

## Care Component Definitions

### Index

- Introduction
- Common definitions
- Significant portion
- Preparing a cooked main meal
- Attention with bodily functions
- Continual supervision
- Watching over
- Substantial danger
- Overlap between attention and supervision

### Introduction

This chapter covers guidance on interpreting definitions for the care component of Child Disability Payment (CDP).

### Common Definitions

#### Period throughout which

1. The “period throughout which”<sup>1</sup> refers to the period when a person due to their physical or mental disability meets any of any of the following care component criteria:

- they require attention from another person for a significant portion of the day in connection with their bodily functions
- they are aged 16 or older and are unable to prepare a cooked main meal for themselves if they have the ingredients
- they require throughout the day frequent attention in connection with their bodily functions, or continual supervision from another person to avoid substantial danger to themselves or others
- they require prolonged or repeated attention at night<sup>1</sup> from another person in connection with their bodily functions. Or, if another person requires to be awake for a prolonged period of time, or at frequent intervals to watch over them to avoid substantial danger to themselves, or others.

*1 CDP regs, reg. 11(1)*

2. In addition to meeting the care component criteria, the individual must have met and are deemed likely to meet this criteria during the relevant time period. This is known as the backwards and forwards test<sup>1</sup>.

*1 CDP regs, reg. 11(3)*

3. The case manager should both:
- take a broad view by looking at the whole period
  - determine if the individual can fairly be described as satisfying the entitlement criteria.
4. This does not mean that the individual requires care:
- on any particular day and/or night
  - on a specific number of days and/or nights each week
  - more than 50% of the time.
5. Taking the whole period into account
- means considering how the individual meets the entitlement criteria over the whole period
  - involves making an exercise of judgement, taking into account all of the supporting information
  - does not mean just calculating how often the individual requires care to determine entitlement.

**Example: an individual has care needs throughout the period relevant to her application**

Emma is 15 and has Crohn's Disease. It was diagnosed six months ago after experiencing diarrhoea, incontinence, bloated abdomen and blood in her stool. Emma's mother has just completed the application for CDP. Emma has had care needs for more than 13 weeks preceding her application being submitted.

Emma has regular toilet accidents both during the day and the night when her symptoms become more acute.

She wears protective pads at school as she is worried about incontinence during acute episodes. She manages this well on her own.

Her toilet accidents at night happen approximately four times per week. When this happens, her mother:

- helps her with cleaning herself

- changes the bed clothes.

This takes about an hour every time.

Emma also adheres to a special liquid diet from the dietitian during acute episodes. Her mum prepares the liquid diet and also ensures she takes all of her medication. When Emma does not have acute symptoms, she only needs her mother to make sure she takes her medication.

Her acute episodes are irregular and can vary in length. Over the last six months, Emma had acute symptoms:

- twice for about a month
- once for about ten days
- a few bad days in between these episodes.

The remission time when she felt better in between these periods varied from five weeks to five days. The case manager is satisfied that Emma:

- has met the entitlement criteria over the 13 weeks immediately preceding the date of entitlement
- is likely to continue to meet this criteria for 26 weeks from the date of entitlement.

Taking into consideration Emma's care needs during the whole period the case manager awards her the middle rate of the care component.

### **So severely physically or mentally disabled**

6. To qualify for the care component, the individual must be "so severely disabled physically or mentally" that they need attention or supervision from another person.

7. There is also a separate test for an individual who is 16 years old or older and who does not require attention or supervision from another person. The individual can meet the care component criteria if they are unable to prepare a cooked main meal for themselves if they have the ingredients<sup>2</sup>, due to their physical or mental disability. This is not a test of cooking ability. Instead, it looks at whether an individual can plan a complex activity and complete that activity safely.

*1 CDP regs, reg. 11(1)(a),(c),(d)*

*2 CDP regs, reg. 11(1)(b)*

8. Supporting information from healthcare professionals involved in the individual's care or treatment:

- is important and useful
- may not always be readily available.

Case managers usually request one piece of supporting information from a professional. However, the lack of a diagnosis does not prevent an individual from being awarded CDP.

9. Please see the Gathering Supporting Information chapter for more information.

10. Case managers should consider both if:

- the individual has a physical or mental disability
- the impact of that disability means that the individual meets the eligibility criteria for CDP.

11. References to “severely” do not refer to the severity of the individual's condition. They refer to the severity of the consequences of the individual's disability. This means the severity of the needs that result from having that disability.

### **Needs substantially more than would be expected**

12. This section applies only to individuals under age 16<sup>1</sup>.

*1 CDP regs, reg. 11(4)*

13. The individual's need for attention or supervision:

- must be substantially more than would be expected for a person of the same age<sup>1</sup> or
- would normally be associated with a person of a younger age, without a health condition or disability but not with a person of the individual's age.<sup>2</sup>

*1 CDP regs, reg. 11(2)*

*2 CDP regs, reg. 11(2)*

14. To determine whether an individual is in need of more attention or supervision than would be expected for their age please visit NHS Ages and Stages

<https://www.nhs.uk/child-development/interactive-child-development-timeline/>

### Reasonably required

15. The attention or supervision that an individual needs must be reasonably required<sup>1</sup>.

*1 CDP regs, reg. 11(8)*

16. This means considering all the circumstances of an individual case, including:

- supporting information
- the nature of the individual's health condition and how it affects their bodily functions
- how often attention or supervision is required and for how long
- whether there is an aid or appliance that the individual could use to manage a bodily function independently.

17. Reasonably required does not mean medically required. Medical attention like visits from a district nurse, should be considered as part of the individual's wider need for attention.

18. Entitlement to the care component is based on the attention or supervision that the individual reasonably requires. It is not based on the attention or supervision the individual actually receives.

### **Example: an individual receives attention that is not reasonably required**

Nikolai is six years old and was diagnosed with Stage 2A cancer four months ago. He started undergoing chemotherapy shortly after the diagnosis.

Due to his treatment, Nikolai is often sick shortly after eating and generally feels very tired.

His parents:

- have to change Nikolai and clean up whenever he has been sick
- help him with eating and dressing as he is often too exhausted to do this himself.

His parents are also very scared that something might happen to Nikolai at night. They get up three times every night to check on him to prevent him from choking in his sleep in case he vomits. They do this even though Nikolai has never vomited at night.

Nikolai is entitled to the middle rate of the care component as he needs help with his bodily functions during the day. He is not entitled to the highest rate of the care component because:

- his parents checking on him at night is not reasonably required
- he does not need support or attention at night.

### **Aids and Appliances**

19. The need for attention or supervision may be reduced or removed by the use of an aid or appliance.

20. Aids or appliances may be available to reduce the impact of an individual's disability. However, the case manager must decide whether it is both reasonable and practicable for the individual to obtain and use them.

#### **Example: an aid is not practicable for the individual to use**

Tor is 13 years old and has cerebral palsy. She is unable to stand up from a seated position independently. To help her get on and off the toilet independently, her occupational therapist has provided her with a raised toilet frame and seat. Tor's mum has noticed both that:

- Tor's upper body strength has reduced
- she has difficulty pushing herself up from the sitting on the frame and seat.

The case manager decides that it is a reasonable aid to use but that it is not practicable for Tor to use it.

#### **Example: an aid is reasonable and practicable for the individual to use**

Lee is 15 years old and has had a stroke. He has weakness in his left arm and leg. This means he has had great difficulty getting out of bed independently. Lee now has an adjustable bed and has been fitted with a leg splint and an arm splint.

The splints:

- help him to balance better
- strengthen the muscles in the affected area
- improve his mobility.

Lee can now get out of bed independently once his splints are on. His father helps him to put these on.

The case manager decides that

- it is reasonable and practicable for Lee to use this appliance
- Lee does not need help with getting in and out of bed.

21. Case managers should consider:

- the consequences of any suggested aid or appliance
- if it is safe for the individual to use a particular aid or appliance
- asking for advice from a specialist practitioner if it is not clear that an item is reasonably appropriate.

It is not necessary for an occupational therapist or other healthcare professional to recommend an aid or appliance.

22. Case managers may also seek supporting information about the individual's home circumstances from their carer, for example. This is because the layout of the individual's home may not be suitable or practical for some aids.

23. The individual must also have somewhere private to use an aid such as a commode. If there is no suitable private place for the individual to use an aid, then it is unreasonable to suggest they use it.

### **Day and Night**

24. Whether the individual requires attention or supervision by day or by night should be considered in relation to the ordinary domestic routine of the household where they live<sup>1</sup>.

*1 CDP regs, reg. 11(6)(a)*

25. There may be considerable variation between households. Case managers should take a broad view of when the household as a whole closes down for the night.

26. For CDP, this generally considers when the individual's parents or carers go to bed in determining whether needs come within the day or the night criterion. This is rather than when the child or young person goes to bed. The individual's parent or appointee may describe this information on the application form. If there is any doubt about the household routine, case managers should consider asking the parent or appointee for this information.

**Example: the day criterion is satisfied**

Jennifer is 9 years old and lives with Type 1 Diabetes. This leads to incidents of incontinence at night. Jennifer’s parents have established the following bedtime routine to help manage this:

- 8pm: Jennifer’s bedtime
- 10pm: one of the parents takes Jennifer to use the toilet
- 11pm: parent’s bedtime.

The attention provided at 10pm is relevant to the day, rather than the night criterion.

27. There are cases where the individual’s parents or carers alter their bedtime routine to accommodate their child’s needs before they themselves go to bed. This attention is relevant to the night criterion. Case managers might have to clarify with the parents or carers what their bedtime routine was before their child developed their needs.

**Example: the night criterion is satisfied**

Sinem is 10 years old and suffers from Attention Deficit Hyperactivity Disorder (ADHD). This makes it difficult for her to fall asleep. Once Sinem is in bed, she is restless and can be anxious. Her parents check on her regularly to soothe her if needed. Hearing them in the living room and kitchen helps Sinem to calm herself. It normally takes her around three hours to fall into a deep and prolonged sleep. In order to manage Sinem’s needs, her parents have pushed back their regular bedtime. Before Sinem started to have issues falling asleep, they normally went to bed around 10pm. This is because they have to get up at 5am to care for their daughter and get ready for work.

However, they now follow this bedtime routine:

- 9pm: Sinem’s bedtime
- Midnight: Sinem’s parents go to bed, as Sinem will have fallen asleep by then.

The attention provided between 10pm and midnight is relevant to the night, rather than the day criterion.

**Significant Portion**

28. The term “significant portion” means neither trivial nor negligible and is a question of fact.

29. What may amount to a “significant portion of the day” depends largely on an individual’s own circumstances. An hour may be considered reasonable in many cases. Attention required for a period of less than an hour may be sufficient if the attention:

- is provided on a considerable number of short occasions and produces other disruptions to the carers day
- required is very intense. This means things like such as cleaning up after faecal incontinence or administering complex therapies.

### **Preparing a cooked main meal**

30. The purpose of considering if an individual can prepare a cooked main meal<sup>1</sup> is to determine their ability to perform key daily activities. This involves looking at the individual’s physical and mental ability to perform complex functions.

*1 CDP regs, reg. 11(1)*

31. The purpose is not to consider the individual’s ability to either:

- cook
- enjoy a reasonable diet

without attention from another person.

32. Entitlement to the care component on this basis applies only to individuals who are aged 16 years and above.

33. Case managers should consider the individual’s ability to perform activities involved in cooking. This might include actions directly connected with cooking like:

- gripping
- bending
- lifting
- carrying.

34. The case manager may also consider other activities using the same bodily functions that are normally used in cooking, for example:

- eating
- washing

- driving
- shopping
- cleaning
- being aware of danger
- any other physical or mental activity using the same bodily functions as are normally used in cooking.

35. The meal must be freshly prepared from ingredients on a daily basis. It does not involve reheating food by, for example, using a microwave or a ready meal.

36. Factors such as diet, culture and the type of facilities or equipment available are not relevant considerations.

37. Relevant factors include:

- planning a meal
- motivation to prepare and cook a meal
- checking food is cooked
- timing actions
- handling utensils
- turning water, electricity and gas taps on and off
- peeling and chopping vegetables
- using a cooker
- coping with hot pans
- completing all actions in a logical order.

This list is not exhaustive.

38. Case managers should:

- take a broad view of the individual's abilities over a period of time
- consider all of the available supporting information.

## **Safety**

39. Individuals who can physically manage all the actions necessary to prepare a cooked main meal could satisfy the eligibility criteria. This is because they could be at risk of injury whilst cooking. The risk must be of real and tangible danger.

### **Example: an individual cannot prepare a daily cooked meal**

Niall is 16 years old, has epilepsy and experiences frequent and unpredictable seizures. He is physically capable of performing the tasks needed to prepare the cooked main meal. However, there is a risk that he might have a seizure whilst chopping vegetables or standing over a cooker. He cannot prepare a daily cooked meal because the disability means he cannot do so safely. The case manager decides that Niall meets the entitlement criteria.

## **Mental health conditions**

40. Individuals who are unable to start to prepare a meal or to complete it once started, will satisfy the criterion. The lack of motivation to cook or fear of cooking must be the result of mental disability. Examples of this would be depression or anorexia.

## **Attention with bodily functions**

41. Attention with bodily functions means providing personal care, prompting or motivating either in relation to:

- bodily functions
- assistance with communication needs<sup>1</sup>.

*1 CDP regs, reg. 11(6)(b)*

42. Bodily function means the normal action of any organ of the body or of a number of organs acting together<sup>1</sup>. This includes the brain.

*1 CDP regs, reg. 2(2)*

43. Common examples of bodily functions that case managers may wish to consider include:

- breathing
- dressing and undressing
- drinking

- eating
- emptying the bowels or bladder
- hearing
- seeing
- speaking
- sitting
- moving around indoors
- sleeping.

The list is not exhaustive.

44. Case managers should apply their own judgment based on the application and any supporting information available to consider:

- whether the individual has a disability
- what impact the individual's disability has on their bodily functions
- whether the person reasonably requires attention from another person in connection with those bodily functions
- how often the attention is required and how long it takes.

45. Attention should:

- involve service of a close, personal nature carried out in the presence of the individual
- be needed for something that the individual would normally do for themselves
- not be something which can be done by anyone in the household.

**Example: a child requires attention from another person to bathe and dress**

Ciri is 7 and has cystic fibrosis. She can become breathless very easily from minimal activity. She needs attention from another person in relation to her bodily functions because she is unable to do them herself.

Ciri needs help to bathe and dress herself. This is because doing so herself can leave her breathless. When Ciri becomes breathless, it can take between 5 to 10 minutes to recover. Ciri would be unable to bathe or dress herself without this attention because she would have to take multiple breaks to recover from her breathlessness.

46. Attention does not need to involve physical contact. It can involve the spoken word. Where attention is provided by speaking to the individual, it should take place in the physical presence of the individual. This could include encouraging, persuading or reassuring the individual.

47. Activities that normally do not involve attention with a bodily function are:

- cooking
- shopping
- domestic tasks, such as housework.

48. There may be some situations where help with a domestic task is closely associated with a bodily function. It may be considered as attention when it forms part of an episode of attention in connection with that function.

**Example: a domestic task is associated with a bodily function**

Ryan is 7 years old and experiences nocturnal enuresis due to his Type 1 Diabetes. This means bed wetting. His mum has to, at least once a night:

- help him change
- remove his soiled bed clothes
- put them in the washing machine
- put new bedding on his bed.

This attention is closely associated with Ryan's bodily function of maintaining continence. The case manager can consider this attention in determining whether Ryan meets the entitlement criteria for the care component.

49. The following paragraphs guide case managers on the impact some conditions might have on an individual's ability to manage their bodily functions.

**Breathing**

50. An individual may need help with:

- positioning themselves whilst seated or in bed
- connecting oxygen supplies or fitting masks
- physical therapy

because they:

- are at risk of being unable to sit up in bed

- have reduced manual dexterity
- need physical therapy to maintain their airways.

**Example: an individual requires attention her bodily functions**

Jo is 7 years old and has cystic fibrosis which causes problems with her breathing. Her parents have to ensure that she is propped up in bed, as she cannot breathe reasonably well when lying flat. If Jo slides down the bed, she becomes very breathless. Her parents also have to perform physiotherapy to ensure Jo can breathe more easily.

**Washing, bathing and personal hygiene**

51. An individual may need help with:

- washing
- cleaning teeth
- caring for their hair, nails and skin

because they either:

- are physically not able to carrying out these activities
- have a tendency to neglect personal hygiene due to a mental health condition.

**Dressing and undressing**

52. An individual may need help with:

- selecting suitable clothing
- being motivated to dress, undress and change clothing
- fastening clothes and shoes
- putting on clothes in the correct order

because they either:

- are physically not able to carrying out these activities
- have poor motivation due to a mental health condition
- are forgetful.

53. Attention with dressing and undressing may be needed at the start and end of the day.

54. If an individual has a condition that causes them to have episodes of incontinence, they may need to change clothing more frequently.

55. Some individuals may have a neurological or cognitive disability that means they need prompting to either:

- dress appropriately
- put clothing on in the correct order.

### **Eating, drinking and taking nutrition**

56. An individual may need help with:

- cutting up food
- seeing food on a plate
- chewing and swallowing
- conveying food or drink to their mouth
- motivation to eat
- using a tube to take nutrition

because they:

- are physically not able to carrying out these activities
- need help with managing a feeding tube
- have poor motivation due to a mental health condition
- are forgetful
- have a visual disability.

57. Some disabilities can make cutting up food or feeding difficult. Case managers should take the use of special cutlery or other aids into account when assessing the amount of help needed.

58. Use of aids can only be considered if they remove the need for attention. An individual using aids may still need attention.

**Example: aids which remove a child’s need for attention during meals**

Chloe is 10 years old and has Juvenile Idiopathic Arthritis. The joints in her hands and wrists make it difficult for her to use cutlery. This is because she isn’t able to grip them comfortably. Chloe’s mothers invest in some specially adapted cutlery. This cutlery is more comfortable for Chloe to use. This means she is able to eat without needing attention from another person.

**Continence and Use of Toilet**

59. An individual may need help with:

- getting to and from the toilet
- managing clothing whilst there
- getting on and off the toilet
- managing cleanliness
- changing incontinence pads
- managing stoma and colostomy bags

because they:

- are physically not able to carry out these activities
- they do not get enough warning of the need to use the toilet
- are forgetful or not aware of how to manage toilet needs.

60. Case managers should consider a need for attention with:

- changing or washing clothing
- cleaning or emptying commodes.

This attention should be given as part of a single period of attention in connection with the bodily function.

61. Case managers should take into account the use of aids or appliances, like a frame or a hoist when assessing the amount of help needed.

62. Use of aids can only be considered if they remove the need for attention. An individual using aids may still need attention.

## Hearing

63. An individual able to communicate directly with another person by using sign language or by lip reading does not amount to needing attention. This is because the individual can communicate independently.

64. If a person or carer has to either:

- speak loudly
- more slowly
- listen more carefully

in order to communicate with an individual, this is not seen as providing attention.

65. Some individuals need a third party to interpret for them in order to communicate. In these cases the interpreter is providing attention with the bodily functions of hearing and speaking.

66. Attention may be reasonably required if communication is made significantly more effective by having an interpreter. Factors that may be relevant include:

- practicability
- desirability in terms of privacy, bearing in mind that this means another person is present
- other forms of communication available to the individual.

## Seeing

67. An individual who is visually impaired may need:

- help with reading letters
- help with choosing appropriate clothing
- guidance, by touch or by verbal prompting to avoid harm when walking in unfamiliar surroundings.

### **Getting in and out of bed**

68. Individuals may need help in getting in and out of bed because of their disability. Some individuals use of aids/equipment to overcome these difficulties. These should be taken into account in assessing the amount of attention that is reasonably required. An individual may still need attention even when using aids.

#### **Example: an individual requires attention when getting in and out of bed**

Sammy is 5 years old and has Duchenne Muscular Dystrophy. He uses a monkey bar to sit up bed in the morning. His parents need to help Sammy get out of bed and stand up. At night when Sammy goes to bed his parents help him sit down on the bed. He then uses the monkey bar to lie down in bed. Sammy's case manager determines that Sammy needs attention when getting both in and out of the bed.

### **Turning over in bed**

69. There are many conditions which make it difficult for the individual to turn over in bed. This may lead to significant discomfort or skin damage.

#### **Example: an individual requires attention regarding turning over in bed**

Ruaridh is 4 years old, has paraplegia and has a loss of skin sensation when lying in bed.

If he is not regularly turned at night there is a significant risk of both:

- his skin breaking down
- pressure sores forming.

Ruaridh has a special mattress that diminishes this risk. However, he still needs to be turned a few times at night. The case manager determines the Ruaridh needs attention in connection with his bodily functions at night.

### **Sleeping**

70. An individual who experiences discomfort or distress, may have difficulty sleeping without attention from another person.

71. Individuals with certain mental health conditions can experience disturbed sleep and/or distressing dreams. They may have to be comforted, reassured and settled back to sleep.

72. The individual may also have a physical condition that means they require attention from another person to become comfortable in bed. This is because of the way their condition affects or limits them. They may also require help to turn over or to sit up in bed.

### **Moving around indoors**

73. An individual may need help with:

- getting in and out of a chair
- moving from one room to another
- getting up and down stairs

because they have:

- reduced power or movement in their arms or legs
- poor balance
- poor co-ordination.

74. It may be unreasonable to expect the individual to remain in one room for an entire day case managers should consider:

- the frequency of assistance needed
- any aids or appliances that are appropriate to the individual's needs and age.

### **Taking medication**

75. An individual may need assistance from another person to take medication if they experience, for example:

- reduced manual dexterity
- memory difficulties
- periods of confusion.

76. Children will probably always need assistance with taking medication. A young person may also need assistance, although this may depend on their age and level of understanding.

### **Frequent throughout the day**

77. “Frequent” means several times and should be given its ordinary meaning. There is no strict numerical test but it is unlikely that once or twice would amount to “frequent”. The case manager should consider all the facts of the case. The attention must be required throughout the day<sup>1</sup>.

*1 CDP regs, reg. 11(1)(c)*

78. “Throughout” means the period from the beginning of the day to the end of the day.

79. Attention given first thing in the morning, again at lunch time and again in the evening, is not normally regarded as frequently throughout the day.

### **Example: an individual does not require frequent attention throughout the day**

Fiona has reduced grip and manual dexterity due to juvenile idiopathic arthritis. She needs attention to use cutlery at each meal time (breakfast, lunch, and dinner). She does not require any other attention throughout the day. The case manager determines that Fiona does not need frequent attention throughout the day.

### **Continual Supervision**

80. Supervision means the precautionary or anticipatory presence of another person to monitor an individual’s physical, mental or emotional health. It includes monitoring for obstacles or dangerous places or situations<sup>1</sup>.

*1 CDP regs, reg. 11(7)*

81. Supervision is a more passive concept than attention. All of the following criteria must be met in order to meet the eligibility criteria:

- the individual’s disability can cause a substantial danger to the individual or to someone else
- the danger must not be too remote a possibility
- there is a need for supervision to ensure that the individual avoids the substantial danger
- the supervision needed must be continual.

82. The supervision an individual requires must be continual. This does not mean that the supervision must be uninterrupted. The supervision must also be given in the presence of the individual.

83. Case managers should consider:

- whether the individual's health condition is predictable
- if there are any practical steps an individual can take to guard against danger
- the individual's age and nature of their health condition
- the individual's ability to understand the risk of danger.

**Example: an individual requires supervision to avoid substantial danger**

Katie is 12 years old and has epilepsy which is relatively well controlled. Katie only has seizures about once or twice a month. One of her recent seizures occurred while bathing. Her mum now stays in the bathroom whilst Katie has a bath, to make sure Katie is not endangering herself, should a seizure occur. The case manager determines that Katie needs supervision whilst bathing.

## **Watching Over**

84. "Watching over" should be given its ordinary meaning, which is to: pay attention to someone to make sure that nothing bad happens to them.

*Source: [www.collinsdictionary.com](http://www.collinsdictionary.com)*

**Example: a parent is required to watch over a child to avoid substantial danger**

Ashley is 7 years old and has autism. She wakes up between 2am and 5am at least five nights every week. Ashley will go downstairs and into the kitchen, where her parents have observed her playing with knives and trying to turn the oven on. Ashley's dad now sleeps downstairs.

He:

- wakes if Ashley comes downstairs
- is ready to intervene
- often encourages Ashley to leave the kitchen
- prevents Ashley from playing in the kitchen.

85. The person does not need to be actually looking at the individual all the time. It is enough that the person is awake for the purpose of watching over the individual for the necessary period or periods.

### **Frequent intervals at night**

86. The frequent intervals do not need to be spread for the whole of the night<sup>1</sup>, but can be concentrated in one part of the night.

*1 CDP regs, reg. 11(1)(d)*

87. Frequent should be given its ordinary meaning. There is no strict numerical test. However, it is unlikely that once or twice would amount to “frequent”.

### **Prolonged or repeated**

88. Prolonged is not defined in the legislation but is generally understood to be for a period in excess of 20 minutes.

89. Repeated means more than once – it is not a single or occasional occurrence.

### **Substantial Danger**

90. What amounts to substantial danger is a question of fact in each case. ‘Substantial’ should be given its ordinary, everyday meaning. Substantial danger could result from a fall, exposure, or neglect. Case managers should consider the circumstances of each individual in deciding whether the danger is substantial.

#### **Example: an individual is at substantial danger from falling and seizures**

Emira is 12 and has epilepsy. She loses consciousness during frequent seizures and can fall if her parents are not there to prevent it. If she falls and loses consciousness, she is unlikely to be able to do anything to prevent injury or harm to herself. This is more likely to be a ‘substantial danger’ compared to another child who falls but instead experiences mild bruising.

91. People without certain disabilities can generally recognise everyday dangers like those from traffic. Individuals with mental health conditions may:

- be unaware of these dangers

- put themselves at risk of serious injury.

For example, a child with a learning disability may have substantially less road safety awareness than their peers.

92. Children and young people's ability to recognise and safely manage potential dangers generally increases with age. When considering this, the case manager should compare what is reasonably expected of someone of the same age without a disability.

93. Further information can be found here:

- Child Medical Guidance
- [NHS Ages and Stages](#)

Individuals with certain mental conditions may create danger for others without being aware of the consequences of their actions. For example, they may:

- lash out at others potentially causing injury
- turn on a gas appliance without lighting it.

94. Individuals may be a substantial danger to themselves if there is a risk of suicide. Continual supervision may be required to reduce the risk of self-harm although this may not eliminate all the substantial danger.

## **Falls**

95. An individual may be at risk of substantial danger because of a physical condition. For example, certain disabilities may put a person at risk of falling. These falls should be distinguished from accidental falls which could happen to anyone. Further guidance is available in the Children and Adult Medical Guidance [LINK].

96. Where an individual is at risk of falling as a result of a condition or illness. The case manager should consider if the falling:

- is predictable, whether the individual can reasonably be expected to avoid the risk unless supervised
- is unpredictable, whether the falling may result in substantial danger to the individual
- is unpredictable, whether the risk of substantial danger is too remote.

**Example: the risk of substantial danger is too remote**

Leon is 14 and has tonic epilepsy. During seizures, Leon would briefly lose consciousness. If he was standing, this means he would fall with a danger of injuring himself.

Leon was prescribed lamotrigine to help manage his seizures and it has been very successful. Leon has not had a seizure now for 12 months. As long as Leon continues to take his medication, his seizures are manageable. This means that the risk of substantial danger is remote.

**Example: there is a risk of substantial danger**

Kristof is 11 and has muscular dystrophy. Kristof is no longer able to walk on his own and requires the use of aids to stand and walk very short distances. He is not able to climb stairs using the aids and needs help to stand and sit down.

Kristof needs to be supervised because there is a risk that he could fall and injure himself, even with the aids. Kristof has not fallen yet but, without supervision and attention from another person, it is likely that he would. It is also likely that he would injure himself when this happens.

97. It is important to appreciate that the key issue is the likelihood of serious injury, and not the frequency of falls. The individual does not need to have experienced a serious injury in order to be at risk of substantial danger from falls.

**Overlap between attention and supervision**

98. Attention and supervision are two different concepts.

99. Attention involves personal service that is 'active'. Supervision is 'passive'. There may be a need for supervision but it may not lead to the carer having to intervene.

100. If a carer does intervene, the assistance provided becomes attention. It is important for case managers to appreciate that attention and supervision can therefore overlap.

**Example: Attention and supervision overlap**

Liam is 7 years old and is blind. He needs to be supervised because he is at risk of falling or injuring himself. His dad often warns Liam about obstacles such as pieces of furniture or helps to steady him in new environments.

The following can be classed as Liam's father providing attention:

- actively warning him
- supporting him in new environments
- helping him get up after falling.