Understanding DLA for Young Children: What the Case Law Really Says

Applying for Disability Living Allowance (DLA) for your child can feel like trying to translate your everyday reality into legal language. This is especially true for parents of young children — those under 5 — who often hear phrases like "but all children need supervision" or "they'll grow out of it."

The truth is that DLA isn't about diagnosis — it's about needs. If your child requires more care, supervision, or support than another child of the same age, they may qualify.

DLA has two main parts:

- Care component: for children who need extra help with daily living, supervision, or managing behaviour.
- Mobility component: for children who have difficulty walking or who need supervision outdoors because of risk or danger.

Many parents don't realise that even children under 5 can qualify — and that the case law (legal decisions from previous DLA tribunals) supports this. Below is a plain-English explanation of key cases that help you understand how decision-makers are meant to apply the law.

When you're applying for **Disability Living Allowance (DLA)** for a young child — especially one under 5 — it can feel like the system doesn't understand your world. You're asked to compare your child to a "typical child their age," even when your child's needs go far beyond what's typical.

This guide breaks down some key **case law decisions** that explain how tribunals and decision-makers should interpret DLA rules. These cases show that your child's extra needs, supervision, and support **don't have to be constant**, but they must be **regular, necessary, and reasonable** for their safety and wellbeing.

1. Danger to Themselves or Others

Case: **R(DLA) 1/08**
If a medical condition causes a **non-remote danger** (meaning it could realistically happen, not just theoretically) to themselves or others, and they need **continual supervision** to avoid that danger, they may qualify for support.

This is important for parents of children who can suddenly bolt, lash out, or have unpredictable reactions. The law recognises that these dangers are **real**, even if they don't occur every day.

Case: **R(A) 5/81**
When considering danger, decision-makers must look at the **danger from others as well as to others**. For instance, a child who is vulnerable and unaware of danger could be harmed by others due to their lack of awareness or understanding.

Case: **R(A) 6/81**
Even if your child behaves well in a **structured or familiar environment**, the decision-maker must think about what would happen **without that structure**. Would your child still be likely to display disruptive or unsafe behaviour that needs supervision or intervention? If so, their support needs are still valid.

2. Physical and Walking Difficulties

Case: **CSDLA 202/2007**
A child can be considered **virtually unable to walk** if their walking problems stem from a **physical condition** as a whole — not just one isolated issue.

Case: **CDLA/14594/1996**
Tribunals must look at **how long** a child can walk before needing to stop, and what **type of discomfort** or distress causes them to stop. For children with autism, sensory overload, or fatigue, this can be key.

Case: **CDLA/1832/2002** and **R(DLA) 4/98**
"Severe discomfort" includes **pain, fatigue, anxiety, and unease of all kinds**. It's not just physical pain. If walking or being outdoors causes meltdowns, fear, or exhaustion, that's valid discomfort.

Case: **CDLA/3896/2006**
Decision-makers must consider both the **discomfort during walking** and the **after-effects** once walking stops (e.g. sensory overwhelm, shutdown, or pain later in the day).

Case: **CDLA/19/1994**
They must establish how far a child can walk **without severe discomfort**, not how far they *can* walk if pushed or persuaded.

Case: **CA/14336/1996**
They must also consider the **reasonableness of the measures** your child takes to cope, such as stimming, avoiding eye contact, or clinging to a caregiver. These coping strategies shouldn't be held against them.

3. Watching and Supervision When Awake

Case: **R(DLA) 7/02**
"Watching when awake" doesn't only mean being outdoors. It includes keeping a **lookout indoors**, being **observant**, and **ready to intervene** when needed.

Case: **CDLA/2054/1998**
The purpose of supervision is to **prevent** injury or damage — not to wait until it happens. You don't have to prove your child has already hurt themselves or others; preventing that danger is enough.

Case: **CDLA/943/2011**
Supervision doesn't have to be constant, but it must be **regularly required**. If a child's behaviour or unpredictability means someone needs to be there to intervene often, that qualifies.

Case: **CDLA/17611/1996**
This applies even when the behaviour is **so unpredictable** that supervision is essential both indoors and outdoors. A child who could bolt into danger or suddenly lash out still meets the criteria.

4. Severe Mental Impairment and Useful Intelligence

Case: **CDLA/325/2001**
If a child has **no sense of danger**, this can be evidence of **severe impairment of intelligence**. The test does not compare them to a "normal" child of the same age — it looks at their **individual functioning and awareness**.

This is especially relevant for autistic or developmentally delayed children who require constant prompting, support, or supervision for safety.

5. Severe Discomfort and Unpredictability

Case: **12(6)(c)**
Tribunals look at the **unpredictability of disruptive behaviour** that requires another person to be present and watching when awake. The key is whether intervention is **regularly needed**, not continuous.

Case: **CDLA/2054/1998** and **CDLA/943/2011**
Reinforce that supervision aims to **prevent danger**, and the need for it must be **frequent and reasonable**, even if not constant.

6. Behavioural and Emotional Factors

Case: **R(M) 3/86**
Behavioural problems that arise from a **physical or neurological source** can count as a physical condition. For example, if your child's behaviour is linked to sensory overload, anxiety, or fatigue, that's a genuine medical basis.

Case: **R(A) 3/92**
Supervision doesn't have to **eliminate** danger completely — it's enough that it **reduces** risk. Parents can't control every outcome, and DLA recognises that.

Case: **CDLA/1044/2013**
Violence doesn't have to be involved. If a child's behaviour regularly **disturbs or interrupts** what would otherwise happen, that's still significant supervision.

7. How Tribunals Should Look at Your Child's Needs

Tribunals must consider:

- **Likelihood of danger** or unpredictable behaviour
- **Need for continual supervision** to prevent harm
- **Emotional distress and discomfort**, not just physical pain
- **Reasonableness** of what's expected of a parent compared to caring for a non-disabled child of the same age
- The impact of **masking** (when children hide distress or needs) and **unmasking** (when they release it at home or later in the day)

8. A Note on Medical Evidence

The law is clear: decisions must be based on **evidence specific to your child**, not on general assumptions about autism, ADHD, or developmental delay. Each case should be judged on the **individual child's needs, risks, and support requirements**.

Final Thoughts

When applying for DLA for a child under 5, remember:

- You're not being judged for being a good or bad parent — the focus is on **what your child needs** compared to others their age.
- The law recognises that **supervision, unpredictability, and discomfort** come in many forms — not just physical disability.
- You don't have to prove constant crisis — only that the need for supervision, intervention, or help is **regular, necessary, and reasonable**.

Keep detailed examples, write about what a typical day looks like, and don't be afraid to mention what happens when your child doesn't have the structure or support they rely on.