

# Scottish Commission on Social Security - Disability Assistance (Miscellaneous Amendments) (Scotland) (Draft) Regulations 2023

# RNIB Scotland response to call for views

## Introduction

The Royal National Institute of Blind People (RNIB) Scotland is the country’s leading charity working with blind and partially sighted people. We support children and adults with sight loss and help them to live full and independent lives, campaigning for their rights.

Around 178,000 people are currently living with a significant degree of sight loss in Scotland, of whom around 4,300 are children and young people. Our ageing population and the rise in sight-threatening conditions such as diabetes, mean that this figure will rise, with estimates suggesting that by 2030, there may be 213,000 people in Scotland living with sight loss.[[1]](#footnote-1)

RNIB Scotland fully supports the principle that everyone transitioning from Child Disability Payment (CDP) to Adult Disability Payment (ADP) do so smoothly, with fairness and consistency of assessments applied so that there is no disruption to payments of benefits.

Whilst the call for views focuses on the Disability Assistance (Miscellaneous Amendments) (Scotland) (Draft) Regulations 2023, we have also identified issues which may also be considered as part of the transfer process, including between Department for Work and Pensions (DWP) and Social Security Scotland (SSS). These include:

* Accessible information and support throughout the entire process
* Smooth and timely transfer including:
  + Transfer process between Department of Work and Pensions (DWP) and Social Security Scotland (SSS).
  + Impact on “passporting” arrangements to other benefits
  + Short Term Assistance – uses and parameters
  + Establishing ordinary place of residence for the purposes of benefits.

Our response to this Call for Views draws on our previous consultation responses and case studies encountered by RNIB’s Sight Loss Advice Line.

### Accessible Information and support throughout the entire process

There must also be clear information available in a range of accessible formats for those who are transitioning from either child DLA to CDP as well as those transferring from CDP to ADP under Social Security Scotland.

Whilst we have been given assurances of Inclusive Communication principles underlying the system in Scotland, there must also be provision of accessible information.

Following communication between Disability and Carer Benefits Expert Advisory Group (DACBEAG) and Scottish Ministers on the transition from CDP to ADP, we understand that claimants will be invited to complete an application form for ADP when they reach eligible age criteria for this transition. These benefits have different assessment criteria and Social Security Scotland (SSS) should be able to make a fair and consistent decision based on current circumstances.[[2]](#footnote-2)

Whilst this will provide an accurate and up to date picture of a person’s circumstances, there must also be options to access support to complete a claim form, whether done in hard copy or online, with clear guidance on how to answer questions, the assessment and necessary information.

The transfer from CDP to ADP may be the first time a younger person has applied for a benefit in their own right as opposed to a parent/carer doing it in the past on their behalf.

Therefore, accessible, well informed, and independent support and advice is vital. This is particularly important as the young person may be managing transitions in other areas of their life such as in education, employment, care, and support. These transitions can have a major impact on whether support previously offered will continue or not, as well as change the nature of support provided.

The importance of having easy to understand and accessible information about the assessment process and how eligibility is determined, including support available with completing the claim form, must not be under-estimated. If support from SSS is provided, for example, via the Local Delivery Service or Voice Ability (on behalf of SSS), there must be training and awareness on how to communicate with young people affected by visual impairment.

Ultimately, if high-quality, person-centred support is available during the transition process, it should prevent the need for redeterminations and appeals, which can result in additional financial pressures and emotional stress involved transferring from one benefit to another.

### Smooth and timely transfer.

There must be timely and efficient processes to ensure claimants are not financially worse off during the transfer process, either due to delays with the system or because of lack of information.

RNIB Scotland is aware that due to the increased case load and complexity of cases, delays are now commonplace for administering new claims for certain benefits, as well as those being transferred from Department of Work and Pensions (DWP) to Social Security Scotland (SSS). Initially SSS expected an application for disability benefits would take 8-10 weeks to process. However, the latest stats show the average processing time:

* 94 working days for Child Disability Payment (around 4.5 months) [[3]](#footnote-3)
* 79 working days for Adult Disability Payment (around 4 months) [[4]](#footnote-4)

There must be assurances that disabled children and young people who have payments in place via either Child DLA or CDP, are not adversely affected by delays as the caseload increases.

#### Transfer process between DWP and SSS

In light of a request for case studies of the transfer process from DLA or PIP to CDP or ADP we have highlighted one case study where there has been confusion.

The situation arose when a Child DLA case was selected for transfer to CDP whilst there was an outstanding appeal lodged with DWP for the mobility component of Child DLA. An explanation is below:

#### Case Study

The family lodged an appeal with the DWP Courts and Tribunals service about a decision made to award their son low-rate of mobility under Child DLA, instead of high-rate mobility, which was awarded prior to reporting a change of circumstance to DWP. The claimant also received high-rate care, which they were not challenging.

The claimant was selected for transfer for Child Disability Payment (CDP) after the appeal had been lodged with DWP regarding Child DLA. However, it seems information about the claimant’s outstanding DWP appeal was not shared between DWP and SSS. SSS made the decision to continue to award the same rates as before for CDP (low-rate mobility and high-rate care) at the time of transfer. A redetermination was requested, and the claimant was eventually awarded high-rate mobility for CDP considering the severity of his mobility needs, specifically highlighting safety awareness, sensory sensitivities and impulsive and risk-taking behaviours. The backdating of payment was only from the date of transfer from Child DLA (DWP system) to CDP (SSS system). At the time of writing, the Child DLA appeal is still waiting to be listed and the advisor is seeking advice on whether SSS's decision to only backdate to date of transfer is correct.

This example illustrates a case where processes have not been clearly communicated by SSS to claimants or the advice sector and the SSS staff were also unclear on the correct procedure to follow. This resulted in a confusing situation for the client and the adviser.

The claimant involved in this case study has a severe visual impairment. Whether this information was shared at time of transfer is uncertain. However current regulations, specifically Chapter 13, Point 2c [[5]](#footnote-5), state that severe visual impairment is a significant factor in determining whether a child/young person is eligible for the high-rate of mobility under CDP. This provision is not applicable in Child DLA, therefore decision makers and case workers in SSS must be made aware of circumstances where there is clear eligibility to high-rate moblity. If it hadn’t been for the RNIB Sight Loss Advisor intervening in this case, family involved in this case would have been unaware of this regulation.

A thorough reassessment of claimants’ situations before being selected for transfer, must be undertaken, by SSS, so that appropriate evidence and information is gathered to apply CDP regulations fairly and consistently. This will help ensure a smooth and timely transfer process, to avoid unnecessary delays and redeterminations.

#### Impact on passporting arrangements

The relationship between the regulations currently out for consultation cannot be seen in isolation from other aspects of social security provision.

For example, both CDP and ADP function as passports for additional social security payments, statutory provisions, non-statutory assistance, and other charitable forms of assistance.

Whilst the focus of this call for views is on payment cycles of ADP mirroring those received under CDP, there must be clear processes for claimants to manage associated passports with their benefit entitlement.

When eligibility for ADP is determined for the claimant, entitlement to CDP will cease. It is therefore imperative, that the claimant is clearly informed about any change, at the earliest possible stage in their preferred format, with support available if required, to report any change to relevant agencies.

At present, we understand the independent advocacy service funded to provide support to SSS claimants is confined to supporting them with SSS benefits. Many of our customers will also require support or assistance with claiming relevant passported benefits which could involve negotiating with agencies other than SSS.

We believe SSS has a responsibility to ensure the transition from one SSS benefit to another SSS benefit - as in the case of CDP to ADP - is as smooth as possible. There must be support available to enable those transitioning from CDP to ADP to inform appropriate agencies and claim passports associated with them. This may include negotiating contracts with the Accessible Vehicle and Equipment scheme.

There are other circumstances, where a young person may choose to apply for ADP in their own right after the age of 16 and could require a comprehensive benefit check to ensure there are claiming all they are entitled to, including their family members and/or carers. For example, if the young person lives with parents or carers, and someone has Carers Allowance paid in respect of the claimant due to a CDP claim, there must be clear information on what to do, once entitlement to ADP is determined, whether this results in the same level of award as before, increase of award, reduction of award, or no entitlement to ADP.

In addition, there are circumstances where a young person can apply for Universal Credit in their own right. However, this area is particularly complex and often requires certain circumstances in relation to, for example, education and living circumstances.

These scenarios highlight the need for clear, transparent, and accessible information as well as specialised tailored support to enable blind and partially sighted claimants and others to navigate complex systems particularly during transitions.

#### Short Term Assistance – uses and parameters

It is imperative that SSS gets the decisions right first time for those transitioning between CDP and ADP. Where a request for redetermination has been requested, it is unlikely that Short Term Assistance can be paid to offset any financial losses incurred as a result in a reduction of benefit entitlement other than that which is under question.

Should a redetermination be made which then entitles a claimant to a passported benefit, additional support should be available to help them re-apply or make a new application.   
  
This should include clear information on whether eligibility was eventually determined during an ‘eligibility week’ for other benefits such as Child Winter Heating Allowance or cost of living payments.

#### Clients reporting changes of circumstances to the Department for Work and Pensions and/or Social Security Scotland.

Ordinary place of residence must be established before a case is automatically transferred to CDP, especially when it could trigger a transfer to SSS, for CPD and/or ADP, depending on the age of the claimant.

There are cases where a disabled young person could potentially have two places where they are ordinarily resident, such in the example of a student, whose home address is in England but lives and works in Scotland whilst studying. If a student informs the DWP they have moved to Scotland to study, it could trigger a transfer to CDP/ADP, whilst residing in Scotland.

This could result in confusion about claimant rights to entitlement should they move between Scotland and other parts of the UK for extended periods of time, as in the example of a student. Rules state that ADP can remain in place for up to 13 weeks, but then after this time the claimant would make a new application to PIP which could delay payment for a claimant, and therefore result in financial hardship.

If disabled students pay tax and National Insurance contributions in Scotland this may lead SSS to consider them as resident in Scotland rather than England. Social Security Scotland's own guidance on residence specifically gives example of a student having more than one ordinary residence.[[6]](#footnote-6)

### Conclusion

RNIB Scotland believes that it is imperative that all forms of disability assistance are well-connected to access to other public services for children and young people with visual impairment.

A safe and secure transition of people from DWP to SSS systems as well as within SSS system is crucial to avoid disruption for the claimant, their families and those who support them.

RNIB Scotland is happy to further discuss points raised in this response.

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1. See https://www.rnib.org.uk/professionals/health-social-care-education-professionals/knowledge-and-research-hub/sight-loss-data-tool/ [↑](#footnote-ref-1)
2. [Disability and Carer Benefits Expert Advisory Group - transition from Child Disability Payment to Adult Disability Payment: response from ministers - gov.scot (www.gov.scot)](https://www.gov.scot/publications/disability-and-carer-benefits-expert-advisory-group-transition-from-child-disability-payment-to-adult-disability-payment-response-from-ministers/) [↑](#footnote-ref-2)
3. [Child-Disability-Payment-high-level-statistics-to-31-December-2022-publication.pdf (socialsecurity.gov.scot)](https://www.socialsecurity.gov.scot/asset-storage/production/downloads/Child-Disability-Payment-high-level-statistics-to-31-December-2022-publication.pdf) [↑](#footnote-ref-3)
4. [Adult Disability Payment Official Statistics (www.gov.scot)](https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2023/03/adult-disability-payment-high-level-statistics-to-31-january-2023/documents/adult-disability-payment-high-level-statistics-to-31-january-2023/adult-disability-payment-high-level-statistics-to-31-january-2023/govscot%3Adocument/Adult%2BDisability%2BPayment%2B-%2BPublication%2B-%2BMarch%2B2023.pdf#:~:text=The%20median%20average%20processing%20time%20for%20applications%20has,2022%20to%2079%20working%20days%20in%20January%202023.) [↑](#footnote-ref-4)
5. [The Disability Assistance for Children and Young People (Scotland) Regulations 2021 (legislation.gov.uk)](https://www.legislation.gov.uk/sdsi/2021/9780111049778/regulation/13) [↑](#footnote-ref-5)
6. [https://www.socialsecurity.gov.scot/asset-storage/production/downloads/Residence-and-Presence-for-Adult-Disability-Payment\_2022-10-19-074535.pdf](https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.socialsecurity.gov.scot%2Fasset-storage%2Fproduction%2Fdownloads%2FResidence-and-Presence-for-Adult-Disability-Payment_2022-10-19-074535.pdf&data=05%7C01%7CKirstie.Henderson%40rnib.org.uk%7Ccd3043f7849048a4bad108dabc2883c6%7C5d45337cd19243fcaa5805557c9171bc%7C0%7C0%7C638029179740324193%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=apQhSNBoug3OgtGO2IysNTiBTGc9sAUPrb6WH7rrTYA%3D&reserved=0) [↑](#footnote-ref-6)