

Applying for Adult Disability Payment

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Introduction

- This chapter describes the rules about applications for Adult Disability Payment (ADP).

Circumstances when an application may be made

- There are several circumstances when an individual can apply for Adult Disability Payment. These include when they:
 - are making their first application
 - decide to apply again after a previously unsuccessful application and notice of determination
 - have decided to apply again after their previous entitlement to Adult Disability Payment ended and their circumstances have since changed
 - have withdrawn a previous application before a determination was made
- A determination must be made where an individual submits a full application.
- There are some circumstances when an application is not required. For example, when an individual is waiting for a determination on an existing application and contacts us to update it.

How to make an application

- Applications for Adult Disability Payment can be made by:
 - completing the full 2 part application (Part 1 and Part 2) via the online portal
 - starting the application by phone (Part 1) then completing Part 2 on a paper based form

- starting the application by phone (Part 1) and then completing Part 2 by phone with a client adviser or by phone or face to face with a member of Social Security Scotland's Local Delivery team.

Applications will be dealt with in the same way, regardless of what channel is used to submit them.

- Guidance on completing applications will be available:
 - on the Social Security Scotland website
 - on leaflets and the application form itself
 - via support from Social Security Scotland's Local Delivery Team or from our Independent Advocacy Service, which is provided by VoiceAbility.

An individual can contact Social Security Scotland using whatever channel they are comfortable with, to seek advice or help with their application

Who can make a new application

- An individual, or someone acting on their behalf, who:
 - is between the ages of 16 and State Pension Age (SPA) ¹
1 ADP regs, reg 22 (1) and (2)
 - has already reached State Pension Age , if certain criteria are met²
2 ADP Regs, reg 23, reg 24
- A person or organisation may apply for Adult Disability Payment on behalf of an adult who is not able to manage their own affairs. This could be a legal acting body such as a [Guardian or other court appointed acting body](#) or a [Power of Attorney](#). Once we receive evidence stating they have legal authority, we can allow them to act on behalf of the client.
- If nobody has the legal authority to handle the client's financial affairs, Social Security Scotland can appoint a person or organisation as the client's 'appointee'. An [appointee referral](#) should be made to Local Delivery, who will decide if the client requires an appointee, and if the potential appointee is suitable. Further details of Social Security Scotland's person-centred client representative processes and policy are set out in [statutory guidelines](#) and [operational guidance](#).
- A young person may apply for Adult Disability Payment up to 13 weeks before their 16th birthday. If their application is successful, the earliest it can be paid is on their 16th birthday. ³
3 ADP Regs reg 35(2)
- If a young person is receiving Child Disability Payment from Social Security Scotland, they may apply for Adult Disability Payment as above , ie 13 weeks before their 16th birthday, or any time between then and the day before they turn

18 Doing so will ensure their Child Disability Payment continues until a determination is made that they are entitled to Adult Disability Payment, so they will not have their payments stopped. Individuals over 18 can still apply for Adult Disability Payment but their Child Disability Payment will have stopped.

- Young people who have transferred from Disability Living Allowance for Children to Child Disability Payment and who turn 18 on or before 31 December 2023 will be eligible to remain on Child Disability Payment until their 19th birthday. This ensures that these individuals have time to make an application for Adult Disability Payment.¹

1 CDP Regs. Reg. 4(1B)(b)

- After 31st December 2023, young people, under 18, who have transferred from Disability Living Allowance for Children, will be eligible to remain on Child Disability Payment until their 18th Birthday.
- If an individual is receiving Armed Forces Independence Payment, Attendance Allowance, Pension Age Disability Payment, Disability Living Allowance or Personal Independence Payment, they are not entitled to receive Adult Disability Payment.¹

1 ADP regs, reg. 4

- Clients making a new application must also satisfy a number of residence and presence conditions to be eligible to receive Adult Disability Payment.

Beginning an application

- An individual can begin an application either by phone or online. This is Part 1 of the application process.
- Once they have started, the individual has 8 weeks to return the completed Part 2 of the application in order to ensure their entitlement to Adult Disability Payment begins on the date they completed Part 1. If an application is submitted after the 8 week period, the date of their entitlement may be later, depending on whether they have good reason for having submitted it late e.g. they have been in hospital.
- An individual will be notified when their application has been received by Social Security Scotland if they have opted to receive notifications. When Part 1 of an application has been made but Part 2 has not yet been submitted online or received by post, they will receive a reminder two weeks before the end of the 8 week period.
- To complete Part 1 of the application process, an individual must provide the minimum data required to link them to a unique record within the IT system,

known as SPM (Social Programme Management). This is known as the 'required data' and must include:

- the full name of the applicant
- the date of birth of the applicant

Date the application is to be treated as made

- If the individual meets all of the entitlement criteria on the day Part 2 of their application is received by Social Security Scotland then their application is treated as made on that date¹.

1 ADP Regs, reg 35 (1) (a)

- Alternatively, when a client does not meet all of the eligibility criteria on the date their application is received by Social Security Scotland, but they will do within the following 13 weeks, the date the application is treated as made will be the date within that 13 week period on which all of the eligibility criteria are satisfied. These are referred to as pre-emptive applications².

ADP Regs, reg 35 (2) (4)

Example: Backwards Test met

Alfie applies for Adult Disability Payment for the first time. He begins a Part 1 application via the online portal on 15 June and goes on to complete/submit Part 2 of the application within the 8 week period allowed. The date of application is therefore 15 June. To meet the Backwards Test, his needs would need to have existed on or before 16 March, ie 13 weeks before applying. He tells us his needs began on 25 February. This means the needs have existed for more than 13 weeks and he meets the Backwards Test. If the application is successful, Alfie will be entitled to benefit from and including 15 June.

Example: Backwards Test not yet met

Bonnie has a stroke on 28 April. She applies for Adult Disability Payment on 21 May. As her needs only began on 28 April, the Backwards Test will not be satisfied until 27 July so no payment can be made before then.

The application is successful and the decision maker determines Bonnie is entitled to the standard rate of the daily living component and the enhanced rate of the mobility component. As the Backwards Test is met on 27 July the case manager will treat the application as made on that date and payment will start from then¹.

Date of entitlement

- For information on the date of entitlement for Adult Disability Payment, through the special rules for terminal illness, please refer to the terminal illness DMG chapter.
- Entitlement to Adult Disability Payment begins on whichever date is later, either the date Part 1, i.e the required data, is received by Social Security Scotland, or the date the individual meets all of the eligibility criteria. This is provided the individual returns a completed Part 2 of the application within 8 weeks of the required data being received¹.

1 ADP Regs, reg 35 (4) (a) and (b)

- Decision makers should record the date on which the required data (the client's name and date of birth) are received from the client. This can influence the date when a client becomes eligible for Adult Disability Payment because we may not receive the required data on the same date that the client fills out part 1 of their application. For instance if an applicant requests part 1 and part 2 be sent out in paper format, the required data would have been provided by the applicant to trigger this process.
- If part 2 of the application is returned after 8 weeks entitlement will begin on the date the application is treated as made, as described above.²

2 ADP Regs, reg 35 (5)

- If the individual has a good reason for why it's returned after 8 weeks eligibility Social Security Scotland can decide to determine entitlement as if it had been returned within that period.³
- If Social Security Scotland does not accept the reasons for the late completion, the individual has the right to request a re-determination in relation to the start date of assistance.
- Circumstances considered good reason for the late completion of an application may include:
 - where the individual could not complete the application due to a disability or health condition resulting in them being hospitalised
 - a personal event such as a bereavement or some other major event or trauma
 - where the individual or a third party representative has contacted Social Security Scotland to request more time. This could be to liaise with welfare rights support or accessibility support such as a translation service or interpreter.

This list is not exhaustive. The decision maker should consider the circumstances of each case on its own merits in determining what is 'good reason'.

Example: Good reason accepted

Cole begins an online application on 6 May. They submit Part 1 and Part 2 is triggered for completion. Part 2 states it should be completed and submitted via the online portal by 30 June.

Part 2 is not submitted until 9 July. When asked for reasons for lateness, Cole advises that they were admitted to hospital for emergency surgery on 21 June and were in hospital for 10 days. They had partially completed the form before this, and only felt up to completing the remainder a few days after coming home.

The decision maker considers Cole's explanation for submitting the form late, and accepts good reason. This means it is treated as being on time and the date of application can be accepted as 6 May, the date it was first registered in the online portal.

Example: Good reason not provided

Daria phones Social Security Scotland to start an application on 24 June. Part 1 is completed over the phone and a Part 2 is sent out by post, advising her it should be completed and returned by 18 August.

The form is not received until 7 September. When asked for reasons for lateness, Daria advises they completed the form and forgot to post it on time and only remembered when they came across it on 1 September.

The decision maker decides this is not a good reason for lateness. This means the date of application will be taken as 7 September, the day it was received by Social Security Scotland.

The decision maker may well accept the reasons. Case Managers should accept the reason given at face value, unless it is very late and the reason appears highly improbable, in which case they should make further enquiries.

- Other scenarios which the decision maker may consider to be good reason are:
 - technical issues resulting in the online portal preventing the individual from applying for assistance
 - when no application form is received by the individual after they requested it
 - when the actions of staff or the systems and processes prevent an individual from applying within the 8 week period

In these scenarios both:

- good reason for lateness should be accepted, as long as the individual has completed it as soon as reasonably practical once the issue was resolved
- the entitlement should begin on the date that the application was registered

1 ADP Regs, reg 35 (6)

Date of entitlement for individuals moving from Child Disability Payment to Adult Disability Payment

- There is a different process for calculating when entitlement for Adult Disability Payment begins for individuals who apply while being in receipt of a Child Disability Payment award. If an individual in receipt of Child Disability Payment is determined to have entitlement to Adult Disability Payment, their entitlement to Adult Disability Payment will start on the day after the current Child Disability Payment payment cycle ends.¹ This is to ensure that individual maintains the same payment cycle for Adult Disability Payment as they previously received on Child Disability Payment.
- The individual's first payment cycle of Adult Disability Payment will begin on the day after the last day of the Child Disability Payment payment cycle following the date of the Adult Disability Payment determination²

1 ADP Regs. Reg. 58 (1)(2)

2 ADP Regs. Reg. 58 (2)(a)

Example: Setting the date of entitlement for an individual who applied while eligible for Child Disability Payment

Helen is seventeen years old and is sight impaired. She has been in receipt of Child Disability Payment since November 2021.

Helen submits part 1 of her application for Adult Disability Payment on 15 May 2023. She then submits part 2 on 1 June 2023. The date that Helen submitted her Adult Disability Payment application is recorded as 15 May 2023.

A Case Manager determines that Helen is entitled to Adult Disability Payment on 21 August 2023. They note that Helen's current payment cycle for Child Disability Payment is due to end on 15 September 2023 and Helen's eligibility for Adult Disability Payment begins on 16 September 2023. The Case Manager indicates on the system that Helen's last Child Disability Payment payment should be made on 15 September. Then her Child Disability Payment award will end, and her first payment cycle of Adult Disability Payment will begin on 16 September.

Example: Setting the date of entitlement under Special Rules for Terminal Illness for an individual who applied while eligible for Child Disability Payment

Alex is sixteen years old and has Epilepsy and Glioblastoma. Alex has been in receipt of Child Disability Payment since 01 April 2022. On 17 April 2023 a Registered Medical Practitioner made a clinical judgement that Alex's condition should be treated under Special Rules for Terminal Illness.

As Alex is over 16 years old, Social Security Scotland contact him to ask if he wants to transfer to Adult Disability Payment. Alex gives his permission for this to go ahead on 22 May 2023. Alex's current payment cycle for Child Disability Payment ends on 25 May 2023. He is then eligible for Adult Disability Payment on 26 May 2023 and, in accordance with Special Rules for Terminal Illness receives his first payment on the same day.

Acceptable and unacceptable applications

- The Social Security (Scotland) Act 2018 sets out that an application must be submitted both:
 1. in the form described by Social Security Scotland
 2. with the supporting information that is required ¹

1 SS(Scotland) Act 2018 s.38 (1)

- Once an application is submitted, an individual may be asked to provide further supporting information to enable a determination of entitlement to be made. Social Security Scotland can specify a time period in which the information must be provided. If sufficient information is not provided in the timeframe, the case manager can make a determination that the client does not meet the criteria. ²

2 SS (Scotland) Act 2018 s.54 (1)and s.54 (2)

- For Adult Disability Payment applicants who are currently in receipt of Child Disability Payment, case managers must check whether supporting information that has been submitted for Child Disability Payment is still relevant for the Adult Disability Payment application at hand. This applies to both:
 - confirmation from a professional
 - supporting information to establish the individual's entitlement.

To establish whether one or both types of supporting information can be re-used from the individual's Child Disability Payment award, the case manager should review the scenarios set out in the Relevant considerations when making a determination for an award review chapter.

- In addition to the correct Adult Disability Payment application, Social Security Scotland will accept a number of other applications as long as they provide the minimum information required by SPM, as described above. This includes, but is not limited to, an application for another type of Scottish disability assistance, an application for Personal Independence. As the criteria differ between different forms of assistance such applications may not provide the details necessary for a determination to be made. Case Managers will likely have to obtain extensive supporting information in order to reach a decision.

Rejecting an application

- An application may be rejected before a determination is made if the individual has either:
 - not made an application in the form that is set out by Social Security Scotland, or
 - not provided the appropriate supporting information
- Rejecting an application is not the same as a determination that an individual is not entitled to assistance. An application is rejected before the eligibility criteria have been considered.

1 SS Act 2018 s.38(1)

- If an application is rejected, the case manager must:
 - inform the individual of the decision to reject their application. This is different from a determination.
 - explain why that decision was made

state the individual's right to appeal the rejection decision to the First-Tier Tribunal ¹

1 SS Act 2018 s.61(1)(a)

Change of circumstances after an application is submitted and before a decision is made

An individual may experience a change of circumstance:

- after an application has been submitted
- before a determination has been made

A case manager should take any new information into account once they are made aware of it.

A further application is not necessary after a report of a change of circumstances.

In this scenario, a case manager makes two determinations. This is if the change reported or new information provided affects the original award.

The first award takes into account the care and/or mobility needs of the individual based on the original information provided in the application.

The second award takes into account the care and/or mobility needs of the individual based on the changes reported or the new information.

This could result in two different rates of award, which is known as a split award.

The second award is effective for payment once the individual meets the backwards test for the new information.

Two separate determinations of entitlement should be sent to the individual to explain this.

Example: A change of circumstance is reported in advance of a determination

Federico has arthritis and a heart condition. They apply for Adult Disability Payment on 6 April stating their needs have existed for 2 years prior to applying. This means they satisfy the Backwards Test at the time of application. Information within the application suggests they are likely to be entitled to the standard rate of the daily living component and the enhanced rate of the mobility component from the date of application.

Before the case manager has made their determination, Federico's spouse contacts Social Security Scotland on 27 May to say that Federico had a stroke on 21 May and now has increased needs. Supporting information leads the case manager to decide Federico will now be entitled to the enhanced rate of the daily living component as well as the enhanced rate of the mobility component.

As Federico's increased needs began on 21 May, the date they had the stroke, they do not yet satisfy the Backwards Test for the enhanced rate of daily living. This will be satisfied on 19 August so this is the earliest date this rate can be paid.

The case manager therefore makes a determination that Federico is entitled to the standard rate of the daily living component and the enhanced rate of the mobility component from 6 April to 18 August, and the enhanced rate of both daily living and mobility components from 19 August.

Federico will be notified of the outcome in the Determination of Entitlement notification.

Example: A change of circumstance is reported in advance of a determination

Gurjit applies for Adult Disability Payment on 4 June due to having depression and anxiety. She advises her needs have existed for around 6 months prior to applying. The Backwards Test is therefore satisfied. Information suggests she is likely to be entitled to the standard rate of the daily living component and not entitled to either rate of the mobility component.

Before the case manager makes their determination, Gurjit writes to Social Security Scotland to say she was involved in a road accident on 23 July. She received severe injuries to her right leg requiring emergency surgery and intensive follow up physiotherapy. Supporting information from an orthopaedic surgeon confirms her injuries and the estimated recovery time is at least a year. The case manager decides an award of the enhanced rate of both the daily living and mobility components is now appropriate.

As Gurjit's increased daily living needs and new mobility needs began on 23 July, the Backwards Test will be satisfied on 21 October so the higher rate of benefit can be paid from that date. As the needs are expected to last for at least 39 weeks following the start date of payment, the forwards test is also satisfied.

The case manager makes a determination that Gurjit is entitled to the standard rate of the daily living component from 4 June to 20 October, and the enhanced rate of both the daily living and mobility components from 21 October. A review is scheduled 1 year from the date the determination was made, to check whether her needs have changed.

Determination of entitlement

- An individual will receive a determination of entitlement on their application, in writing.

Withdrawal of application

- Individuals have the right to withdraw their applications at any time before a determination is made on the application. Case managers are not to make a determination on applications which have been withdrawn¹.

1 SS Act 2018, s.39

End of chapter