/nursing care if one of the following situations applies to you:

- \* *You receive no financial assistance from the Social Services Department.*
- \* *You **do** receive financial assistance from the Social Services Department, but have made a written undertaking to repay their contribution at some later date (i.e., a deferred payment arrangement).*
- \* *You transfer from receiving Social Services financial assistance to meeting the costs yourself (i.e. you are **self-funding** ).*

For more information about this please see our briefing note *Funding Your Own Residential and Nursing Care.*

#### Hospital

If you go into hospital, Disability Living Allowance care **and** mobility components are withdrawn after four weeks (12 weeks if you are aged under 16). However, you are allowed to keep your mobility component if you have a car under the motobility scheme. If you have been in hospital or residential / nursing care in the previous 28 days, then these stays are linked together.

**It is important to notify the DWP if you go into hospital for more than four weeks to avoid being overpaid benefit and having to repay it. Let them know when you go home, even if it is for a *short* period, as Disability Living Allowance can then be put back into payment.**

Most other benefits that you receive will not be affected by a stay in hospital, unless you are getting extra amounts based on your award of DLA (see below).

### **Other types of Care**

Staying in certain other types of accommodation paid for by public bodies can also affect your entitlement to Disability Living Allowance. Residential educational establishments may fall into this category. In these circumstances you should seek advice.

## SECTION FIVE

### OTHER HELP

#### Carer's Allowance

If you qualify for Disability Living Allowance care component at the middle or higher rate, a carer may be able to claim Carer's Allowance for looking after you. The carer must be aged 16 or over, earning less than the current earnings limit, and be providing at least 35 hours care each week. Carers can then also qualify for a **Carer's Premium** for Income Support, (Income-Related) ESA, Housing Benefit or Council Tax Benefit or a **Carer's Additional Amount** for Pension Credit, which may entitle them to extra benefits. However in some circumstances this can affect the disabled person's entitlement to benefits so please see below before Carer's Allowance is claimed.

For further information see our briefing note Benefits for Carers.

#### Income Support, (Income-Related Employment & Support Allowance, Pension Credit, Housing Benefit & Council Tax Benefit

If you get **any** rate of Disability Living Allowance, you may be able to claim or get more Income Support, Housing Benefit or Council Tax Benefit, as you will be eligible for a **Disability Premium**. NB there is no Disability Premium in ESA.

If you get **the middle or higher rate** of Disability Living Allowance care component, you **may** also be entitled to the **Severe Disability Premium (SDP)** within your Income Support, (Income-Related) ESA, Housing Benefit or Council Tax Benefit, which could further increase these benefits. For Pension Credit this is now called the **Severely Disabled Additional Amount (SDAA)**. The SDP/SDAA is paid if you live alone (but do not count children, lodgers, or other people getting middle or higher rate Disability Living Allowance care component) and no-one is actually paid Carer's Allowance for looking after you.

Depending on the circumstances, your carer may have more to gain from claiming Carer's Allowance, or you might be better off claiming the SDP/SDAA instead. So seek expert advice about this.

If you (or any of your dependants) get the **higher rate** of Disability Living Allowance care component, and are aged **under 60**, you may also be entitled to the **Enhanced Disability Premium**. This premium was introduced in April 2001, and is payable in addition to the Disability and Severe Disability premiums.

Child dependants who receive any rate of Disability Living Allowance (or are registered blind) will qualify you for the **Disabled Child Premium** for Housing / Council Tax Benefit. They may also enable you to have **childcare costs** allowed as part of your Housing Benefit claim, up to the age of **16** instead of **15**. *Note from April 2003 onwards **Child Tax Credit** will replace Income Support payments for children (see below).*

Householders who receive **any rate** of Disability Living Allowance care component should **not have** deductions made from Housing Benefit or Council Tax Benefit for non-dependants living in their household.

### **Incapacity Benefit**

If you receive Disability Living Allowance care component at the higher rate, you are exempt from the **personal capability assessment** normally applied to Incapacity Benefit claimants. You will also be entitled to the **long-term rate** of Incapacity Benefit after 28 weeks instead of the usual 12 months.

### **Tax Credits**

#### **Child Tax Credit (CTC):**

*CTC was introduced in April 2003, and can be claimed by people with dependant children. The amount payable is based on your other income and entitlement to different 'elements'.*

Any rate of Disability Living Allowance paid in respect of a dependant child will entitle you to the **disabled child element**.

Payment of the higher rate of Disability Living Allowance care component will also entitle you to the **severely disabled child element**. These elements continue in payment even if Disability Living Allowance is stopped during a stay in hospital

#### **Working Tax Credit (WTC):**

*WTC replaced Working Families Tax Credit in April 2003. It is designed to boost the income of people working full-time (i.e. 16 hours or more per week). The amount payable depends on your income and entitlement to different 'elements'*

For WTC, if you as the worker or your partner receive **any** rate of Disability Living Allowance this will qualify you for the **disability element**.

If either you as the worker or your partner receive the higher rate of Disability Living Allowance care component you will also qualify for the **severe disability element**.

*An award of DLA may entitle the claimant to claim WTC without childcare responsibilities or working 30 hours per week. See **Tax Credits** briefing note*

**Childcare costs** may be allowed up to the age of **16** instead of 15 where the disabled child element is included in your CTC claim (see above).

### **Council Tax discounts and banding reductions**

Even if you do not qualify for Council Tax benefit, you may be entitled to get your council tax reduced through a discount or banding reduction.

The 'Severe Mental Impairment' discount can be claimed by people with conditions such as dementia.

A banding reduction can be claimed by people who have a second kitchen or bathroom or another room adapted for a disabled person's use (for example a downstairs bedroom) or where a property is suitable for the use of a wheelchair indoors.

For more information about discounts and reductions, contact your District Council or the Welfare Rights Advice Line (see below).

### **Blue Badge Scheme**

An award of the higher rate of Disability Living Allowance mobility component will qualify you for a Blue Badge, which helps ease parking restrictions. Contact your local Social Services office for an application form.

### **Road Tax Exemption**

If you receive the higher rate of Disability Living Allowance mobility component you (or someone you choose in your place) can apply for exemption from road tax. You should automatically be sent an exemption form when Disability Living Allowance is awarded.

### **Grants for aids and adaptations**

If you need alterations to your home to help you cope with the effects of a disability, you may be eligible for a grant from your Local Authority. Contact your local Social Services Office for advice. Getting Disability Living Allowance may entitle you to a higher grant.

### **Where can I get more information?**

If you need further advice about any of the information in this briefing note contact your local CAB or advice centre.

If you would like copies of any of other guides contact your local Social Care Offices or go to the councils website.

[http://website/index/social\\_services/general\\_information/ss\\_publications/ss\\_publications\\_welfare.htm](http://website/index/social_services/general_information/ss_publications/ss_publications_welfare.htm)

If you have any suggestions to improve this leaflet, please send your comments on this detachable slip to:

Welfare Rights Office  
Leics. Social Services Dept.  
Bassett Street  
South Wigston  
Leicester  
LE18 4PE



**DISABILITY LIVING ALLOWANCE**

What is it?- How to claim. September 2010

**I would like to make the following comments/suggestions:**