

## Decision Making Guidance

### Scottish Adult DLA: Eligibility Criteria and Component Definitions

- Care components of Scottish Adult DLA
- Definition of disability conditions

#### Introduction

This chapter covers guidance on interpreting definitions for the care and mobility components of Scottish Adult Disability Living Allowance (Scottish Adult DLA).

**The care component of Scottish Adult DLA is payable at three rates:**

- The lowest rate
- The middle rate
- The highest rate

#### Lowest Rate Care Component

An individual is eligible to receive the lowest rate care component of Scottish Adult DLA if they cannot:

- prepare a cooked main meal for themselves if they have the ingredients; or
- they require attention from another person for a significant portion of the day in connection with their bodily functions<sup>1</sup>

#### Middle Rate Care Component

An individual is eligible to receive the middle rate care component of Scottish Adult DLA if they:

- satisfy one of the daytime or night-time disability conditions (outlined below); *or*
- undergo regular renal dialysis by day or by night (where “regular” means two or more times per week); and they either:
- receive a type of dialysis which makes it necessary for another person to be present or to supervise; *or*
- need another person to be present during dialysis to help with their bodily functions or to supervise in order to avoid danger to them.<sup>2</sup>

#### Highest Rate Care Component

An individual is eligible to receive the highest rate care component of Scottish Adult DLA if they:

- satisfy one of the daytime and one of the night-time disability conditions (outlined below); or
- they are terminally ill.<sup>3</sup>

*1 Scottish Adult DLA regs, reg. 6(4)(c)*

*2 Scottish Adult DLA regs, reg. 6(4)(b)*

*3 Scottish Adult DLA regs, reg 6(4)(a)*

## **Definition of disability conditions**

### **Definition of daytime disability conditions**

An individual meets the daytime conditions if 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<sup>1</sup>

*1 Scottish Adult DLA regs, reg. 6(1)(c)*

### **Definition of nighttime disability conditions**

An individual meets the nighttime conditions if they:

- require prolonged or repeated attention at night from another person in connection with their bodily functions, or
- 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<sup>2</sup>

*2 Scottish Adult DLA regs, reg. 6(1)(d)*



## Care Component – Common Definitions

### “Period throughout which”

The “period throughout which”<sup>1</sup> refers to the period when a person due to their physical or mental disability meets 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 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 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 Scottish Adult DLA Regs, Reg. 6(1)*

1. In addition to meeting the care component criteria, the individual must have met and are deemed likely to meet this criteria during the relevant qualifying period. These are also known as the backwards and forwards tests<sup>1</sup>.

*1 Scottish Adult DLA Regs, Reg 6(2)*

1. The case manager should both:
2. take a broad view by looking at the whole period
  - determine if the individual can fairly be described as satisfying the entitlement criteria.
3. 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.

4. 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 26 and has Crohn's Disease. It was diagnosed at 16 years old after experiencing diarrhoea, incontinence, bloated abdomen and blood in her stool.

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

She wears protective pads at work 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 habitually helps to:

- change the bed clothes.

Emma also adheres to a special liquid diet from the dietitian during acute episodes. Because of fatigue and lethargy during acute episodes Emma's mum prepares the liquid diet and also ensures she takes all of her medication. When Emma does not have acute symptoms, she is able to do this independently..

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.

### **Frequent throughout the day**

5. "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 Scottish Adult DLA regs, reg. 6(1)(c)*

6. "Throughout" means the period from the beginning of the day to the end of the day.

7. 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 idiopathic arthritis. She needs attention at each meal time (breakfast, lunch, and dinner) as she needs help to cut up her food. 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**

8. Supervision means the continual presence of another person for the purpose of reducing real risk of harm to the individual and to others<sup>1</sup>.

*1 Scottish Adult DLA regs, reg. 6(1)(c)*

9. 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.

10. The supervision an individual requires must be continual. This means the supervision needs to be required repeatedly, but is not necessarily constant and uninterrupted. The supervision must involve the presence of another person, but this presence can be precautionary or anticipatory. The level of supervision may be what is reasonable in the circumstances and can be more passive depending on the nature of the danger. “Continual supervision” only applies to the daytime needs test<sup>1</sup>,

*1 Scottish Adult DLA regs, reg. 6(1)(c)(ii)*

11. Case managers should consider:

- whether the individual’s health condition is predictable, or if there are any warning signs e.g. aura before an epileptic seizure
- if there are any practical steps an individual can take to guard against danger
- the nature of the individual’s health condition
- the individual’s ability to understand the risk of danger.

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

Katie is 72 years old and has epilepsy which was relatively well controlled with her medication. Katie has daytime seizures which have recently increased from once or twice per month to about once a week. One of her recent seizures occurred while bathing and her husband had to intervene to stop Katie inhaling water or hurting herself in the shower. Her husband now stays in the bathroom whilst Katie has a shower. Katie’s husband reports this change in circumstances. Katie’s husband also has to monitor the length of the seizure accurately as if it goes on too long, she needs to phone an ambulance. For up to an hour after a seizure Katie can be disorientated, distressed and confused. Her husband or carer helps settle Katie and ensure she is safe and comfortable.

Katie’s husband also reports that she has started to be incontinent at night at least once per week. This means that he has to get up and support her to change her clothing and bedding, and often his own.

Although the case manager has useful information about Katie's needs at night in terms of attention required, the case manager has to look exclusively at Katie's daytime needs to establish whether she meets the test for needing 'continual supervision throughout the day to avoid substantial danger to herself or others'. The case manager determines that Katie needs continual supervision whilst bathing, which happens during the household's daytime (before Katie's husband would ordinarily go to bed). This supervision avoids substantial danger to Katie should she bathe alone. The case manager reviews the information provided and awards the highest rate care component as Katie requires continual supervision during the day, and prolonged or repeated attention from another person at night in connection to Katie's bodily function of sleeping and toileting.

### **Watching Over**

12. "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 carer is required to watch over an individual to avoid substantial danger**

Ashley is 27 years old and has a learning disability. 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 noticed that she has often tried to get out of the house. Ashley's dad now sleeps downstairs.

He:

- wakes if Ashley comes downstairs
- is easily alerted if Ashley comes downstairs
- is ready to intervene
- often encourages Ashley to go back to bed
- prevents Ashley from getting out of the house.

13. 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**

14. 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.



15. 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**

16. Prolonged is not defined in the legislation but is generally understood to be for a period of 20 minutes or more.

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

### **Substantial Danger**

18. 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, for example. 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 65 and has epilepsy. She has tonic-clonic seizures every one to two weeks, losing consciousness, and can fall if her husband is not there to prevent it. Emira and her husband have monitored her seizures over a number of years, but have established that there is no useful warning when a seizure is about to occur. When 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’ than the average fall.

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, an individual with a learning disability may have substantially less road safety awareness than their peers.

19. Further information can be found here:

- Medical Guidance

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.

20. 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**

21. 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 Medical Guidance.

22. 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 64 and has epilepsy which causes tonic seizures. During these seizures, Leon would usually 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 45 and has muscular dystrophy which was diagnosed as a child. 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.

23. 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**

24. Attention and supervision are two different concepts.

25. 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.

26. 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 27 years old, is blind and has dyspraxia. 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.

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

27. 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.

28. 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, due to their physical or mental disability <sup>1</sup>. This is not a test of cooking ability. Instead, it looks at whether an individual can plan a simple meal and complete that activity safely, taking into account their physical or mental condition.

*1 Scottish Adult DLA Regs, Reg. 6(1)*

29. 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 any rate or component of Scottish Adult DLA.

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

31. 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 Scottish Adult DLA.

32. 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.

### **Reasonably required**

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

*1 Scottish Adult DLA Regs, Reg. 6(8)*

34. 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.

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

36. 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 60 years old and was diagnosed with Stage 2A bowel 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 wife:

- has to change Nikolai and clean up whenever he has been sick;
- helps him with eating and dressing as the affects of his treatment means that he is often too fatigued to do this himself.

Nikolai's wife is also very scared that something might happen to Nikolai at night. She gets up three times every night to check on him to prevent him from choking in his sleep in case he vomits. She does 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 wife checking on him at night is not reasonably required;
- he does not need support or attention at night.

**Aids and Appliances**

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

38. 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 practical for the individual to use**

Tor is 53 years old and has cerebral palsy. This results in hypertonic muscle spasms, stiff limbs and difficulty walking. 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 sister, who lives with her, 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 55 years old and has had a stroke. He has residual weakness in all of his limbs following the stroke, however his left arm and leg have been significantly affected. This means he has had great difficulty getting out of bed independently. Lee now has an adjustable bed and has been fitted with splints on his left arm and leg to help strengthen his muscles. Lee needs to wear these for 20 hours per day.

The splints:

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

Lee struggles to get in and out of bed despite the splints and requires help from his carer to do this.

The case manager decides that

- it is reasonable and practicable for Lee to use this appliance
- Lee does need help with getting in and out of bed.

39. 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.

40. 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.

41. 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**

42. 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 Scottish Adult DLA regs, reg. 6(7)(b)*

43. 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.

44. For Scottish Adult DLA, this generally considers when the individual's carer(s) go to bed in determining whether needs come within the day or the night criterion. This is rather than when the individual goes to bed. If there is any doubt about the household routine, case managers should consider asking other members of the household for this information.

### **Example: the day criterion is not satisfied**

Jennifer is 29 years old and has epilepsy which results in nocturnal seizures.

Because of this Jennifer's parents regularly check on her throughout the night.

The case manager decides that because Jennifer only requires attention during the night that the day criterion is not satisfied.

45. There are cases where the individual's carers alter their bedtime routine to accommodate the individual's needs before they themselves go to bed. This attention is relevant to the night criterion. Case managers might have to clarify with the other household members what their bedtime routine was before the individual developed their needs.

### **Example: the night criterion is satisfied**

Sinem is 27 years old and has complex learning difficulties. Once Sinem is in bed, she is restless and can be anxious. Sinem also needs to be roused during the night to go to the toilet, as otherwise she often wets the bed. Her parents therefore check on her during the night, and soothe her if needed.

It normally takes her around an hour to fall into a deep and prolonged sleep. In order to manage Sinem's needs, her parents have pushed back their regular bedtime. When Sinem was younger and went to bed earlier, they normally went to bed around 10pm. This is because they have to get up at 5am to provide personal care for Sinem before they get ready for work.

However, they now follow this bedtime routine:

- 11pm: Sinem's bedtime
- Midnight: Sinem's parents go to bed, as Sinem will usually have fallen asleep by then.

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

### **Significant Portion**

46. The term "significant portion" means neither trivial nor negligible and is a question of fact.

47. 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 required:

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

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

48. The purpose of considering if an individual can prepare a simple, 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 Scottish Adult DLA regs, reg. 6(1)(b)*

49. The purpose is not to consider the individual's ability to either:

- cook
- enjoy a reasonable diet



without attention from another person.

50. 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.

51. 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.

52. 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.

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

54. 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.

55. Case managers should:

- take a broad view of the individual's abilities over a period of time
- consider all of the available supporting information
- consider any aids/appliances that the individual uses or may benefit from using e.g. timers, a perch or stool, easy grip handles.

## **Safety**

56. 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 46 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**

57. 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, OCD or anorexia.

## **Attention with bodily functions**

58. Attention means providing personal care, prompting or motivating in relation to bodily functions.<sup>1</sup>

*1 Scottish Adult DLA regs, reg. 6(7)*

59. 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 Scottish Adult DLA regs, reg. 2*

60. 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.

This list is not exhaustive.

61. 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.

62. 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: an individual requires attention from another person to bathe and dress**

Ciri is 47 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 extremely breathless. When Ciri becomes breathless, it can take a long time 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.

63. 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.

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

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

65. 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**

Bryan is 62 years old and has an overactive bladder due to an enlarged prostate. This means bed wetting. Bryan also has arthritis affecting his hands which makes it difficult for him to manage continence aids, change bed clothes and his own nightwear. His partner 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 Bryan's bodily function of maintaining continence. The case manager can consider this attention in determining whether Bryan meets the entitlement criteria for the care component.

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

**Breathing**

67. An individual may need help with:

- positioning themselves whilst seated or in bed

- connecting oxygen supplies or fitting masks
- physical therapy

because they:

- may not be able to sit up from certain positions unaided
- have reduced manual dexterity
- need physical therapy to maintain their airways.

### **Example: an individual requires attention with their bodily functions**

Ciri is 47 years old and has cystic fibrosis which causes problems with her breathing. Her carers have to ensure that she is propped up in bed, as she has significant breathing problems when lying flat. If Ciri slides down the bed, she becomes too breathless to move back up the bed unaided and requires help from her carers. Her carers also have to perform physiotherapy to ensure Ciri can breathe more easily.

### **Washing, bathing and personal hygiene**

68. An individual may need help with:

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

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**

69. 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:

- are physically not able to carry out these activities
- have poor motivation due to a mental health condition
- are forgetful
- are unable to consider the impact of weather conditions on what clothing would be appropriate.

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

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

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

72. 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.

73. 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.

74. 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 an individual's need for attention during meals**

Chloe is 45 years old and has 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 sister, who provides care for Chloe, invests 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**

75. 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.

76. Case managers should also 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.

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

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

## **Hearing**

79. An individual may need help with:

- learning sign language
- lip reading

- understanding speech and recognising sounds
- having words repeated, re-phrased or explained
- making themselves understood.
- an interpreter in the case of acquired hearing loss

80. This is because the individual cannot communicate effectively in real world environments without such assistance. Case Managers should consider what level of attention is reasonably required to enable the individual to engage in social or leisure activities.

81. An individual who is able to communicate directly with another person through a combination of sign language (or an interpreter), hearing and lip reading does not necessarily amount to needing attention in every case. This is because the individual may or may not be able to communicate independently.

82. Case managers should consider how frequently the support is needed. For example, if an individual attends college they may need support of an interpreter all day for most of the week. However, if they spend most of their time at home, or socialising with others who are comfortable communicating with them, they may not need much support day to day.

**Example: a individual is entitled to the middle rate of the care component because they require attention to communicate effectively**

Claire is 56 and has been assessed as being moderately to severely deaf from birth due to a genetic condition. She uses hearing aids and also has a cognitive disability. Claire was supported by a speech and language therapist to teach her to understand speech and recognise sounds as a child. Claire's family spend a lot of time repeating words and explaining things to her. One on one, face to face in a quiet environment, Claire can communicate without assistance. However, when she is out and about in noisy environments, for example when she meets with friends or family, or supports with childcare of her granddaughter, she often struggles to keep up and needs instructions to be repeated.

The Case Manager determines that Claire is entitled to the middle rate care component. This is because Claire needs attention to assist with communication needs. This attention takes place during multiple episodes across the day, when she communicates with others.

66. If a person or carer has to either:

- speak loudly
- more slowly
- listen more carefully



in order to communicate with an individual, this can sometimes be seen as providing attention. Whether these efforts amount to attention depend upon the nature and complexity of the information being communicated, as well as the individual's ability to use sign language or to lip read independently.

**Example: An individual who does not need extra attention**

Craig is 34 years old and has full hearing in his right ear. However, following an injury to his ear drum, he has mild to moderate hearing loss in his left ear which wouldn't be improved by use of a hearing aid. Craig is able to hear conversations at home and at work and will turn his head to help if someone is talking quietly. Craig doesn't find this impacts him at all at work, but gets the train home twice a week when his partner can't pick him up. The station and train are very noisy with other commuters during the journey. Craig finds it hard to hear his friend talking to him when sat on the left, so will always sit to the right of his friend so he can hear over the noise.

The case manager determines Craig does not meet the criteria for the lowest rate of the care component as his hearing loss does not mean he requires extra attention to communicate independently. Craig does not have needs at this time that meet the threshold for any award.

**Example: An individual who qualified for low rate care**

Martha is 28 and had cytomegalovirus as a child, which left her with mild sensorineural hearing loss. She struggles to hear some low frequency sounds, and wears hearing aids to help hear low frequencies. Martha also has a learning disability. Martha's college have been very supportive throughout her learning and development and make accommodations for her needs, such as:

- a Teacher for the Deaf, who helps with her hearing aids
- lecturers positioning themselves in the classroom Martha can see them well enough to lip read instructions
- good lighting and acoustics so Martha can hear well.

When Martha's hearing aids run out of batteries, she needs help from teaching assistants to change them, as they are key to her learning.

Martha was awarded the middle rate of the care component award 5 years ago, while she was receiving regular speech therapy. This helped her learn to sound words which included the lower frequencies she could not hear well. Martha no longer needs speech therapy, her speech sounds have improved as well as her learning at college.

At a regular review, the case manager determines the level of attention required by Martha would now be considered to be less than frequent, but a significant portion of the day in connection with her communication. The case manager also sets a review period of 3 years, with the understanding that Martha's needs may change or worsen with age or entering the workplace, and the complexity of language she is learning changes. It is important she continues to receive the right level of award appropriate to her needs.

67. Attention may be reasonably required if communication is made significantly more effective by having an interpreter. In most cases this will be a family member, carer or third party. The interpreter is providing attention with the bodily functions of hearing and speaking. Whether the attention is considered frequent is determined by the amount of attention required, not the degree of communication achieved.

## **Seeing**

68. 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.
- places, objects and situations verbally described to them
- verbal instructions given to them
- encouragement, prompting or reassurance from another individual whilst they are physically present with them.

69. This is because the individual is unable to effectively see the world around them, this may be due to one or a combination of the following:

- Reduced clarity of vision (blurred vision)
- Reduced field of vision
- Sensitivity to light
- Reduced depth perception

The list is not exhaustive.

Where attention is provided by speaking to the individual, it should take place in the physical presence of the individual.

70. An individual who is visually impaired may also require help with other bodily functions such as:

- Washing and bathing as they may require help getting in and out of a bath/shower, or help differentiating types of toiletries
- Eating and drinking as they may require help cutting up food and identifying where food is on a plate to avoid spills.
- Dressing as they may require extra support to ensure that they are dressed appropriately or require help using fastenings/zips for example.
- Maintaining personal hygiene
- Moving around indoors to help avoid bumping into objects.
- Communication and social skills as they may require help in the form of additional physical contact and/or verbal instructions to describe and reassure the individual of their social surroundings, for example an individual with a visual impairment may be unable to visually recognise a familiar person or may be unable to pick up on non-verbal cues such as smiling when engaging socially with others.

This list is not exhaustive.

**Example: An individual is entitled to the highest rate of the care component because they require frequent attention during the day and repeated attention during the night in connection with their bodily functions**

Yusuf is 45 years old. He was born very prematurely and received a diagnosis of Cerebral Palsy as a child. This greatly affects Yusuf's use of his arms and left leg and causes movement issues. His muscles are tight especially when trying to move them quickly, and Yusuf finds it difficult to move impacting the range of movement that is possible.

Yusuf has also had a diagnosis of Cerebral Visual Impairment (CVI) which is a condition where an individual cannot see very well or cannot understand what they are seeing due to some parts of their brain not working as they should. As with Cerebral Palsy, this is the result of a baby's brain being damaged and not developing in the usual way.

Yusuf's brother has detailed that he needs to help Yusuf with all areas of his daily needs due to his restricted movement with his left upper and lower limb. His brother will assist with washing and bathing as he, at times, requires support with getting in, sitting in the bath. He also has to assist with dressing Yusuf due to his restricted movement. Yusuf's brother has to cut all food as Yusuf is unable to manage this on his own, and he has issues with swallowing which put him at increased risk of choking.

At night Yusuf sleeping can be a major challenge due to pain and movement issues he experiences. Yusuf's brother gets up at least once during the night to support Yusuf because of the pain he experiences and to ensure he remains in a safe and comfortable position in bed, supporting him to re-position if he is not.

Yusuf's vision problems complicate his condition. Yusuf has a weekly visit from a sensory impairment worker who has helped him learn to mobilise around his home and community, and supports him to attend social events and run errands. The sensory impairment worker has provided a letter confirming that they have been working with Yusuf for several years. Supporting information has also been provided by Yusuf's ophthalmologist who confirms his condition is lifelong and that he has significantly reduced vision.

The practitioner reviews the case with the case manager explaining the impact of Cerebral Palsy on Yusuf, and also the added challenge of Yusuf's vision problems which adds difficulty to his day to day life.

The case manager reviews the information provided in the application by Yusuf's brother and the supporting information and awards the highest rate care component having taken into consideration Yusuf's care needs.

**Example: an individual entitled to the middle rate of the care component because they require frequent attention throughout the day in connection with their bodily functions**

Maria is 49 years old and was diagnosed with nystagmus as a baby. Nystagmus causes repetitive, involuntary eye movements.

Maria's nystagmus has caused reduced vision in both of her eyes and problems with her balance. Maria attends regular ophthalmology reviews and wears glasses to correct a longsighted (hypermetropic) refractive error. Supporting information has been provided by Maria's ophthalmologist to confirm this. Although her glasses slightly improve her vision, there is still notable restriction.

Maria's husband has noted Maria requires assistance with washing and bathing, ensuring safety with the depth of water. Maria requires her medication to be sorted into pill organisers with large print by her carer so she takes the correct doses and medications and is able to take the medication independently once it is in the pill organiser. She does not currently have paid employment, but volunteers at her local community centre where she has adaptive equipment to help her with using the computer and sorting files. Due to Maria's balance difficulties, and reduced vision, she has a support worker who helps her to get to and from her volunteering placement.

The case manager determines Maria meets criteria for an award of middle rate care as she requires frequent attention throughout the day in connection with her bodily functions. She is not entitled to the highest rate of the care component because she does not require supervision or prolonged or repeated attention at night.

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

71. 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 29 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**

72. There are some 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 44 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**

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

74. 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.

75. 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**

76. 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.

77. 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, e.g. walking frame, tripod stick, hand rail, stair lift etc.

## **Taking medication**

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

- reduced manual dexterity

- memory difficulties
- periods of confusion.

### Care Component and the 'Relevant Age'

79. There are specific restrictions around the care component for those who are over the 'relevant age'. The 'relevant age' for Scottish Adult DLA is defined as pensionable age or aged 65 if this is higher than an individual's state pension age (SPA).<sup>1</sup>

*1 Scottish Adult DLA regs, reg. 2*

80. If the individual qualifies for the lowest rate of the care component immediately before they reach the pensionable age, they can continue to receive it for as long as they continue to fulfil the relevant eligibility criteria.

81. Individuals who are over the relevant age cannot **newly** qualify for the lowest rate of the care component of Scottish Adult DLA, even if they meet the relevant eligibility criteria. This includes those who have, at some point in their lives, previously qualified for the lowest rate, but do not receive it immediately before reaching the relevant age.

82. Individuals over the relevant age can newly qualify for the middle and highest rate of the care component. However, those who are in receipt of the middle or highest rate cannot reduce to the lowest rate if their needs improve.