

An individual's right to stop receiving assistance

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Introduction

1. This chapter describes what Social Security Scotland should do if an individual requests that their award of Scottish Adult Disability Living Allowance (Scottish Adult DLA) is stopped. It should be read alongside the operational guidance which tells client advisors how to cancel an individual's entitlement to Scottish Adult DLA.

Requesting that an award of Scottish Adult DLA be cancelled

2. Individuals who are entitled to Scottish Adult DLA have the right to request that entitlement to Scottish Adult DLA be cancelled and payments be stopped. This involves cancelling the individual's entitlement to assistance.¹

1 SS(S) Act 2018 s. 26(1)

3. Client representatives can exercise this right on behalf of the individual who is entitled to assistance¹.

1 SS(S) Act 2018, s. 85B(9)(a)

4. A client representative includes someone who:

- has been appointed by Social Security Scotland (under s.85B of the 2018 Act)
- has a Power of Attorney for the individual
- has a legal right to act on the individual's behalf

5. Client advisors must consider a request by a client representative, but should satisfy themselves by referring to guidelines that the client representative continues to be suitable to act on the individual's behalf. ¹ If however, the client advisor believes that the client representative may no longer be suitable, the client advisor should make this known to Local Delivery. This will help discussions and checks to ensure that cancelling entitlement is in the individual's interests.

1 SS(S) Act 2018, s. 85B(4)(iv)

6. Where there are doubts about whether an individual acting on behalf of the Scottish Adult DLA client is still suitable to act on an individual's behalf, refer to the guidance on when to find a new client representative or arrange for the individual to act for themselves.
7. The cancellation of the individual's entitlement must take place at one of the following points in time:
 - immediately¹
 - at a later date, if specified in the request².

1 SS(S) Act 2018 s. 26(2)(a)

2 SS(S) Act 2018 s. 26(2)(b)

8. The client advisor must confirm with the individual that cancellation is the correct step to take, rather than:
 - treating the request as a potential change of circumstances
 - arranging for a new client representative to act on behalf of the individual or arranging for the individual to act for themselves

When to carry out an unscheduled review

9. An unscheduled review (legally known as a determination without application) may be more appropriate than cancelling entitlement if the reason for wanting to cancel entitlement is because the client's circumstances have changed.
10. For example, the individual may tell Social Security Scotland that they think they should no longer be getting Scottish Adult DLA because their care or mobility needs have decreased. The individual may nevertheless still be eligible, so it is more appropriate to ask the individual if they would prefer we treat their request as a change of circumstances.
11. If the individual insists that they wish to have their entitlement to Scottish Adult DLA cancelled, then the client advisor should take steps to cancel their entitlement.

When to find a new client representative or arrange for the individual to act for themselves

12. The client advisor must not accept a request to cancel entitlement from a client representative if Local Delivery have decided they are no longer a suitable person to act for the individual.
13. The client advisor must consider suspending payments until a new arrangement is in place. This is because the client representative with whom arrangements have been made to receive the payments is unable to continue to receive the payments. Suspension will not be necessary if the client advisor can find someone suitable to make the payments to¹ during the short period while Social Security Scotland establishes either:

- a new client representative
- that the individual can act for themselves

1 Scottish Adult DLA Regs, Reg 28 (1) and (2)

Cancelling entitlement

14. Before accepting a request to cancel entitlement, the client advisor should:

- explain the impact of deciding to cancel entitlement,
- tell the individual which other Social Security Scotland benefits they might be eligible for, (if any) and
- signpost the individual to independent advice services, such as the Independent Advocacy Service which is provided by [VoiceAbility](#), ahead of making a final decision.

15. The impact of cancelling entitlement is that the individual would have to request reinstatement of their award if they want Social Security Scotland to consider their eligibility for Scottish Adult DLA at a future date, and they would only be able to do this **within one year** of their Scottish Adult DLA award ending. If it was more than one year after their Scottish Adult DLA award ended, they would need to make a new application for either Adult Disability Payment or Pension Age Disability Payment, depending on their age. Cancelling entitlement to Scottish Adult DLA may also have an impact on the rates and premiums of passported benefits.

16. If the individual is certain that they want to cancel entitlement after hearing this information, then the client advisor must do this. This rule only applies if cancellation is the correct step rather than:

- making a determination without application due to a change of circumstances
- arranging for a new client representative to act on behalf of the client.

Example: an individual requests that Scottish Adult DLA is cancelled

Elizabeth is 67 and has significantly reduced vision in both eyes. She requires continual supervision throughout the day and is entitled to the lowest rate care component of Scottish Adult DLA. Elizabeth requests that Scottish Adult DLA is cancelled on 27 August. She reports that her eyesight improved after an operation she had recently. Her eyesight is better and she is less anxious now.

The client advisor explains to Elizabeth that:

- the change is a change of circumstances
- her case could therefore be subject to a review rather than cancelling entitlement

The client advisor also explains the impact of stopping payment of Scottish Adult DLA with Elizabeth to make sure she fully understands this decision. They discuss all options that are available to her. Elizabeth decides that she would like her case to be reviewed on the basis of a change in circumstances.

The client advisor gathers supporting information and carries out a review. Elizabeth is still entitled to the lowest rate care component of Scottish Adult DLA as she still requires continual supervision throughout the day. It is determined that Elizabeth's entitlement to Scottish Adult DLA should continue at the rate that she currently is entitled to and confirms with Elizabeth that she wishes to continue to receive Scottish Adult DLA.

Example: the person acting on behalf of the individual entitled to Scottish Adult DLA requests that it stop being paid

Cole is 80 years old and has dementia. He is entitled to the lowest rate care component of Scottish Adult DLA. On 12 January, Cole's representative requests that Scottish Adult DLA stop being paid. Cole has recently received a large sum of money from the sale of a family property and does not wish to receive financial support in the form of Scottish Adult DLA anymore.

The client advisor discusses the impact of cancelling Scottish Adult DLA with Cole's representative. Before proceeding to the final cancellation process, the client advisor does a final check that the representative is sure about this decision, and clear that Cole would only be able to request reinstatement of his Scottish Adult DLA up to one year after the award ending, after which his award would be permanently ended. Then, the client advisor explains how to make a cancellation request. Once the request has been received, it is processed and Cole's entitlement to Scottish Adult DLA is ended.

End of Chapter