

Scottish Adult Disability Living Allowance DMG - Mobility Component

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Introduction

- 1 This chapter:
 - explains the eligibility criteria for the mobility component of Scottish Adult DLA
 - provides definitions of the main terms used as part of the eligibility criteria for each rate of the mobility component.
- 2 Scottish Adult DLA consists of two components:
 1. care component
 1. mobility component.
- 3 The mobility component of Scottish Adult DLA is payable at two rates:
 - the higher rate
 2. the lower rate.
- 4 There are some restrictions on who can become eligible for the mobility component, depending on their age. Please refer to the ‘Mobility component over the ‘relevant age’” section of this chapter for more information.
- 5 Individuals must also satisfy the backwards and forwards tests to be entitled to Scottish Adult DLA. These tests are to distinguish short-term from long-term needs for assistance. An individual needs to satisfy both tests to be entitled to Scottish Adult DLA.

- 6 An individual applying for Scottish Adult DLA who becomes terminally ill before reaching the 'relevant age' automatically qualifies for the higher rate mobility component of Scottish Adult DLA¹. They do not have to fulfil the criteria listed above. More information in the Special Rules for Terminal Illness chapter, and in the 'Relevant Age' section of this chapter.

1 Scottish Adult DLA regs, reg. 20(2)(a)

Mobility Component and the 'relevant age'

- 7 There are different rules with regards to the mobility component for those who are over the 'relevant age' on Scottish Adult DLA.
- 8 The 'relevant age' refers to:
- pensionable age; or
 - if higher, 65.¹

1 Scottish Adult DLA Regs, Reg. 2

- 9 After an individual has reached the 'relevant age', they cannot change – by increase or decrease – the rate of the mobility component that they receive¹. For example, someone who is in receipt of the higher rate cannot decrease to receive the lower rate, and someone who is in receipt of the lower cannot increase to the higher. Similarly, if the individual is not in receipt of the mobility component upon reaching the relevant age, they cannot newly qualify for either rate.

1 Scottish Adult DLA Regs, Reg. 7(4)(c) and 8(11)(c)

- 10 This means that individuals must continue to meet the eligibility criteria for the rate which they qualified for prior to reaching the relevant age in order to maintain their entitlement.
- 11 The only time where a person can become newly eligible for a rate or component of the mobility component Scottish Adult DLA after reaching the relevant age is where they report that the change occurred before they reached the relevant age.

Example: an individual over the relevant age is in receipt of the higher rate of the mobility component, and no longer meets the criteria

Gregor is 68 years old and has diabetes. He has been in receipt of the higher rate of the mobility component of Scottish Adult DLA since he was 63 years old, when his left leg was amputated below the knee following ulcers in his feet becoming infected. At this time, Gregor was determined to be 'virtually unable to walk', as he was unable to weight bear on his right leg due to foot ulcers, resulting in Gregor "swinging through" on his crutches.

Recently, Gregor has received some treatment for the ulcers on his right foot, resulting in him now being able to weight-bear on his right leg. He has also been fitted for a prosthetic on his left leg. With input from physiotherapists, he is able to use his crutches without "swinging through".

As a result, the case manager determines that he is no longer 'virtually unable to walk' and that he is no longer eligible to receive the mobility component of Scottish Adult DLA.

Example: an individual over the relevant age is in receipt of the lower rate of the mobility component, and meets the criteria for the higher rate

Graine was diagnosed with Parkinson's when she was 62. At the time she was diagnosed, Graine was experiencing difficulty with her balance and coordination, resulting in her being admitted to hospital following a fall three times in a period of 6 months. The case manager awarded the lower rate of the mobility component, as she needed her husband to accompany her when she left the house to supervise her and help her in case she lost balance.

Graine is now 70, and her husband (who is her appointee) reports that for the last 3 months, Graine has been virtually unable to walk. He reports that it takes 3 times as long for her to walk a distance of 50m as it does for him, and that she becomes breathless easily.

The case manager determines that whilst Graine meets the criteria for the higher rate of the mobility component, as the change occurred after she had reached the relevant age, the higher rate cannot be awarded. Graine continues to require supervision when out of the house, so the case manager continues her award of the lower rate.

Example: an individual over the relevant age is not in receipt of either rate of the mobility component, and reports a change of circumstances which occurred before she reached the relevant age

Lesley is nearly 66 and has been experiencing issues with arthritis, affecting her manual dexterity since she was 64 years old. She receives the lower rate of the care component of Scottish Adult DLA.

Lesley's sister, whom she lives with and who acts as Lesley's appointee, reports that over the last 12 months, Lesley has required guidance and supervision when she goes out as she cannot navigate unfamiliar routes, and finds it difficult to perceive hazards such as traffic on the roads. Lesley's sister reports that they have been referred to neurology for assessment, however no diagnosis has yet been made.

The case manager calculates that the reported change occurred when Lesley was aged 64 and 10 months and decides there was good reason for not reporting the change sooner. They therefore make the decision to award the lower rate of the mobility component, as the change occurred before Lesley reached the relevant age.

Lower Rate Mobility Component

12 To be entitled to the lower rate of the mobility component, an individual must be able to walk, however unable to move around outdoors without guidance or supervision from another person most of the time as a result of a physical or mental impairment¹.

1 Scottish Adult DLA regs, reg. 7(2)

13 No account is to be taken of the ability of individuals to follow familiar routes without guidance or supervision¹.

1 Scottish Adult DLA regs, reg. 7(3)

Example: an individual who is entitled to the lower rate of the mobility component who is able to navigate familiar routes

Pietra is 70 and has a learning disability. She is able to move around outdoors but requires guidance and supervision to make sure she does not get lost or endanger herself by wandering into the road, which she has done in the past. Pietra also has difficulty following directions, and cannot follow a map so may get lost if she is on her own.

Pietra regularly spends time at her sister's house two streets away. She worked with her sister to memorise the route. She is now able to visit her without needing guidance or supervision.

Pietra is entitled to the lower rate of the mobility component of Scottish Adult DLA. This is because Pietra still requires guidance and supervision when navigating unfamiliar routes.

Guidance or Supervision

Guidance

14 Guidance can be provided by:

- directing or leading someone by physical means; or
- verbal suggestion or persuasion¹.

1 Scottish Adult DLA regs, reg. 7(5)

15 Guidance might include, but is not limited to:

- helping the individual navigate the route to a destination
- avoiding situations that the individual will experience distress
- prompting or persuading the individual to walk
- providing direction to an individual who is unable to understand any written information, signs or symbols.

Example: an individual who is entitled to the lower rate of the mobility component because he requires guidance to navigate unknown routes

Charlie is 40 years old and has Down's syndrome. He has significant difficulty remembering visual information and following instructions. He is unable to navigate a route unless it is the one route he is familiar with. Charlie needs guidance when outdoors most of the time because he can only walk the few routes he knows.

The case manager determines that Charlie is entitled to the lower rate of the mobility component of Scottish Adult DLA.

Example: an individual is entitled to the lower rate of the mobility component because she requires guidance to move around outdoors safely

Seonaid is 34 years old and had bacterial meningitis as a teenager which has had a lasting impact on both her memory and her ability to walk unaided.

Seonaid needs someone to guide her when moving around outdoors because her memory issues make it difficult for her to remember directions. She also has difficulty concentrating. She can get distracted easily or forget where she was going because of this.

The case manager determines that Seonaid is entitled to the lower rate of the mobility component of Scottish Adult DLA. This is because Seonaid requires guidance to move around outdoors safely.

Example: an individual is not entitled to the lower rate of the mobility component because she is able to move around outdoors without guidance most of the time

Mana is 47 years old and has dyspraxia, dyslexia and attention deficit hyperactivity disorder (ADHD). Dyspraxia is a neurological condition which impacts an individual's ability to plan or carry out motor tasks. Dyslexia is a learning difficulty that involves difficulty reading due to problems identifying speech sounds and learning how they relate to letters and words.

Mana is able to move around outdoors but is often disorganised and forgets to pack items like her phone or house keys. She also sometimes misses her bus to work because she has difficulty keeping track of time. She often needs prompting and reminding about events.

Mana meets up with friends in town but can have difficulty travelling home. She sometimes takes the wrong bus and has to return to her starting point to find the right one. Mana is able to ask for directions and read timetables when this happens. However, she says that she does find it difficult to understand them, and needs to check several times.

The case manager determines that Mana is not entitled to the lower rate of the mobility component of Scottish Adult DLA. This is because Mana can move around outdoors without guidance most of the time.

Supervision

16 Supervision is the precautionary or anticipatory presence of another person to monitor an individual's physical, mental or emotional health.

17 This includes monitoring for obstacles or dangerous places and situations¹.

1 Scottish Adult DLA regs, reg. 7(5)

18 Supervision might include but is not limited to:

- keeping the individual away from danger

- monitoring the individual for signs of an event such as a seizure or loss of consciousness
- speaking to the individual to keep them calm and focussed on walking
- needing to be with the individual to comfort them if they become upset or distressed
- needing to be with the individual because of the risk of them falling.

19 The supervision which the individual needs to be able to move around outdoors does not need to be constant supervision. The criteria is satisfied if the individual requires supervision most of the time. This means more often than not.

20 This section of the guidance is exclusively referring to mobility, and should therefore not be taken to support application of a “most of the time” test in relation to the care criterion.

21 Actual intervention may never be needed in some cases. However, what is needed is the readiness of the person accompanying the individual to intervene.

Example: an individual is entitled to the lower rate of the mobility component because she is unable to move around outdoors without supervision

Isabella is 29 years old and was diagnosed with epilepsy as a child. Despite regular treatment and medication, her condition is largely uncontrolled. This leads to frequent and unpredictable seizures. The seizures always require intervention from another person. Isabella must be accompanied by someone who knows how to assist her if she has a seizure when she is outdoors.

The case manager determines that Isabella is entitled to the lower rate of the mobility component of Scottish Adult DLA. This is because she is unable to move around outdoors without supervision.

Example: an individual is not entitled to the lower rate of the mobility component because he is able to move around outdoors most of the time

Cailean is 28 years old and has asthma. His asthma is manageable with an inhaler most of the time. Cailean can experience exacerbations which make his asthma worse both indoors and outdoors. This is more frequent in winter. He can become breathless and need his inhaler when this happens, however he is able to use his inhaler unaided. Cailean's asthma is not a problem for him most of the time when he is outdoors, however he likes to have someone with him for reassurance in case he has an asthma attack.

The case manager determines that Cailean is not entitled to the lower rate of the mobility component of Scottish Adult DLA as he does not require supervision.

Example: an individual is entitled to the lower rate of the mobility component because he requires supervision to make sure he does not endanger himself

Zeke is 29 years old and has attention deficit hyperactive disorder and a learning disability. His behaviour is very impulsive and he has very limited awareness of danger. Zeke is likely to run towards something that interests him whether it is safe to do so or not. For example, Zeke understands that he needs to use the lights at

pedestrian crossings but he often becomes impatient and does not wait until it is safe to cross.

The case manager determines that Zeke is entitled to the lower rate of the mobility component of Scottish Adult DLA. This is because Zeke needs to be supervised when moving around outdoors so he does not put himself in danger.

Example: an individual is entitled to the lower rate of the mobility component because he requires supervision to keep him calm and able to walk while outdoors

Percy is 31 years old and has autism. He can become very distressed if there is a sudden change in his environment and routine. This could involve needing to take a different route to a familiar place or a change in routine.

An example of this is roadworks requiring Percy to take a different route when walking to work. This can lead to extreme anxiety attacks which affect his ability to plan an alternative route. Percy needs another person with him to keep him calm or redirect his focus on these occasions so he can keep walking.

The case manager determines that Percy is entitled to the lower rate of the mobility component of Scottish Adult DLA as he requires supervision.

The effects of fear or anxiety on moving around outdoors

22 Someone who experiences fear or anxiety such that they cannot move around outdoors without guidance or supervision can be eligible for this rate, but only where the fear or anxiety results from their impairment and is so severe that the individual has no choice in the matter. This is most likely to occur in the mental health context.

Example: an individual is entitled to the lower rate of the mobility component because her fear and anxiety are symptoms of her impairment

Katarina is 35 and has Obsessive Compulsive Disorder (OCD). Katarina's OCD means that she is hyper-aware of coming into contact with germs. This fear worsens outdoors, especially when she is in large crowds of people.

Katarina is able to move around outdoors but cannot do so without guidance and supervision from a friend or family member. This is because they are able to keep her calm when she becomes distressed. This involves helping Katarina navigate crowded places or coaxing and reassuring her if crowds are unavoidable.

The case manager determines that Katarina is entitled to the lower rate of the mobility component of Scottish Adult DLA. This is because the guidance and supervision Katarina requires is because of fear and anxiety which are symptoms of OCD.

Example: an individual is not entitled to the mobility component because they choose not to go outdoors without guidance or supervision

Natalie is 31 years old and has epilepsy. She is able to manage her condition independently.

Natalie had a seizure while outside 2 months ago and injured herself when she fell. She reports feeling nervous about going outside, and stays close to her partner when they leave their home. Natalie's partner also keeps a closer eye on her because of her fall. However, Natalie is still able to move around outdoors without guidance or supervision, and her neurologist has tried to reassure her that there is a very low risk that she would harm herself as a result of a seizure in future.

The case manager determines that Natalie is not entitled to the lower rate of the mobility component of Scottish Adult DLA. This is because Natalie could choose to go out on her own.

The higher rate mobility component

Eligibility criteria

23 An individual applying for Scottish Adult DLA can qualify for the higher rate of the mobility component if taking account of their physical condition as a whole, but ignoring the nature of the place where the individual lives they¹:

- are unable to walk¹
- are virtually unable to walk outdoors²
- would experience a serious deterioration in their health from the exertion required to walk³.

1 Scottish Adult DLA regs, reg. 8(2)(a)(i)

2 Scottish Adult DLA regs, reg. 8(2)(a)(ii)

3 Scottish Adult DLA regs, reg. 8(2)(a)(iii)

24 An individual applying for Scottish Adult DLA who meets any one of the following criteria can qualify for the higher rate of the mobility component if they:

- have no legs or no feet¹
- have a severe visual impairment²
- are both blind and deaf³
- have a severe mental disability with severe behavioural difficulties and qualify for the highest rate of the care component.⁴

1 Scottish Adult DLA regs, reg. 8(2)(b)

2 Scottish Adult DLA regs, reg. 8(2)(c)

3 Scottish Adult DLA regs, reg. 8(2)(d)

4 Scottish Adult DLA regs, reg. 8(2)(e)

25 The above listed concepts are detailed later in this chapter.

26 An individual who does not qualify for the higher rate mobility component will not necessarily qualify for the lower rate. The eligibility criteria for the lower rate mobility component considers whether an individual requires guidance and/or supervision when walking outdoors.

Unable or virtually unable to walk

27 When considering whether an individual is:

- unable to walk
- virtually unable to walk outdoors, or
- would experience a serious deterioration in their health from the exertion required to walk,

case managers should have regard to the individual's physical condition as a whole¹.

1 Scottish Adult DLA regs, reg. 8(2)(a)

28 The individual's disability should have a physical cause.

29 The individual does not need to have a diagnosed physical condition. For example, there may be cases where there is no supporting information from a professional to confirm that an individual's disability has a diagnosed physical condition. In these cases, case managers should still consider the individual's physical condition as a whole, based on the information provided by the individual, as well as any other forms of supporting information.

30 It can sometimes be difficult to determine whether an individual's mobility is affected by a physical disability. This happens especially when it manifests as a refusal to walk. In such circumstances the questions to focus on are:

- does the impact on the individual's disability have a physical cause?
- If so, does the individual's behaviour affect their ability to walk to such an extent that they can be said to be virtually unable to walk?

Example: an individual is virtually unable to walk

Tyler is 29 and has Down's syndrome. He is physically able to walk around outdoors but when doing so, he becomes extremely agitated and distressed and refuses to continue walking after only a few paces.

If he is encouraged to keep walking he may walk a short distance further but will often sit on the ground instead. Once on the ground it is very difficult to encourage him to get back up. Tyler can become very upset and his parents report that he will begin biting and hitting himself.

Down's syndrome is caused by a chromosomal difference which impacts on brain development. It therefore has a physical cause.

The case manager determines that Tyler is virtually unable to walk, as a result of his Down's syndrome, and is therefore entitled to the higher rate of the mobility component.

31 For a definition of "virtually unable to walk" please see the section "Can the individual be described as virtually unable to walk?" below.

32 The individual's disability may also have a non-physical cause. This means that the physical cause does not need to be the only cause, but case managers must still have regard to the individual's physical condition as a whole.

33 An individual's inability to walk or virtual inability to walk might also be due to a severe mental impairment or severe behavioural difficulties. You can find more information on this in the Severe Mental Impairment chapter.

Example: an individual's difficulty with walking has a physical cause

Camil is 35 and has Friedreich's ataxia. This makes walking difficult due to reduced coordination, weak muscle tone and a lack of sensation in Camil's feet. Camil has since been diagnosed with Wernicke Korsakoff syndrome. This is controlled using medication which causes them significant fatigue and drowsiness. As a result, Camil is only able to walk up to 50 metres at a slow pace and frequently trips or falls.

Although Camil's mobility is partly affected by a mental health condition, taking account of his physical condition as a whole, the case manager determines that Camil is virtually unable to walk.

The case manager determines Camil is entitled to the higher rate of the mobility component.

34 The significance of the distance that an individual is able to walk is covered below.

Example: an individual's difficulty walking does not have a physical cause

Ria is 54 and has severe depression. Ria's condition causes fatigue which means she is only able to walk for around ten minutes at a moderate pace before she needs to rest. Ria also has tendonitis in her right ankle that causes mild pain for which she infrequently has to take paracetamol. It does not impact her ability to manage the distance she describes being able to walk.

It is reasonable to conclude that taking account of Ria's physical condition as a whole, she is not virtually unable to walk.

As Ria's disability does not have a physical cause, the case manager determines that she is not entitled to the higher rate of the mobility component.

What is meant by walking?

35 Walking should be given its ordinary meaning: walking means to move by means of an individual's legs and feet. Using crutches or other mobility aids to provide additional support to one or both legs to bear weight uses alternate legs and so is considered walking.

Does the individual use an aid or appliance to walk?

36 When considering the individual's ability to walk, case managers should take into account any aids or appliances that the individual either:

- normally uses
- could reasonably be expected to use.

37 This is because it is appropriate and safe for the individual to use that aid or appliance¹.

1 Scottish Adult DLA regs, reg. 8(3)

38 If an individual has only one biological foot and leg but uses, or could use an artificial limb or aid, they will not be unable or virtually unable to walk.

Example: weight-bearing on a leg with a prosthesis

Stella is 40 years old and had her right leg amputated below the knee as a result of an accident. She wears a prosthetic leg and can normally walk without any discomfort, at a normal speed, with a very slight limp. She can use a walking stick to steady herself, if needed. The case manager makes a determination that Stella is able to walk and is not entitled to the higher rate of the mobility component.

39 The use of aids or appliances is a relevant consideration only for establishing whether an individual is unable or virtually unable to walk¹.

1 Scottish Adult DLA regs, reg. 8(3)

40 Case managers should consider the following to determine if an aid or appliance could reasonably be used:

- pain or discomfort experienced
- physical exertion required
- safety issues raised

when using such an aid.

41 Another factor is the availability of an aid or appliance. This involves considering the types of aid or appliances that NHS Scotland would recommend or make available to individuals. A case manager should ask a medical practitioner to advise if there is in any doubt about the suitability of an aid or appliance.

Example: an individual is able to walk with aids

Cameron is 62 years old and has cerebral palsy. He walks using a rollator which helps him to balance and reduces his fatigue. Cameron is able to walk for at least 20 minutes at a slightly slower pace than his peers. He occasionally trips when navigating kerbs but manages with reasonable ease most of the time. Without the rollator, Cameron would be at risk of falling over.

Considering Cameron's mobility when using his rollator, it is likely he is able to walk in excess of 250 metres given both the:

- length of time he can walk for
- speed he travels at.

His rollator greatly reduces his risk of falling and he does not describe experiencing pain when walking.

The case manager determines that Cameron is not entitled to the higher rate of the mobility component.

Example: an individual's ability to walk is not improved by aids

Olga is 28 and was born without a knee joint or the lower half of her left leg. Until three years ago she wore a prosthetic leg and could walk with minimal discomfort. Three years ago, Olga was provided with a new prosthetic limb. However, despite multiple adjustments, she continues to experience severe discomfort when walking even a short distance. Olga began using crutches to reduce the weight going through her residual limb. A year ago Olga developed tendonitis in both wrists, likely as a result of using crutches. This causes her intense pain as soon as she starts to use them.

The case manager determines that Olga is entitled to the higher rate of the mobility component.

Use of both legs and feet to walk

42 An individual who

- can only walk with crutches **and**
- places both feet on the ground alternately **but**
- does not and cannot place any weight on one foot and leg

should be treated as unable to walk.

43 Using crutches or a similar device in this way is sometimes referred to as "swinging through" which describes the motion involved.

Example: swinging through whilst placing body weight on crutches or an aid

David is 32 years old and has had an amputation of his right leg below the knee. His surgeon has advised him that a prosthetic is not appropriate for medical reasons, as it is likely to cause him considerable pain. He has been provided with two crutches. He swings both legs forward whilst putting all of his weight on the crutches, and is therefore "swinging through." The case manager makes a determination that David is unable to walk and is entitled to the higher rate of the mobility component.

Example: unable to weight-bear on one leg

Lisa is 51 years old and was involved in an accident that broke her left leg in several places. The breaks have not healed well and she still experiences pain. Although she can stand on both feet, she uses crutches when walking and places all of her weight on the crutches, rather than on her left leg. She swings her right leg through as she cannot put any weight on the left leg. The case manager makes a determination that Lisa is unable to walk and is entitled to the higher rate of the mobility component.

What type of walking surfaces are relevant?

- 44 Case managers should consider the individual's ability to walk on the types of surfaces typically found outdoors. This includes roads, pavements, and kerbs.
- 45 No pavement or road is absolutely flat therefore a degree of "incline" and "decline" must be considered.
- 46 The individual's ability to walk indoors is not relevant.
- 47 The nature of the location where the individual resides is irrelevant¹. If the individual lives at the top of a very steep hill, or needs to cross uneven ground, this is not a relevant consideration. The individual's ability to walk up and down hills, uneven terrain or dealing with exceptional hazards would not be relevant considerations.

1 Scottish Adult DLA regs, reg. 8(2)(a)

Does the individual's ability to walk vary or fluctuate?

- 48 It is important to note that an individual's ability to walk can vary depending on how their condition affects them at any given time.
- 49 There is no precise cut-off point at which an individual is or is not virtually unable to walk. Case managers should therefore take a broad approach to considering the individual's ability to walk in making a determination. This could include considering:
- how frequently the individual's condition fluctuates
 - whether the fluctuation is predictable
 - whether the individual's condition goes into remission (is improved or no longer present)
 - the severity of the condition over a period of time.
- 50 The individual's condition or disability does not need to affect their ability to walk every day. Instead, the case manager should consider if the individual's condition means they are either:
- unable to walk
 - virtually unable to walk

throughout the period of time covered by the backwards and forwards test.

Example: an individual with fluctuating conditions does not meet the higher rate mobility criteria

Christie is 36 and has severe and extensive eczema. The backs of her knees are particularly severely affected. She often has dressings on her legs due to broken skin. Sometimes Christie has skin infections behind her knees requiring either antibiotic cream or oral antibiotics. At these times, it is painful for Christie to walk

because it further aggravates her damaged skin. She is only able to walk a short distance before it starts to get uncomfortable.

Christie's supporting information indicates that her mobility is impacted by her eczema for around seven to ten days, up to four times a year. This means at the most, she experiences this impact for 40 days a year.

The case manager determines that Christie is not virtually unable to walk and is not entitled to the higher rate of the mobility component.

Example: an individual with fluctuating needs does not meet the higher rate mobility criteria

Sheema is 50 years old and has Ehlers-Danlos Syndrome. This is a connective tissue disorder causing loose joints which can dislocate easily. Sheema experiences some discomfort and inflammation in her knees and ankles after exertion. She is generally able to walk for around 20 minutes at a similar pace to her peers. After this time, she starts to experience discomfort. This alone does not qualify Sheema for the higher rate mobility component of Scottish Adult DLA.

Sheema generally experiences a significant injury such as either a broken bone or dislocation to her legs at least once per year.

This means she is usually unable to walk at all for a period of between two weeks and to two months, even using aids. She required surgery to repair ankle injuries on two occasions, at age 46 and 49 respectively.

Sheema's mobility is likely impacted for about one month a year considering both the frequency of her injuries combined the time it takes her to recover.

As the period of time where her mobility is impacted is limited, the case manager determines that Sheema is not entitled to the higher rate of the mobility component.

Can the individual be described as virtually unable to walk?

51 Virtually unable to walk means: "unable to walk to any appreciable extent or practically unable to walk" considering the:

- speed the individual is able to walk
- manner of walking
- time taken to walk a particular distance
- distance the individual can walk

without beginning to experience severe discomfort¹.

1 Scottish Adult DLA regs, reg. 8(2)(a)(ii)

52 Each case should be considered on its own facts taking into account the other elements set out below. It may be said that if an individual is able to walk 80 - 100 metres at an average speed, in a reasonable manner, without severe discomfort they are unlikely to meet the test of being virtually unable to walk.

53 It is important to note that the individual's ability to walk before beginning to experience severe discomfort is relevant.

Distance

54 There is no fixed distance an individual should not be able to walk beyond to satisfy the test of being virtually unable to walk.

Severe discomfort

55 It is important to note that severe discomfort is not the same as severe pain. Mild to moderate pain may amount to severe discomfort, depending on its nature. Discomfort can come from, but is not limited to:

- fatigue
- breathlessness
- pain
- tingling and similar sensations
- spasms and similar unintended movements
- dizziness, vertigo and similar sensations.

56 Severe discomfort can begin as soon as the individual starts walking. In these cases, the case manager can determine that the individual meets the test of being virtually unable to walk.

57 Many individuals will begin to experience discomfort at some stage when walking. Case managers should consider at what point, considering time taken and distance, that the individual begins to experience severe discomfort.

58 The individual does not have to stop walking due to the discomfort as soon as it becomes significant. However, the need to stop walking due to discomfort will be an indication that it is significant.

59 Case managers should consider the impact of the individual's condition both when walking and for a time after walking. An individual who

- can walk for five minutes at a reasonable pace
 - but could not repeat this within a reasonable amount of time
- may be said to meet the test of being virtually unable to walk.

Relevance of stops

60 Individuals may describe having to stop at various intervals while walking. If so, case managers should consider the impact this has on the distance the individual can walk without experiencing severe discomfort. It is important to remember that if an individual both:

- needs to stop walking due to severe discomfort
- is unable to continue

their walking ability should only be considered up until the onset of severe discomfort.

61 Individuals may recover sufficiently after a stop to continue walking without severe discomfort. In these cases, any further distance they can walk is relevant to considering their mobility.

62 Factors to take into account to decide if the individual is virtually unable to walk are¹:

- the distance an individual can walk before needing to stop,
- the length of time they need to stop,
- the frequency of their need to stop,
- the distance they can walk between each stop.

1 Scottish Adult DLA regs, reg. 8(2)(a)(ii)

63 The time, speed and manner of walking, discussed below, should be considered.

Example: an individual's need for stops does not entitle them to the higher rate mobility component

Kendal is 61 and has rheumatoid arthritis in his left knee and ankle, causing pain and stiffness. The pain is particularly severe when Kendal's joints are stiff in the morning. When Kendal begins walking after a significant period of rest he experiences severe discomfort. He has to stop after a few minutes of walking at a slow pace to rest and gently stretch his leg as recommended by his physio. After five minutes, Kendal is able to continue walking at a slightly slower pace, in a reasonable manner, for around 20 minutes. After this, he will stop to sit down and rest for at least half an hour.

The case manager determines that Kendal is not entitled to the higher rate of the mobility component.

Example: an individual's severe discomfort and needs for stops mean they are virtually unable to walk

Joshua is 55 and has scoliosis, which is curvature of the spine. This has greatly restricted his lung capacity. He also has severe asthma which is poorly controlled. Joshua finds walking very difficult as he becomes extremely out of breath after only mild exertion. He can walk for a couple of minutes at a slow pace before needing to stop and catch his breath for at least 5 minutes. He often needs to take his inhaler multiple times during each break. It takes Joshua longer to recover each time he needs to stop and his pace becomes slower the longer he walks. Excluding breaks, the most Joshua is ever able to walk is 10 minutes.

Joshua may be able to cover a reasonable distance in 10 minutes at a slow pace. However, he satisfies the test of being virtually unable to walk due to the:

- frequency of his need to rest
- time it takes him to recover
- need for him to take his inhaler
- breathlessness he experiences when walking.

The case manager determines that Joshua is entitled to the higher rate of the mobility component.

Time

- 64 The length of time an individual can walk for without severe discomfort is another factor to consider. It is something about which individuals having their Scottish Adult DLA reviewed may be more likely to be able to provide information. As with distance, there are no fixed parameters on time relating to the virtually unable to walk test. Each case should be considered on its own facts.

Speed

- 65 It is possible to estimate an individual's walking speed if both length of time and distance an individual can walk for are available. The speed an individual can walk at should be considered in relation to the average speed at which the average person can walk.

- 66 As a guide, the average person can walk at a:

- brisk pace - >90 metres per minute
- normal pace - 61-90 metres per minute
- slow pace - 40-60 metres per minute
- very slow pace - <40 metres per minute

Example: an individual is virtually unable to walk due to speed and time

Jon is 52 years old and has cerebral palsy which affects all of his muscles, causes him difficulty with balance and coordination and makes his limbs move unpredictably.

He is able to walk at about half the speed of his peers, and experiences severe discomfort whilst doing so. He struggles to use walking aids due to muscle spasms in his arms. Jon has fallen on many occasions while walking outside due to his lack of balance. After walking for around 15 minutes Jon experiences pain in his ankles and fatigue.

Jon meets the test of being virtually unable to walk due to the gait, manner and speed of his walking, the pain and fatigue he experiences and risk of falling.

The case manager determines that Jon is entitled to the higher rate of the mobility component.

Example: an individual is virtually unable to walk due to severe discomfort

Fatima is 44 years old and has fibromyalgia. It causes significant fatigue. Muscle and joint pains affect most of her body, particularly her legs and back. Fatima describes walking as "very sore". She is able to walk for short distances, around 50m at a time at about half the pace of her friends before the pain and fatigue become too severe for her to continue. After walking this far, Fatima is unable to walk again until she has rested for at least an hour.

Fatima is unable to walk at all after a short distance due to pain and fatigue. The impact walking this distance has on Fatima is also significant as she needs to rest for at least an hour afterwards. This means that Fatima meets the test of being virtually unable to walk.

The case manager determines that Fatima is entitled to the higher rate of the mobility component.

Manner of walking

67 Manner of walking relates to how an individual walks. It includes consideration of walking/gait that may be described as one of more of:

- limping
- shuffling
- tripping and falling.

This list is not exhaustive.

68 Case managers should consider factors such as:

- if the individual experiences uncontrollable movements or tremors
- if walking requires significant physical exertion. This might include breathlessness, dizziness, nausea and exhaustion.

Risk of falls

69 It is relevant to take into account an increased risk of falling when considering manner of walking. Case managers should decide if the risk of falling means the individual is virtually unable to walk.

70 Case managers should consider:

- likelihood of falling
- how predictable the falls are
- if anything can reasonably be done to avoid the risk of falls
- the frequency of falls
- the chances of serious injury arising from a fall.

Example: an individual at risk of serious injury from falls is entitled to the higher rate mobility component

Ross is 62 and has dyspraxia and a visual impairment. Dyspraxia causes challenges with activities requiring coordination and movement. These conditions mean he frequently bumps into things and trips up when walking, especially when outdoors on unfamiliar routes. Ross has fallen to the ground as a result of tripping over things twice in the last six months. He was not seriously injured on either occasion. Although Ross's coordination is affected, he is generally able to put his hands out to catch himself when he falls.

Ross is at an increased risk of falling due to his disability. However his falls only occurred infrequently, meaning the risk was fairly remote. These difficulties alone would not be enough for him to qualify for the higher rate of the mobility component.

More recently, however, Ross has had a serious fall where he fractured his hip and this has healed poorly. His gait has been significantly impacted as a result, and he is at increased risk of falls. Therefore both Ross' risk of significant injury due to his disability is high and his manner of walking mean that he meets the test of being

virtually unable to walk. The case manager determines that Ross is entitled to the higher rate of the mobility component.

Example: an individual is virtually unable to walk due to the risk of injury from falling

Saba is 64 and has Tourette's Syndrome, a neurological condition which causes involuntary vocal and physical tics. Saba experiences particularly severe physical tics numerous times a day involving her legs. These cause involuntary movements in her legs and her muscles become rigid. The tics Saba experiences are unpredictable and cause her to fall to the floor. Saba is unable to prevent herself from falling. She has been injured a number of times due to falling and required hospital treatment as a result on three occasions over the past 2 years, twice having sustained a concussion and once a broken wrist. The case manager determines that Saba is entitled to the higher rate of the mobility component.

Does walking cause exertion leading to danger to life or deterioration in health?

71 An individual is entitled to the higher rate of the mobility component if the exertion required to walk would be likely to lead to either¹:

- danger to the individual's life,
- a serious deterioration in the individual's health, from which there would be no recovery, or from which recovery would take a significant period of time.

1 Scottish Adult DLA regs, reg. 8(2)(a)(iii)

72 Walking must significantly worsen the individual's condition for the impact to amount to causing a serious deterioration in an individual's health.

73 Increased pain, discomfort, fatigue or breathlessness will not meet the definition.

74 Any stress or deterioration in the individual's mental health is not a relevant consideration.

75 Needing significant medical intervention indicates a serious deterioration in the individual's health. Examples are surgery or a prolonged course of treatment not usually required by the individual.

76 Case managers should decide if the period of time is significant. They can take the nature of the recovery into account. For example, constant bed rest for 3 months is likely to have a greater impact on the individual than a longer period when they need crutches to walk.

77 Recovery periods of weeks or months are relevant as opposed to hours or days.

78 The period of recovery can be shorter than would otherwise be needed to meet the test if the individual needs significant medical intervention to recover.

Example: the deterioration of health is not serious enough to meet the higher rate mobility criterion, however client meets higher rate for another reason

Sarah is 29 years old and has spina bifida. Muscle weakness in Sarah's legs affects her ability to keep her legs aligned when walking. This can cause additional pressure on her joints. Sarah wears splints which help with this to an extent. However, she still finds walking tiring and describes having sore legs afterwards. Sarah can only walk very short distances, at a slow pace with an altered gait. The wear and tear caused to Sarah's knees may cause her to develop osteoarthritis in future.

Sarah's circumstances would not amount to a serious deterioration in her health. This is because the potential for damage to her joints is remote. This would not lead to either a danger to life or a serious deterioration in Sarah's health from which there would be no recovery or from which recovery would take a significant period of time.

However, the case manager takes into account Sarah's pain and tiredness and determines she is virtually unable to walk, and so is entitled to the higher rate of the mobility component.

Example: the danger to the individual's health is significant enough to meet the higher rate mobility criterion

Freddie is 60 and has Epidermolysis Bullosa Simplex. This causes the skin on his hands and feet to be fragile and prone to tearing and blisters as a result of mild physical activity. The damage to Freddie's skin means he is at a greatly increased risk of developing infections and he is often prescribed antibiotics. The repeated trauma caused to Freddie's hands and feet causes thick scar tissue to develop. This may restrict the movement of his fingers and toes and require surgical management. Freddie is advised to only walk short distances and to limit doing so outside in order to protect the skin on his feet.

There is short and long term damage that would be caused to Freddie's feet, including the risk of infection, by him walking. This means he satisfies the test of a serious danger to health from which recovery would take a significant period of time.

The case manager determines that Freddie is entitled to the higher rate of the mobility component.

Individuals with no legs or no feet

79 Individuals who do not have legs or feet are entitled to the higher rate of the mobility component regardless of whether they use artificial limbs or prostheses¹.

1 Scottish Adult DLA regs, reg. 8(2)(b) and 8(4)

80 The individual may, for example, have been born with no legs or feet or have had their legs or feet surgically removed or amputated. The individual may also have been involved in an accident that has led to the loss of their legs or feet (either in the accident or as a result of treatment or surgery).

Severe visual Impairment

81 In order to be entitled to the higher rate of the mobility component under this criteria, an individual must:

- Have been certified as severely sight impaired or blind by a consultant ophthalmologist; and
- Have a severe visual impairment¹

1 Scottish Adult DLA regs, reg. 8(2)(c)

82 An individual has a severe visual impairment for the purpose of Scottish Adult DLA if:

- a) they have visual acuity, with corrective lenses if necessary, of less than 3/60 Snellen (or equivalent)¹; **or**
- b) they have
 - visual acuity of 3/60 Snellen (or equivalent) or more, but less than 6/60 Snellen (or equivalent) with corrective lenses if necessary **and**
 - a complete loss of peripheral vision **and**
 - a central visual field of no more than 10° in total²; **or**
- c) they do not fall into group (a) or (b) but they have insufficient vision to enable them to be independently mobile in familiar places outdoors³.

1 Scottish Adult DLA regs, reg. 8(5)(a) and 8(6)(b)

2 Scottish Adult DLA regs, reg. 8(5)(b) and 8(6)(b)

3 Scottish Adult DLA regs, reg. 8(5)(c)

83 For the purposes of determining whether an individual has a severe visual impairment :

- where the person has both eyes:
 - the combined visual acuity should apply
 - the combined visual field should apply
- visual acuity is measured using the Snellen Scale or an equivalent test¹.

1 Scottish Adult DLA regs, reg. 8(6)

84 There may be circumstances that an individual is unable to provide supporting information of the above, such as:

- They have yet to receive a letter confirming their condition from their ophthalmologist,
- They are waiting for appointments or test results,
- They may have misplaced or lost the supporting information.

This list is not exhaustive.

85 If an individual is unable to provide the supporting information the case manager should still consider whether the individual meets the severe visual impairment criteria based on other supporting information provided by the individual. Due to the nature of the criteria for severe visual impairment, we would require that alternative supporting information is medical supporting information, provided by a professional such as an ophthalmologist. [Link to supporting information guidance].

86 The case manager should request a clinical case discussion with a practitioner if they are in any doubt about if an individual meets the severe visual disability criteria [Link to request case discussion guidance].

Example: an individual has visual acuity of less than 3/60 on the Snellen scale (or equivalent)

Gerard is 60 years old and receives the lower rate of the mobility component and the middle rate of the care component of Scottish Adult DLA. Recently, Gerard has had an episode of acute glaucoma and as a result his eyesight has been severely affected.

Following surgery to address the acute glaucoma, Gerard is assessed by an ophthalmologist who finds that Gerard's visual acuity is 1.4 logMAR, even when he is wearing his glasses. The ophthalmologist does not expect that Gerard's eyesight will improve substantially due to his age. As 1.4 logMAR equates to 6/152 on the Snellen scale (converted using [NHS Scotland Snellen-Logmar Calculator](#)) and this is less than 3/60, Gerard's ophthalmologist provides him with a Certificate of Visual Impairment (CVI) confirming that he is severely sight impaired.

Gerard reports to Social Security Scotland that he is now severely sight impaired. The case manager receives the CVI from Gerard's ophthalmologist to confirm this diagnosis, and awards the higher rate of the mobility component in addition to the middle rate of the care component.

Example: the individual's visual acuity is above 6/60 on the Snellen Scale but they have insufficient vision to enable them to be independently mobile in familiar places outdoors

Robin is 46 years old and currently receives the lowest rate of the care component of Scottish Adult DLA. She was recently diagnosed with Retinitis Pigmentosa (RP) after experiencing issues with her eyesight in very bright or dimly-lit conditions. This means that Robin experiences difficulty navigating around outdoors both during the day and at night, even in her local area, and is at risk of walking into obstacles or into the road if she goes out on her own.

Robin therefore needs her partner to accompany her for when she goes to appointments, to the shops or to socialise with friends. As Robin's partner works full-time, this means she has to plan any trips out around their working hours. At home, where the lighting is controlled, ambient and consistent, Robin is able to move around safely as the impact of RP is less profound in ambient lighting.

At her most recent consultation with her ophthalmologist, Robin was tested using the 'Snellen' test, and was found to have visual acuity of 6/38, a complete loss of peripheral vision and a central visual field of less than 10°. Her ophthalmologist was satisfied that due to RP and a restricted visual field, Robin has insufficient vision to enable her to be independently mobile outdoors, even in familiar areas. At Robin's request, her ophthalmologist provides a CVI confirming that she is severely sight impaired.

Robin reports that she has become severely sight impaired, and provides a copy of the CVI as supporting information when reporting the change. The case manager

awards Robin the higher rate of the mobility component after fulfilling the backwards test, as well as maintaining the lowest rate of the care component of Scottish Adult DLA.

Individuals who are deaf and blind

87 An individual can qualify for the higher rate mobility component if they meet all of the following criteria¹:

- they have 100% loss of vision
- they have 80% hearing loss, (where 100% represents complete deafness)
- the combined effect means that the individual is unable to walk outdoors without the help of another person.

1 Scottish Adult DLA regs, reg. 8(7)

88 In considering the effects of hearing loss, case managers should consider if the individual either:

- uses an artificial aid to help them hear
- could reasonably use an aid to help them hear.

89 Whether an aid is reasonable to use will depend on:

- the availability of such an aid from NHS Scotland
- any discomfort the individual may experience from using an aid
- whether the aid can be used only for a short period of time or not.

90 The case manager should consider consulting a practitioner for further advice if there is no supporting information available.

Eligibility for Accessible Vehicles and Equipment Scheme

91 Individuals eligible for the higher rate mobility component can choose to make use of the Accessible Vehicles and Equipment (AVE) Scheme¹. Through the scheme they can lease a vehicle or other equipment, such as a scooter or powered wheelchair. For more information on the scheme, please refer to the Operational Guidance.

1 Scottish Adult DLA regs, reg. 50

Exceptions to entitlement to the mobility component

92 An individual is not entitled to the mobility component of Scottish Adult DLA unless, for most of that period, their physical or mental condition means they are able, from time to time, to benefit from assistance for movement¹. This means individuals who could not benefit from help to move around outside are not entitled to the mobility component.

1 Scottish Adult DLA regs, reg. 9

- 93 The word “benefit” should be given a wide interpretation. It can include, for example, mental stimulation from being outside.
- 94 It would be rare to decide that someone is not eligible solely for this reason. Individuals who are in a coma, or whose condition means that it is unsafe to be moved outdoors would likely not benefit from being outdoors. If the individual has a very severe mental health condition that means they would require a high degree of supervision and intervention to prevent injury to themselves or others would also likely not benefit from being outdoors.
- 95 If in doubt, a case manager should consider whether a case discussion would be helpful in making a determination.

Example: an individual unable to move around outdoors because he requires the constant use of a ventilator

Ken is 68 years old and has heart failure. He has been on the waiting list for a heart transplant since he was 64.

This puts Ken at an extremely high risk of life-threatening infection. It is therefore vital that he remains in as sterile an environment as possible until he receives his transplant.

Ken is not entitled to any rate of the mobility component of Scottish Adult DLA. This is because Ken is unable to benefit from assistance for movement as he needs to remain in the sterile environment.

Severe Mental Impairment and Severe Behavioural Difficulties Test

- 96 This section uses terminology such as ‘severe mental impairment’, ‘arrested development’ or ‘severe impairment of intelligence’. We acknowledge that these terms are outdated and have been replaced by terms that are less stigmatising or medicalising. ‘Severe mental impairment’ is a term in regulations that is widely known and well defined and understood in a legal context. The Decision-Making Guidance therefore uses the same terminology in order to avoid any misinterpretations or divergence from the law.
- 97 This chapter sets out the severe mental impairment and severe behavioural difficulties test. This test should be applied to determine if an individual is entitled to the higher rate of the mobility component. The test is comprised of the following three elements:
1. Does the individual have a severe mental impairment?
 2. Does the individual have severe behavioural difficulties?
 3. Does the individual meet the criteria for the highest rate of the care component?¹

Individuals must meet **all** of the above elements in order to meet the criteria for severe mental impairment/severe behavioural difficulties.

1 Scottish Adult DLA regs, reg. 8(2)(e)

98 Case managers should refer to the Care Component Rates and Criteria chapter to understand if the individual meets the third element of the test for severe mental impairment and severe behavioural difficulties.

99 If the individual does not meet all of the criteria above, they may still be able to qualify for the higher rate of the mobility component. An individual can qualify if they meet any of the following criteria:

- are unable to walk¹
- are virtually unable to walk¹
- the exertion required to walk would constitute a danger to the individual's life, or would be likely to lead to a serious deterioration in the individual's health¹
- have no legs or no feet²
- have a severe visual disability³
- are both blind and deaf⁴.

1 Scottish Adult DLA regs, reg. 8(2)(a)

2 Scottish Adult DLA regs, reg. 8(2)(b)

3 Scottish Adult DLA regs, reg. 8(2)(c)

4 Scottish Adult DLA regs, reg. 8(2)(d)

100 Case managers should refer to the Higher Rate Mobility Component chapter to determine whether the individual meets any of these criteria.

101 Each element of the severe mental impairment and severe behavioural difficulties test will be assessed below in turn.

Element 1: Does the individual have a severe mental impairment?

102 To meet this criterion, the individual must have both¹:

- a severe impairment of intelligence
- a severe impairment of social functioning.

1 Scottish Adult DLA regs, reg. 8(8)

103 This must result from either²:

- a state of arrested development caused by a failure of the individual's brain to grow or develop in the way typically expected
- a deficiency in the functionality of the brain caused by its incomplete physical development.

2 Scottish Adult DLA regs, reg.8(8)

104 Whether an individual has "severe impairment of intelligence and social functioning" should be treated as a single test and all the evidence considered as a whole. This is described in subsection "What is severe impairment of social functioning?" below in more detail.

What is severe mental impairment of intelligence?

105 An IQ of 55 or less is generally accepted as a "severe impairment of intelligence". However, the individual's IQ is likely to be only a minor factor in

assessing whether the individual has a severe impairment of intelligence. An IQ score alone is likely to give a misleading impression, because an IQ test is designed to be as independent of social context as possible. An individual with a reduced IQ will likely have had a referral to a learning disability or other specialist. Case managers must be careful not to refuse an application because an individual has not been referred to a specialist, as there may be reasons for this.

106 To understand whether the individual has a 'severe impairment of intelligence' the case manager should consider:

- supporting information
- advice via a clinical case discussion, if necessary

in addition to the application or review form.

107 The case manager should consider the individual's 'useful intelligence' e.g. their degree of judgment in relation to everyday living. This will include whether the individual:

- has an understanding of the impact of their behaviour
- can understand the risk of danger or hazards
- has no awareness of where they are or of what time it is
- experiences short and long-term memory difficulties.

This list is not exhaustive.

What is severe impairment of social functioning?

108 Social functioning is what a person can do with their intelligence, for example the social skills they use to build relationships, and the ability to relate to and empathise with others.

109 Individuals who have a severe impairment of social functioning, as a result of arrested development, or deficiency in the functionality of the brain due to incomplete physical development of the brain may not be able to do these things because of their disability. They may alternatively only be able to acquire a few basic social skills after being shown how to perform them.

110 It is rare to see impairment of intelligence without an impairment in social functioning. This means there is crossover for considerations for both severe impairment of intelligence and social functioning. This includes an individual's inability to understand danger or the impact of their behaviour.

111 An individual may have a severe impairment of social functioning if they either:

- are unable or have limited ability to speak, such as only being able to communicate by gesturing, using simple signs or making sounds
- are unable to read or write, or have very limited ability to read or write
- have either limited or no understanding of the impact of their behaviour on others
- have either limited or no ability to understand danger or hazards, such as eating dangerous objects or touching hot objects
- are incontinent via bowel or bladder

- cannot engage in social activities or co-operate with others
- behave violently and injure themselves or others.

This list is not exhaustive.

112 If the case manager is unable to reach a determination based on the review form and the available supporting information, they should seek input of a practitioner through the case discussion process.

What is causing the severe impairment of intelligence and social functioning?

113 After they have established that the individual has a severe impairment of intelligence and social functioning, the case manager must determine if these conditions result from either¹:

- a state of arrested development as a result of a failure of the individual's brain to grow or develop in the way normally expected, or
- a deficiency in the functionality of the brain as a result of its incomplete physical development.

1 Scottish Adult DLA regs, reg. 8(8)

114 In order to meet this test, the information provided by the individual or in supporting information does not have to confirm a physical defect in the brain. This means that it is not required for the individual to provide results of a brain scan or any other relevant tests. The fact that an individual has not had a scan does not mean that this test cannot be met. An individual may be awaiting further tests. It may also be the case that further tests would unnecessarily distress the individual.

115 There are also a number of congenital conditions present at birth that impact on the proper development of the brain in the womb and following birth, that may be documented in the individual's supporting information.

116 There may be cases where there is no information from a professional to confirm an individual's incomplete physical development of the brain. Case managers should still consider the information provided by the individual, as well as any other forms supporting information. For more detail on supporting information please see the Gathering Supporting Information chapter. Case managers should use the balance of probabilities to make a determination.

117 Case managers should consult a practitioner within Social Security Scotland through the case discussion process if supporting information is unclear or incomplete.

Arrested development

118 Arrested development¹ is separate from incomplete physical development² of the brain. Therefore, it may apply in cases involving arrested emotional or functional development which has a physical cause.

1 Scottish Adult DLA regs, reg. 8(8)(a)

2 Scottish Adult DLA regs, reg. 8(8)(b)

119 Common conditions where an individual might meet the criteria for arrested development are:

- trauma, neglect, and/or sexual abuse
- when an individual has a diagnosis of an attachment disorder like Reactive Attachment Disorder or Disinhibited Social Engagement Disorder
- global developmental delay
- in some cases, neurodevelopmental conditions, such as Autism Spectrum Condition and/or ADHD
- some severe cases of mental illness.

This list is not exhaustive.

120 Case managers should always consider the individual's circumstances and level of needs holistically and base their decision on whether or not the individual meets all three elements of the severe mental impairment and severe behavioural difficulties test, as set out in this chapter.

121 Whether or not an individual who has one of the conditions listed has arrested development of the brain needs to be considered on a case-by-case basis. For example, just because an individual has experienced trauma doesn't mean their development will be arrested. However, severe cases of abuse/trauma can affect how an individual's brain forms and functions.

Example: an individual's condition is caused by arrested development of the brain

Sarah is 32 years old. Her development has been substantially delayed across several domains and she has received a diagnosis of autism. Sarah is non-verbal and she is unable to understand or comply with instruction. Sarah's only way of communicating is by pointing, or by leading a caregiver to what she wants. When caregivers are unable to correctly interpret Sarah's needs, she will become very distressed. When Sarah is extremely distressed, she will engage in self-injurious behaviours like banging her head against a wall.

Sarah is incontinent by both bladder and bowel, and she wears incontinence products during the day and night. Her gross and fine motor skills are also impacted. For example, Sarah frequently trips or falls when walking and she is unable to do up fastenings like buttons and laces.

Therefore Sarah's autism, combined with her global developmental delay, would indicate that Sarah's development is arrested.

Deficiency in the functionality of the brain due to incomplete physical development of the brain

122 Incomplete physical development of the brain involves a failure of the brain to grow properly and focuses on the fact that the brain is not functioning as expected.

123 Conditions which indicate the brain has not developed as expected include:

- lissencephaly
- microgyria
- holoprosencephaly.

This list is not exhaustive.

124 Case managers should always consider the individual's circumstances and level of needs holistically and base their decision on whether or not the individual meets all three elements of the severe mental impairment and severe behavioural difficulties test, as set out in this chapter.

Example: an individual has a condition caused by deficiency in brain functionality due to incomplete physical development of the brain

Joey is 37 years old. He was born with a condition which means his brain did not develop as expected before his birth. His condition is known as agenesis of the corpus callosum. He has been receiving Scottish Adult DLA since he was a child.

Joey's review form and the supporting information submitted by his brother outline multiple areas of complex needs in relation to his bodily functions.

The case manager recognises that this is a condition which has affected the physical development of Joey's brain. They therefore request a clinical case discussion to explore this further and understand the condition's longer-term impact on Joey's needs.

The practitioner confirms the impact of the condition on Joey's brain development. They explain that the impact is substantial and that Joey's level of needs will most likely be long-term.

Element 2: Does the Individual have Severe Behavioural Difficulties?

125 An individual is taken to have severe behavioural difficulties if they exhibit disruptive behaviour which:

- is extreme¹
- regularly requires another person to intervene in order to prevent or reduce the likelihood of physical injury to the individual or another person²; and
- is so unpredictable that another person is required to be awake and watching over the individual while the individual is awake.³

1 Scottish Adult DLA regs, reg. 8(9)(a)

2 Scottish Adult DLA regs, reg. 8(9)(b)

3 Scottish Adult DLA regs, reg. 8(9)(c)

Behaviour which is "extreme"

126 "Extreme", in relation to disruptive behaviour, means that substantial intervention to respond to or manage challenging behaviour is regularly needed.

127 The extreme disruptive behaviour does not need to be constant, continuous or present all of the time. However, it must be regular. There is no hard and fast rule

on what 'regular' means in this context. Case managers must consider each case individually.

128 The individual's behaviour may be extreme if they can:

- be disruptive
- not consider their safety with dangerous things
- be aggressive
- injure themselves or others
- be hyperactive
- display persistent body movements
- disrupt the household during the night
- require intensive support, for example, an individual who requires continuous intervention from specialist support staff or a caregiver experienced in their needs to maintain their safety outdoors.

This list is not exhaustive.

Example: An individual's behaviour is not extreme

Samantha is 27 years old and has conditions including Attention Deficit Hyperactivity Disorder (ADHD) and Oppositional Defiance Disorder (ODD).

In the supporting information which has been transferred from her previous DLA award, it is reported that Samantha has impulsive behaviours when out with her friends and has been brought home by the police twice in a 6 month period.

The case manager reviews the supporting information received from Samantha's college. The document shows that the college are aware of the conditions and she is supported with a counselling session once a fortnight. There are no special measures in place at college or additional support in classes.

The case manager considers the information as a whole. They recognise that a person with regular police involvement can indicate significant needs however on balance in Samantha's individual case the infrequency of the police involvement and minimal supports in college and the community suggests the severe behavioural difficulties threshold has not been met.

129 Behaviour does not have to be violent to be classed as disruptive. For example, "melt-downs" and sensory overload may all be considered disruptive behaviour.

Behaviour which regularly requires another person to intervene

130 An individual who exhibits severe behavioural difficulties may require intervention if they show:

- aggression
- destructive behaviour
- hyperactivity
- behaviour that is likely to result in injury.

131 The individual's unpredictable and destructive behaviour must require the presence of another person to intervene to prevent risk of injury to the individual or others.

132 In this context, intervention relates to providing either care and support, or treatment of the individual¹.

1 Scottish Adult DLA regs, reg. 8(10)

133 Case managers should consider whether the individual is unable to go outside alone in a way that can be done safely. However, they should not focus only on how the individual is outdoors or in a structured safe environment and must consider their need for and the nature of intervention in all environments.

134 Case managers should consider how often intervention is needed to reach a determination of whether intervention is required in the normal course of the individual's day.

135 'Requires' in this context means 'reasonably requires'. This means that it depends on the individual circumstances of each case. The requirement to intervene must be to prevent or reduce the likelihood of physical injury occurring.

136 Case managers could also consider whether the individual has a positive behaviour support plan. See below for more information. This describes how the individual's behaviour is challenging and the types of intervention or strategies that are used to help the individual.

137 Use of physical intervention and medication to calm an individual who experiences challenging behaviour are generally not a good long-term solution. While some individuals may require physical restraint, this is not a requirement. Case managers should consider more generally what strategies are required to prevent or manage episodes of challenging behaviour.

Behaviour which is so unpredictable that another person is required to be awake and watching over the individual while the individual is awake

138 Examples of behaviour which can be characterised as so unpredictable that another person is required to be awake and watching over the individual include:

- the individual will attempt to leave the house if unattended
- the individual does not have a basic understanding of safety or danger awareness
- the individual might hurt themselves or others
- the individual will lie down or drop in the middle of the road and refuse to walk
- the individual will run out into the road without consideration of their safety
- the individual will engage in impulsive or dangerous behaviours like touching a hot hob or playing with knives
- caregivers use cameras to monitor the individual when they are not in the same room
- there is a need for a specialist evacuation plan in at work, college, residential care, day centres or other regularly attended places in case of emergencies (e.g. fire)

- caregivers will sleep beside the individual, so they are aware if the individual is awake during the night for safety, not for comfort.

139 These behaviours would occur despite:

- attempts from caregivers to highlight dangers
- caregivers making attempts to stop the individual verbally or physically
- locks and alarm systems (used when the family are inside the house)
- high fences

140 The behaviour indicates a lack of understanding and comprehension of the consequences of their actions which places the individual at increased risk.

Element 3: Is the Individual Entitled to the Highest Rate of the Scottish Adult DLA Care Component?

141 The case manager must refer to the Care Component Rates and Criteria chapter in order to determine whether the individual satisfies the criteria for the highest rate of this component.

Examples

Example: an individual does not meet the severe behavioural difficulties test

Jane, who is 35, is capable of spending time alone in her room with the door closed, despite displaying some behavioural difficulties.

The case manager determines that Jane does not meet the severe behavioural difficulties test as from the information available, her behaviour does not appear to be extreme, her carer is not regularly required to intervene in order to prevent or reduce the likelihood of physical injury to Jane or others, and her carer is not required to be present and watching over Jane whenever she is awake.

Example: an individual meets the severe mental impairment and severe behavioural difficulties test

John is 29 years old, has foetal alcohol spectrum disorder (FASD) and autism and is not able to speak. FASD can occur when an individual is exposed to alcohol before birth, and John has encountered impaired learning and development as a result of this. John's diagnoses are confirmed by his medical history, including a paediatrician and psychiatric report.

John lives at home with his family and attends a day centre for adults with complex support needs 5 days per week. The case manager has already determined that he is entitled to the higher rate care component of Scottish Adult DLA. John is never left alone at home as he often has random violent outbursts. He can become violent towards his family, hurts himself and destroy household objects. In general, John has no understanding of the impact of his behaviour.

His parents take actions that are recommended by social workers to prevent harm to anyone or damage to their home. His parents take turns sleeping in John's room to ensure his immediate safety if he wakes at night.

The day centre has provided a report about his behaviour. While at the centre, he has unpredictable violent episodes, can attack anyone nearby, throws chairs and injures himself.

Two members of staff are present at all times to supervise him and take action if necessary. This is due to John's unpredictable and destructive behaviour. He requires the constant presence of another person to watch over him and take action. This action is set out in a report by John's social worker. This meets the severe mental impairment and severe behavioural difficulties test and the case manager makes an award of the higher rate of the mobility component.

Example: an individual has arrested development of the brain and severe impairment of intelligence

Dylan is 39 years old and has:

- a severe learning disability, confirmed by a clinical psychologist
- poor communication skills
- behavioural difficulties that include self-harm
- a tendency to show extreme disruptive behaviour.

His social worker and support worker have supplied supporting information indicating that Dylan:

- is restricted to basic gesturing when communicating his needs
- has no insight into the effect of his challenging behaviour on others
- has difficulty understanding risks and dangers to himself and others
- wakes regularly in the night and is at risk of leaving the house at these times.

The case manager accepts that Dylan:

- requires watching over throughout the day and at night
- has an arrested development of the brain, or a deficiency in the functionality of the brain as a result of its incomplete physical development
- has a severe impairment of intelligence and social functioning.

The case manager awards Dylan the highest rate of the care component and the higher mobility component of Scottish Adult DLA.

Example: an individual has arrested development of the brain and severe impairment of social functioning

Adam is 28 years old. He has severe autism and a learning disability. Adam's ability to communicate is limited to making sounds. He also does not understand speech at times and simple requests made of him.

He expresses his emotions through behaviour. He:

- lashes out when he is upset
- is destructive of items in the home
- can hurt others and himself
- is unpredictable in his mood swings, which can be triggered by minor issues

- does not have an understanding of the impact of his behaviour.

His parents:

- need to supervise Adam constantly and watch over him during the day and at night
- have had to remove all furniture from his bedroom apart from a mattress.

This is to ensure his safety and prevent him from destroying objects or being a danger to himself and others. As his parents get older, it is getting more difficult to manage his behaviour, as they are no longer strong enough to restrain him in these situations.

The case manager has decided that Adam meets the criteria for the higher rate care component. They also decide that Adam has:

- a condition which has resulted in arrested development of the brain
- unpredictable behaviour
- a severe impairment of intelligence and social functioning.

The case manager awards Adam the highest rate of the care component and the higher rate mobility component of Scottish Adult DLA.

Flowchart: Severe Mental Impairment and severe behavioural difficulties test
(see next page)

