

Nottingham City Council Welfare Rights  
Service

**Disability Living Allowance**

**and**

**Attendance Allowance**

*Disability Living Allowance  
and  
Attendance Allowance  
for Service Users with a Dual Diagnosis*

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Community  
Legal Service



## **Introduction**

This guide aims to provide CMHT staff with assistance in dealing with Disability Living Allowance (DLA) claims for clients who have been diagnosed with a mental health problem and who are also alcohol or substance misusers. The same principles used in the guide can also be used in connection with claims for Attendance Allowance. The guide assumes the reader has a basic knowledge of Disability Living Allowance/Attendance Allowance, however if you require more information regarding claiming or challenging decisions on either of these benefits, please contact the consultancy line (number listed at the end of this guide).

The information contained herewith can be used at any stage in a Disability Living Allowance/Attendance Allowance claim, from the initial application through to the revision and appeal stages.

Although the guide and the documents it refers to mainly concern alcohol misuse, the principles can also be used for service users who misuse other substances.

## **The problem**

It can be difficult to make a successful claim for either Disability Living Allowance or Attendance Allowance on the basis of alcohol dependency. This is because the Decision Maker often does not consider any needs that appear linked to drinking. They may not be able to decipher whether



health needs are a result of drinking or if the health needs (such as mental illness) have caused the person to drink. It's a chicken and egg situation – which came first, the health needs or the drinking ?

Some Decision Maker's may (albeit wrongly) take the view that drinking is a voluntary act and that there would be no need for attention or supervision if the claimant stopped drinking.

It is certainly easier to argue your case on the basis that the drinking is caused by a particular health problem such as depression (i.e. the depression was diagnosed first), or that the drinking has actually led to a particular medical condition, for example pancreatitis, dementia,

Korsakov's psychosis, liver damage or gastritis – all of which are closely associated with alcohol misuse.

### **What the rules say**

The regulations state that to qualify for DLA you must show that your needs result from being '*severely disabled physically or mentally.*' In a Commissioner's decision known as **R (A) 2/92**, a Social Security Commissioner decided that this meant the claimant must be suffering from a *medically definable* condition to qualify for DLA. Needs resulting from 'anti-social behaviour not related to mental illness' or results of a 'defective character' cannot be taken into account. The Department for Work and Pensions and appeal tribunals should follow this when considering claims for DLA. You can use this decision in any written applications if it helps your client make their case. For instance you could say:

*'My client does suffer from a medically recognised condition as stated in Commissioner's decision R (A) 2/92. This is why he/ she receives input from the Community Mental Health Team.'*

The fundamental problem in relation to DLA applications is therefore whether or not alcohol misuse should be considered to be a disability in its own right.

### **Other Commissioners' Decisions**

#### **CSDLA/171/98**

The Commissioner in this case decided that any symptoms that are medically regarded as mental or physical disabilities should be assessed regardless of their cause. Neither is it particularly relevant whether the alcohol misuse was within the claimant's control.

#### **CDLA/778/2000**

In this decision the commissioner agrees with the above conclusion, but decides that in certain cases alcoholism is 'capable in itself of being a physical or a mental disability, or both, and that to dismiss it as merely the result of weak will or a defective character is too summary.' The commissioner goes on to say however that medical evidence is of 'crucial importance.' You will therefore need evidence from a medically qualified

person to support the claim that the client's alcohol misuse is a medical condition.

Note: If you wish to use Commissioners' Decisions to back up a case, you should send a photocopy of any you use. Copies can be obtained from the following places:

[www.hywels.clara.co.uk](http://www.hywels.clara.co.uk)

[www.dwp.gov.uk](http://www.dwp.gov.uk)

[www.osspsc.gov.uk](http://www.osspsc.gov.uk)

### **The Disability Handbook**

The Handbook is designed specifically to give guidance to Decision Makers at the Department for Work and Pensions with regard to claims for Disability Living Allowance and Attendance Allowance. It gives information on the causes and effects of a number of different medical conditions including mental illness and alcohol abuse and can be viewed at: [www.dwp.gov.uk/medical/mhand.pdf](http://www.dwp.gov.uk/medical/mhand.pdf). However, the handbook is only for guidance and decision makers are not bound by it.

The handbook states that: actual misuse of alcohol; dependency; withdrawal; repeated drunkenness and self neglect would not lead to the types of need relevant to qualifying for Disability Living Allowance. However the handbook does agree that excessive consumption over a long period can lead to a number of physical and psychological complications, and that 'the effects of these conditions may give rise to a need for attention or supervision which will be the same as those arising from the disabling effects of similar conditions not caused by alcohol abuse.'

This again reinforces the idea that clients will be more likely to be successful with their claims if they suffer from other physical or mental conditions which may be related to alcohol misuse.

### **Checklist**

At any stage in the DLA claim process you should consider the following points:

- If the client's main disabling symptoms are the direct result of alcoholism or the actual use of alcohol then you will need evidence

to explain that the alcoholism is itself a clearly diagnosable disability. This is likely to be the most problematic issue when making your case to the Decision Maker. This is mainly due to the way alcohol abuse is viewed by the medical profession in this country (see 'Theories on alcohol misuse, below).

- So, in backing up your client's case you could use academic or diagnostic sources that favour the disease model, and relate them to your client. Sources such as:
  - ⇒ The World Health Organisation classification of Alcoholism at: [www.mentalhealth.com/icd/p22-sb01.html](http://www.mentalhealth.com/icd/p22-sb01.html). (Alcoholism was formally recognised by the WHO as a disease in 1955).
- It may also be helpful to quote the dictionary definition of alcoholism.
  - ⇒ The Concise Oxford Dictionary quotes alcoholism as meaning: '*the diseased condition resulting from continual heavy drinking of alcoholic liquor.*' (emphasis added)
  - ⇒ With disease being defined as: '*unhealthy condition of body, mind or some part thereof, illness, sickness.*'
- You could make it clear that drinking is not merely a voluntary act, nor entirely within the individual's control.
- If the client suffers from health problems that lead to/or are exacerbated by drinking, try to explain how their needs stem from these rather than just directly from alcohol misuse.
- Can you show that the client's health problems will not disappear as soon as drinking ceases ?
- Did some or all of the health problems begin before the alcohol misuse ?
- If alcohol misuse has led to health problems then make it clear that these are recognised conditions/disabilities themselves and so should be assessed in their own right, regardless of their original cause.

- Send in any other evidence which may be helpful to your client's case with the claim, for example GP letters, evidence from carers or hospital specialists and caselaw from Commissioners' decisions.

## **Theories on alcohol misuse**

There are various schools of thought regarding the nature of alcohol misuse as to whether it is, in itself a disease. One of the major problems in applying for DLA for someone with alcohol addiction in this country is that alcohol misuse is not generally recognised as a medical condition in it's own right. In the United States, the disease model is favoured to explain alcohol misuse, however most UK treatment agencies favour social learning models. Another model in use is the genetic model.<sup>1</sup>

### **Social learning models**

This asserts that alcohol misuse, in the same way as other human behaviour, can be (and is) learned. This indicates that the alcohol abuser has a level of control and choice over whether or not they drink.

### **Disease models**

The disease model upholds the view that alcohol misuse is an illness in which the drinker loses control once they start drinking; those who suffer from the disease differ qualitatively from those who do not. One version of the disease model suggests the 'alcoholic' has a pre-existing physical or chemical abnormality, while another actually asserts that 'alcoholism' is a mental illness.

### **Genetic model**

This asserts that a tendency to drink excessively is the result of genetic predisposition, based on the extent to which drinking runs in families. One study found 50% of fathers and 20% of mothers of problem drinkers have histories of similar alcohol misuse. However most experts in the alcohol field believe genetics is a contributive rather than causative factor.

## **Other sources of information**

Other sources of information on the causes and effects of alcohol misuse combined with mental health problems can be found on the internet.

[www.alcoholconcern.org.uk](http://www.alcoholconcern.org.uk) - includes useful factsheets and links. They also produce a quarterly information and research bulletin which has some useful articles.

[www.sane.org.uk/About\\_Mental\\_Illness/Alcohol&Drugs.htm](http://www.sane.org.uk/About_Mental_Illness/Alcohol&Drugs.htm). Excellent mental health website including specific information about substance misuse.

[www.who.int/substance\\_abuse/](http://www.who.int/substance_abuse/) World Health Organisation website on substance abuse.

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<sup>1</sup> 'Alcoholism or Problem Drinking ?',  
[www.alcoholconcern.org.uk/Information/Factsheets/Factsheet1.htm](http://www.alcoholconcern.org.uk/Information/Factsheets/Factsheet1.htm)