

Disability Assistance (Miscellaneous Amendments) (Scotland) Regulations 2023

Business Regulatory Impact Assessment (BRIA) Summary

September 2023

Business Regulatory Impact Assessment (BRIA) Summary

Title of Proposal

Disability Assistance (Miscellaneous Amendments) (Scotland) Regulations 2023

Purpose and Intended effect

Background

The Social Security (Scotland) Act 2018 (the 2018 Act) sets out the broad framework for the delivery of social security in Scotland. Child Disability Payment was the first of three types of disability assistance to be introduced by the Scottish Government and launched nationally on 22 November 2021. It is available to children and young people from the ages of 3 months to 18 years old who have care and/or mobility needs as a result of a disability.

Adult Disability Payment was also introduced by the Scottish Government on 29 August 2022. This form of assistance provides disabled individuals with support for extra costs incurred as a result of disability. Both Child Disability Payment and Adult Disability Payment have been co-designed with stakeholders and disabled people to ensure that the values of dignity, fairness and respect are embedded throughout.

In addition to supporting new applications, Scottish Ministers have made provision for the transfer of responsibility for delivering disability benefits for individuals who receive Personal Independence Payment and Disability Living Allowance for Children from the Department for Work and Pensions to Social Security Scotland. They are also responsible for changing the disability benefits for these individuals from Personal Independence to Adult Disability Payment and Disability Living Allowance for Children to Child Disability Payment. We refer to this process as “case transfer”.

The Disability Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023 make amendments to the following sets of principal Regulations for Child Disability Payment and Adult Disability Payment: the Disability Assistance for Children and Young People (Scotland) Regulations 2021; the Disability Assistance for Working Age People (Scotland) Regulations 2022; and the Disability Assistance for Working Age People (Transitional Provisions and Miscellaneous Amendment) (Scotland) Regulations 2022. These changes to the principal regulations are intended to smooth the transition for individuals moving between these benefits. In addition they include some minor technical amendments. They also make a small adjustment to the Social Security (Invalid Care Allowance) Regulations 1976 to clarify eligibility criteria for Carer’s Allowance.

These changes build on the 2018 Act's framework of a system that is underpinned by dignity, respect and a human rights based approach to delivering social security for the people of Scotland. This impact assessment is one of a package to accompany the regulations. The others are: Equality Impact Assessment (EQIA),

Child Rights and Wellbeing Impact Assessment (CRWIA), Island Community Impact Assessment (ICIA) and the Fairer Scotland Duty Assessment.

Policy Objectives

Amending the principal regulations ensures that Child Disability Payment and Adult Disability Payment entitlement is aligned to our policy intent, which is to help improve outcomes for disabled people, by providing financial assistance to help meet the additional costs associated with care and mobility needs as a result of being disabled. To achieve this we are doing the following:

Changes to the Child Disability Payment and Adult Disability Payment Regulations which relate to the Child Disability Payment to Adult Disability Payment journey

The Scottish Government recognises the vital importance of supporting young people who are transitioning between different forms of social security assistance. We have listened to disabled people and people with long-term health conditions with experience of the social security system who told us that transitioning between child and adult services can be challenging.

We have already taken a number of actions to ensure that this process is less burdensome and more seamless than under the UK system, such as extending eligibility to 18 for those individuals in receipt of Child Disability Payment before the age of 16 to ensure continuity for young people at what we have been told is a difficult transition period for them. We have also provided individuals with the choice to make an application in many different ways including by post, online, by phone and with face-to-face support from our Local Delivery team.

We consider that the amendments we are making to the principal regulations for Child Disability Payment and Adult Disability Payment will have a positive impact on individuals with protected characteristics as they intend to smooth the journey of those individuals transitioning from Child Disability Payment to Adult Disability Payment.

One way we are doing this is by amending the Adult Disability Payment Regulations to enable the payment cycles of people moving from Child Disability Payment to Adult Disability Payment to be maintained. This will ensure that young people who are transitioning from Child Disability Payment to Adult Disability Payment will receive their Adult Disability Payment on the same date that their Child Disability Payment was previously paid.

The move to align the payment cycles of people moving from Child Disability Payment to Adult Disability Payment will offer advantages for smooth processing. It will avoid the need for Child Disability Payment to end with a smaller payment covering part of a payment cycle, and therefore offers an administrative advantage.

At the moment, this group of young people are entitled to Adult Disability Payment from the date that a determination of entitlement for Adult Disability Payment is made, meaning that they receive their Adult Disability Payment later than those who were not in receipt of Child Disability Payment before becoming entitled to Adult Disability Payment. We are altering the start date of entitlement for Adult Disability Payment so that it begins on the day after the individual's next Child Disability Payment payment cycle ends, following the Adult Disability Payment determination. Consequently, we are making a small amendment to the Child Disability Payment and Adult Disability Payment Regulations. These amendments are to bring entitlement to Child Disability Payment to an end on the day of their next payment of Child Disability Payment, after a determination of entitlement to Adult Disability Payment has been made, and for entitlement to Adult Disability Payment to begin the day after that Child Disability Payment payment. Terminally ill clients moving from Child Disability Payment to Adult Disability Payment will similarly have their weekly in advance payment cycles maintained.

This change to preserve payment dates will benefit disabled young people moving from Child Disability Payment to Adult Disability Payment as it will provide them with financial continuity, reduce the risk of gaps in payment or overpayments and ease their transition from one form of assistance to another.

There are a small and finite number of non-terminally ill clients who also receive their payments weekly in advance as Social Security Scotland have honoured their payment cycle when their award was transferred from the Department for Work and Pensions. These clients will move from a weekly in advance to a four weekly in arrears payment cycle without any break in entitlement, to align with all other ADP applicants.

Importantly, this change does not negatively impact on the overall amount a person will receive.

There is provision in the Child Disability Payment Regulations to extend entitlement to Child Disability Payment to age 19 for those transferring from Disability Living Allowance to Child Disability Payment and those who have made a cross border move to Scotland from elsewhere in the United Kingdom. This was included to provide case transfer individuals, approaching 18 at the time of transfer, sufficient time to make their Adult Disability Payment application before their Child Disability Payment comes to an end. We are now at a place in the case transfer process where all young people over age 16 have now transferred to Child Disability Payment and are receiving the appropriate communications about making an application for Adult Disability Payment. This means it is now appropriate to narrow this provision. As such, we are amending this provision to apply only to those who turn 18 on or before 31st December 2023. This will ensure that this policy has the desired impact which is to protect those young people transitioning from Child Disability Payment to Adult Disability Payment as they approach 18. It also means that going forwards, regardless of whether an individual was originally in receipt of Disability Living Allowance or not, the same rules, regarding entitlement to Child Disability Payment over the age of 18, apply.

Other Amendments to the Child Disability Payment, Adult Disability Payment and Adult Disability Payment Transitional Provisions Regulations

These amendments also include a set of minor technical amendments to the Child Disability Payment, Adult Disability Payment and Adult Disability Payment transitional provisions Regulations. As such, we do not consider that they will have a significant impact on groups of people or communities but we have noted any potential impacts that have arisen as part of this impact assessment.

We are creating additional provisions within the Child Disability Payment and Adult Disability Payment Regulations to make explicit that the care/daily living component of Adult Disability Payment/Child Disability Payment is restricted to individuals for whom the United Kingdom is the correct state for paying these components. We are aware that the residence criteria is more likely to impact individuals who regularly move between Scotland and the rest of the UK but there is insufficient data available to determine the level of this potential impact. We will continue to engage with relevant stakeholders and key organisations to monitor the impacts of this policy. These amendments were shared with SCoSS for scrutiny in February 2023.

The Child Disability Payment and Adult Disability Payment Regulations are also being amended to make provision to state that, where a Determination Without Application is made on an individual's entitlement to Adult Disability Payment when Scottish Ministers become aware that the individual has died, their entitlement will end on the day the person dies. This has always been the policy intention but this additional clarification ensures this is put beyond doubt. We are also clarifying Regulation 34(b) of the Child Disability Payment Regulations by inserting the word 'Payment' after 'Child Disability' as this is currently missing.

The Adult Disability Payment and Adult Disability Payment transitional provisions Regulations are being amended to clarify who changes are reported to before the transfer determination. Further amendments to the Adult Disability Payment transitional provisions Regulations clarify when and how changes that occur after the point of transfer should affect a person's award.

These are technical amendments and we do not foresee any significant impact on groups or communities other than to clarify these provisions in terms of the Regulations.

Amendment to the Social Security (Invalid Care Allowance) Regulations 1976

We are making amendments to the Social Security (Invalid Care Allowance) Regulations 1976 to reflect the current legal position for carers to be able to receive Carer's Allowance when abroad and caring for someone who is in receipt of Child Disability Payment or Adult Disability Payment. We consider that this will have a positive impact for disabled people given that it will ensure that carers abroad who

are caring for a disabled person in receipt of Child Disability Payment or Adult Disability Payment receive the assistance they are entitled to.

We are amending the list at Regulation 9(2)(b) of the 1976 Regulations to include the care component of Child Disability Payment at the middle or highest rate and the daily living component of Adult Disability Payment at the standard or enhanced rate.

This will ensure carers providing care to someone in receipt of Child Disability Payment or Adult Disability Payment are treated consistently with those providing care to someone in receipt of Attendance Allowance, Disability Living Allowance or Personal Independence Payment.

Rationale for Government Intervention

The assessment of the Disability Assistance (Miscellaneous Amendments) (Scotland) Regulations in relation to Business and Regulatory impact was undertaken using the five principles of Better Regulation, as follows:

Proportionate: The Scottish Government will look to identify and minimise any indirect impacts, for example administrative burdens, on local government, private businesses or third sector organisations as a result of the introduction of these amendments.

Scottish recipients of UK benefits Disability Living Allowance for Children and Personal Independence Payment have already significantly reduced in caseload as Child Disability Payment and Adult Disability Payment are delivered by the Scottish Government and cases are being successfully transferred to Social Security Scotland. Therefore, these amendments, as they pertain to clarifying existing principles, will have a positive impact in the longer term in reducing the administrative burdens on the agencies previously involved in the delivery of the legacy benefits by DWP as case transfer is delivered.

In the short term, there may be minor additional work for public agencies and some third sector organisations as the further improvement in the Child Disability Payment to Adult Disability Payment journey is made which may require staff to incorporate knowledge of these changes.

Consistent: These amendments build on the Social Security (Scotland) Act 2018 framework of a new system that is underpinned by dignity, fairness and respect.

These amendments aim to align payment cycles for people moving from Child Disability Payment to Adult Disability Payment further smoothing the transition between the two payments. This will provide a consistent approach for individuals, and services who will support them, to make applications for disability assistance and navigate Scotland's social security system.

Accountable: All determinations made relating to an application for disability assistance will be provided to individuals in a communication method that meets their needs. All information used, and rationale for the decision, will be included

within this communication to ensure that individuals are informed of how the decision relating to their application was made.

The Social Security Charter sets out, in plain and clear English, what people are entitled to expect from the Scottish social security system, including how they should be treated and how their application will be processed. Complaints regarding Social Security Scotland can be directed to the Scottish Public Services Ombudsman.

Social Security Scotland ensures that people understand their right to have their determination re-determined by Social Security Scotland and to request an appeal to the First Tier Tribunal if they are unsatisfied with the outcome of the re-determination. This includes their right to appeal directly to the First Tier Tribunal if Social Security Scotland is unable to complete the re-determination process before 56 days have elapsed.

Transparent: We have a communications strategy for each form of disability assistance, the related case transfer process, Child Disability Payment and for communicating to young people receiving Child Disability Payment about applying for Adult Disability Payment. This aims to ensure that individuals and their families or carers, the third sector, local government, education and health sectors and advice providers are aware of the benefit, know how to apply and understand the eligibility criteria, and understand the journey from Child Disability Payment to Adult Disability Payment.

Where a determination is made that an individual is not entitled to assistance, Social Security Scotland will provide a reason why, as set out in the Social Security (Scotland) Act 2018, to ensure that determinations are understood and that our processes are as transparent as possible. We will continue to publish and update guidance on Child Disability Payment and Adult Disability Payment in a way that takes account of differing communication needs, so that entitlement is clearly understandable.

Social Security Scotland will update the existing bank of Child Disability Payment stakeholder resources and content in accessible formats that will be proactively supplied to relevant stakeholder organisations through the National Stakeholder Engagement team, for organisations to distribute to people in local communities. The languages we proactively translate materials into were selected through stakeholder consultation. These are: British Sign Language, Farsi, Mandarin, Cantonese, Urdu, Gaelic, Polish, Arabic, braille and easy read formats.

Social Security Scotland will continue to produce communication materials in other languages on request. Social Security Scotland communications will continue to work with community radio and foreign language press to provide messaging on Child Disability Payment and Adult Disability Payment to communities. In some circumstances printed marketing materials may not be the right way to engage with communities and where this is the case we will provide an engagement approach through work carried out by the National Stakeholder Engagement and Local Delivery functions.

Targeted only where needed: The amendment narrowing the cohort of people who can receive Child Disability Payment to age 19 (regardless of whether they submitted an application for Adult Disability Payment before reaching age 18) is for the very purpose of ensuring this provision remains targeted. This was included to provide cross border and case transfer individuals, approaching 18 at the time of transfer, sufficient time to make their Adult Disability Payment application before their Child Disability Payment comes to an end thus avoiding a break in their receipt of assistance. We are now at a place in the case transfer process where all young people over age 16 have now transferred to Child Disability Payment and are receiving the appropriate communications about making an application for Adult Disability Payment.

It is not expected that the introduction of these amendments will cause any significant additional requests for information and support from existing advice services. However, should there be any unintended impact on these services, it is anticipated that by introducing a system that has been designed in partnership with advice agencies, key stakeholders and individuals with experience of the current system, Social Security Scotland will be equipped to support individuals. This should lessen the impact on advice services in their provision of complex welfare rights casework support for individuals.

Consultation

Specific questions about key principles of social security in Scotland were asked as part of the [Scottish Government's Consultation on Social Security \(2016\)](#) and further detailed questions about disability benefits for children and young people were asked in the [Scottish Government's Consultation on Disability Assistance in Scotland \(2019\)](#). Scottish Government officials also gathered evidence from a range of sources to identify options to support children and young people through the disability benefits system.

In July 2016 the Scottish Government launched a public consultation to support the development of a framework that would become the Social Security (Scotland) Bill. This received more than 200 responses to questions relating to disability benefits with an even split between organisational and individual responses.

There were 521 formal written responses submitted, of which 241 were from organisations and 280 from individual respondents. Of the 241 organisational responses, 81 were received from stakeholder groups relating to children/young people, equalities and human rights, disability and long term conditions, and carers. The independent analysis of the responses along with the Scottish Government response were published on 22 May 2017¹.

The Scottish Government has set up Social Security Experience Panels with over 2,400 people across Scotland registered as panel members when the Panels opened in 2017. The Panels involve people with lived experience of the benefits that have been introduced in Scotland.

¹ [Analysis of written responses to the consultation on social security in Scotland - gov.scot \(www.gov.scot\)](http://www.gov.scot)

Two surveys regarding the case transfer process were sent out to Experience Panel members in January and February 2019. 404 and 559 responses were received respectively. A series of individual and group interviews were also conducted. Results from both surveys and the interviews were published in 2019.² These surveys confirmed that of most importance to panel members was that they continue to receive the correct payment at the correct time. The changes we are making in relation to smoothing the journey for individuals moving from Child Disability Payment to Adult Disability Payment mean that the payment cycles for these individuals will be maintained and they will receive their Adult Disability Payment on the same date their Child Disability Payment was previously paid.

The Consultation on Disability Assistance built on the work on the Experience Panels and was published on 5 March 2019. In line with the principles of dignity, fairness and respect, the Scottish Government sought the views of the people of Scotland on the three proposed disability assistance benefits. The consultation closed on 28 May 2019, having received 262 replies, of which 74 were from stakeholder organisations and 188 were from individuals. The consultation helped to inform the development of the principal regulations for Child Disability Payment and Adult Disability Payment, taking into account the views of people with a lived experience of social security.

The Scottish Government has also undertaken ongoing consultation with stakeholders through our independent Disability and Carers Benefits Expert Advisory Group (DACBEAG). DACBEAG is chaired by Dr Jim McCormick and comprises individuals with significant practical experience of the UK social security system, from a range of professional backgrounds. It is independent of the Scottish Government. The Group's role is to advise Scottish Ministers on specific policy options for disability assistance and carers benefits due to be delivered in Scotland. DACBEAG's advice helped to inform the development of Adult Disability Payment policy and the principal regulations that we are amending and considering the impact of these amendments businesses.

The Ill Health and Disability Benefits Stakeholder Reference Group was set up in March 2016 to inform and influence the development of policy options relating to devolved Disability Assistance. This group has advised on the potential impact of policy decisions as well as stakeholder engagement. They mostly advise on the impact of policy decisions on disabled people and the social security system as a whole.

On 21 December 2020, the Scottish Government launched a public consultation on its proposals for the delivery of Adult Disability Payment and on drafts of the accompanying impact assessments. The consultation ran until 15 March 2021 and received 127 responses from individuals and stakeholder organisations. The consultation wanted to gather views to ensure that the proposals were aligned with the principles of dignity, fairness and respect. These amendments are also intended to align with these principles and the overall policy intent which is to improve outcomes for disabled people and part of ensuring this is by considering the impacts of these proposals on businesses.

² See [DWP benefits case transfers: survey findings - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/dwp-benefits-case-transfers-survey-findings/pages/1-1-introduction.aspx) and [Social Security Experience Panels: designing the benefits case transfer process - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/social-security-experience-panels-designing-the-benefits-case-transfer-process/pages/1-1-introduction.aspx)

Overall these consultations and advice from stakeholder groups helped to inform the principal regulations for Child Disability Payment and Adult Disability Payment which we are amending as part of these regulations. We are doing this to ensure that the journey of individuals moving between these forms of assistance is as smooth as possible. As part of the development of these amendments we have considered the current impact of these regulations on the Child Disability Payment to Adult Disability Payment journey and the potential impacts of the amendments we propose to smooth this transition which are detailed below.

It should be noted that as these are amendments to principal legislation and as such are not bringing in new legislation, we do not anticipate them to have any significant impact on Scottish businesses. As such, we have not consulted with Scottish businesses regarding these amendments.

Options

Option 1 – Do nothing

Without these amendments, there would be no impact to the administrative ability of Social Security Scotland to carry out case transfer. However, there would be an impact on the journey from Child Disability Payment to Adult Disability Payment in terms of financial continuity as individuals would not be able to maintain their current payment cycle. The 2018 Act sets out that we want to take a person-centred, human rights based approach to social security. Doing nothing would ignore an opportunity to further improve the journey between two forms of disability assistance. In this way it could be seen to undermine the principles of the 2018 Act.

The negative impact of this option is not accompanied by any savings in cost given there are no anticipated increased costs in making the change. Aligning the payment cycles offers an improvement of the system with obvious advantages for individuals.

Option 2 – Introduce Miscellaneous Amendments (recommended option)

Young people who are making the journey from Child Disability Payment to Adult Disability Payment, and their families, will be directly affected. Welfare rights and income maximisation services may be indirectly affected as a result of young people seeking advice and signposting on these changes.

There are no anticipated increased costs as a result of these amendments. They simply further improve the journey from Child Disability Payment to Adult Disability Payment for young people.

Further narrowing of the extension to age 19 is considered appropriate given that all those who would have required additional time to apply for Adult Disability Payment will now have had that time.

Sectors and groups affected

Option 1

Were we not to introduce these amendments, we anticipate that there would be minimal impacts to the sectors and groups affected by these amendments in the short to medium term. These sectors and groups include:

- Third sector – advice and advocacy services such as Citizen’s Advice Scotland
- Public sector – Social Security Scotland and their Local Delivery Services.

This is because they would not be required to update their current advice or familiarise themselves with these changes. Instead, they would be continuing to deliver a business as usual.

However, in the long-term, there would likely be a negative impact on these sectors and groups. Without these amendments, there is potential for individuals that are coming of age needing to seek additional advice and support as they transition to Adult Disability Payment and have concerns regarding their payment dates. As individuals may feel additional anxiety during this period, it is anticipated that this will lead to more individuals contact Social Security Scotland and other advice services for clarification and support regarding the next steps of their disability benefits journey. This will increase the administrative burden on these sectors.

Option 2

It is not anticipated that the impact of these amendments is going to impact across significant sectors of the economy. However, they will likely have a minor impact on the sectors that they do impact in the short to medium term including the third sector through support and advice agencies (explored below) and the public sector due to an increase in the administrative burden of delivering these changes. As these amendments are not introducing any additional payments but are rather minor and clarifying changes to the principal legislation, these impacts are not expected to translate to additional costs on these sectors. Where there are impacts, these are relating more to the knowledge of social security policy within the relevant sectors rather than impacts on the delivery of their service that would translate to additional costs.

Regulatory and EU Alignment Impacts

Intra-UK Trade

- Is this measure likely to impact intra-UK trade)? No

International Trade

- Is this measure likely to impact on international trade and investment? No

EU Alignment

- Is this measure likely to impact on the Scottish Government's policy to maintain alignment with the EU? No

Scottish Firms Impact Test

Scottish businesses, including the third sector, responded to the 'A New Future for Social Security' consultation during summer 2016. Responses were received from 14 private businesses and 5 business organisations all of which requested that their responses remain anonymous.

Stakeholder events were also run in tandem with the Consultation on Disability Assistance between 5 March and 28 May 2019 to obtain as wide a view as possible on the forthcoming Scottish social security system. Views were received from many different types of interested stakeholder organisations, such as Child Poverty Action Group in Scotland, Citizens Advice Scotland, the Scottish Association for Mental Health, Engender, CEMVO Scotland, Rights Advice Scotland, LEAD Scotland, MND Scotland, National Deaf Children's Society, Royal Blind and Scottish War Blinded, the National Association of Welfare Rights Advisers, Down's Syndrome Scotland, Royal College of Paediatrics and Child Health, Scotland, One Parent Families Scotland, Children's Hospices Across Scotland (CHAS), The Poverty Alliance, Epilepsy Scotland and Glasgow Disability Alliance.

These events helped inform the principal legislation we are amending with their responses considered in the context of ensuring any policy introduced, including subsequent amendments, align with the principles of dignity, fairness and respect.

It is expected that the introduction of these regulations could cause minor additional requests for information and support from existing advice services. As the move from Child Disability Payment to Adult Disability Payment is a new journey the small improvements being made in these amendments, may result in a minor new pressure on advice agencies as they become familiar with it. The Scottish Government will continue to engage with the advice services sector as the programme to implement the social security system in Scotland progresses.

Competition Assessment

The Scottish Government does not believe that these amendments will have an adverse impact on the competitiveness of businesses or the third sector in Scotland, the UK, Europe or the rest of the world. They do not directly or indirectly limit the number of suppliers, nor do they limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously. Additionally the Scottish Government does not expect there to be any significant impact on the operational business of local authorities or health boards as a result of introducing these provisions.

Any procurement required to support the administration of new case transfer regulations will be subject to the Public Contracts Scotland (2015) regulations and the Procurement Reform (Scotland) Act 2014, which together provide a national legislative framework for sustainable public procurement which supports Scotland's economic growth through improved procurement practice.

- Will the measure directly or indirectly limit the number or range of suppliers?
No
- Will the measure limit the ability of suppliers to compete?
No
- Will the measure limit suppliers' incentives to compete vigorously?
No
- Will the measure limit the choices and information available to consumers?
No

Consumer Assessment

The Scottish Government does not believe that these amendments will have an adverse impact on either eligible people or any other consumer either within Scotland, the UK, or elsewhere in Europe or the rest of the world. They do not directly or indirectly limit the choices of consumers, nor do they limit the ability of consumers to compare the quality, availability or price of goods or services in a market. Furthermore, they will not impact a consumer's ability to understand their rights.

- Does the policy affect the quality, availability or price of any goods or services in a market?
No
- Does the policy affect the essential services market, such as energy or water?
No
- Does the policy involve storage or increased use of consumer data?
No
- Does the policy increase opportunities for unscrupulous suppliers to target consumers?
No
- Does the policy impact the information available to consumers on either goods or services, or their rights in relation to these?
No
- Does the policy affect routes for consumers to seek advice or raise complaints on consumer issues?

No

Test run of business forms

We foresee no need for new business forms as a result of this policy.

Digital Impact Test

We do not foresee that there will be any adverse impacts now or in the future of these measures in relation to their delivery in the current and future digital context.

These measures will be implemented with the current social security system that utilised digital processes for individuals, where convenient, but does not exclude those that are unable to access these channels. For example, individuals, to both Child Disability Benefit and Adult Disability Benefit, are able to apply online, over the phone, in person or through paper forms. They are also able to access support online (written guidance), through the phone (Social Security Scotland and Local Delivery), in person (Local Delivery) or by paper (paper guidance).

Whilst we recognise that technological advances does mean that the social security sector across the UK has already moved to a largely online journey, it is important that we continue to support those who do not have access to or knowledge of the necessary digital channels to apply for these benefits. Therefore, as these measures will have no impact on how we deliver these benefits, we will continue to support individuals in an offline and online environment, ensuring that any future changes to our processes are mindful of the needs of the individual first and foremost.

Legal Aid Impact test

The right to appeal to a First-tier Tribunal is provided for in the Social Security (Scotland) Act 2018. Legal Assistance will continue to be available to individuals to appeal an entitlement decision to the Upper Tribunal, Court of Appeal or Supreme Court.

The Scottish Government does not expect any adverse impact to the Legal Aid system or budget as a result of the introduction of these amendments. Current recipients are already able to access legal aid to appeal entitlement decisions and the amendments will not impact caseload.

Legal Aid is a demand-led budget and will continue to be available to individuals to appeal an entitlement decision to the First-tier Tribunal, to the Upper Tribunal, the Court of Session or Supreme Court. The Scottish Government does not expect any new impact on the Legal Aid budget, and expects legal assistance through the statutory scheme of Advice and Assistance, and Advice by Way of Representation will continue.

Enforcement, sanctions and monitoring

The Social Security (Scotland) Act 2018 places a duty on the Scottish Ministers to report annually to the Scottish Parliament on the performance of the Scottish social security system during the previous financial year. The report is to describe what the Scottish Ministers have done in that year to meet the expectations on them set out in the charter.

The Communities Analysis Division within the Scottish Government will also run a comprehensive evaluation programme to consider the impact of the changes to disability assistance in Scotland including considering the transition for those moving from Child Disability Payment to Adult Disability Payment which we have further improved by these amendments.

Implementation and delivery plan

Social Security Scotland will continue to offer support to individuals throughout the application and case transfer process to minimise stress and anxiety.

A communications strategy will be developed in advance of these changes, which will aim to ensure that individuals, their families and carers, the third sector, local government, health sector and advice providers are aware of the changes affecting people moving from Child Disability Payment to Adult Disability Payment. We will develop the communications strategy so that it will be linked in with wider Scottish Government initiatives for improving outcomes for disabled people.

Post-implementation review

As outlined above, the Communities Analysis Division within the Scottish Government will run a comprehensive evaluation programme with a full suite of equalities data for new applicants.

Summary and recommendation

Any negative impact to businesses as a result of these regulations should be minor and short-term as agencies adjust to new information and get to grips with the changes. We anticipate the impacts to be neutral in the long-term. We will continue to engage with relevant stakeholders and key organisations which will provide the Scottish Government with an opportunity to monitor the impact of the policy.

Option	Total benefit per annum	Total cost per annum
1	There are limited benefits to this option. Any benefits relate to the cost of the other options i.e. it is a benefit that this option does not have those costs. This option does	There are no financial implications for this option. However, on an administrative level, it is likely in the long term that

	<p>not have any benefits in its own right. Moreover, the negative impact of this option is not accompanied by any savings in cost given there are no anticipated increased costs in making the change.</p>	<p>there will be an administrative burden on Social Security Scotland and the advice sector who will have to support individuals who require extra guidance as they transition to Adult Disability Payment.</p> <p>There are also political/legal implications of this option. The 2018 Act sets out that we want to take a person-centred, human rights based approach to social security. Doing nothing would ignore an opportunity to further improve the journey between two forms of disability assistance. In this way it could be seen to undermine the principles of the 2018 Act.</p>
<p>2</p>	<p>There is a significant social benefit of this option as it seeks to further improve the journey from Child Disability Payment to Adult Disability Payment for young people.</p>	<p>There are no anticipated increased financial costs as a result of this option.</p> <p>However, administratively in the short-medium term, there will be an increased burden. Welfare rights and income maximisation services may be indirectly affected as a result of young people seeking advice and signposting on these changes.</p>

Declaration and publication

1. I have read the Business and Regulatory Impact Assessment and I am satisfied that:

- (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and
(b) that the benefits justify the costs.

I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date:

Minister's name: Shirley-Anne Somerville

Minister's title: Cabinet Secretary for Social Justice

Scottish Government Contact point: Astrid Ball



© Crown copyright 2023



This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83521-264-6 (web only)

Published by The Scottish Government, September 2023

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1343322 (09/23)

W W W . g o v . s c o t