

# Applying for Pension Age Disability Payment

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## Introduction

1. This chapter describes the rules about applications for Pension Age Disability Payment (PADP).

## Circumstances when an application may be made

2. There are several circumstances when an individual can make an application for PADP. 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 PADP ended, and their circumstances have since changed
  - have withdrawn a previous application before a determination of entitlement was made
3. A determination must be made where an individual submits a full application.
4. Case managers should refer to the 'Change of circumstances before an initial determination has been made' section when an individual contacts Social Security Scotland to provide new information before an initial determination has been made on their application.

## How to make a new application

5. Applications for PADP 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 either by phone with a client advisor or by phone or face to face with a member of Social Security Scotland's Local Delivery team.

Social Security Scotland will deal with applications in the same way regardless of what channel is used.

6. Guidance on completing application forms for PADP is available:
  - on the Social Security Scotland website
  - on leaflets and the application form
  - through Social Security Scotland's Local Delivery Team or from the Independent Advocacy Service.

An individual can contact Social Security Scotland using whatever channel they are most comfortable with to get help with their application.

## Who can make an application

7. An individual, or someone acting on their behalf, can make an application for PADP if they have reached the State Pension age<sup>1</sup>. For more information on the State Pension age, please see PADP Rates and Criteria chapter.

*1 PADP regs, reg 17*

8. In most instances where an individual has not yet reached State Pension age, it is likely that they should apply for Adult Disability Payment. For more information on PADP applications before reaching State Pension age, please refer to the 'making an application before the qualifying age' section.
9. A person or organisation may apply for PADP on behalf of an individual 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 confirmation has been received that a person has legal authority, Social Security Scotland can allow the person to act on behalf of the individual.
10. If nobody has legal authority to handle the individual's financial affairs, Social Security Scotland can appoint a person or organisation as the individual's 'appointee'. An appointee referral should be made to the Local Delivery service, who will decide if the individual requires an appointee, and if the

potential appointee is suitable. Further details are set out in [statutory guidelines](#) and operational guidance.

11. If an individual is receiving Attendance Allowance, Adult Disability Payment, Personal Independence Payment, Disability Living Allowance or Armed Forces Independence Payment, they are not entitled to receive PADP<sup>1</sup>.

*1 PADP regs, reg 4*

12. Individuals making a new application must also satisfy a number of residence and presence conditions to be eligible to receive PADP.

### **Beginning an application**

13. An individual can begin an application either online or by phone. This is part 1 of the application process.

14. To complete part 1 of the application process, an individual must provide the minimum data required to link them to a unique record on Social Security Scotland's IT system. This is known as the 'required data' and must include<sup>1</sup>:

- the full name of the individual
- the date of birth of the individual

*1 PADP regs, reg 27(4)*

15. Once an individual has completed part 1 of the application, they have 8 weeks<sup>1</sup> to return the completed part 2. This ensures that their entitlement to PADP begins on the date they completed part 1.

*1 PADP regs, reg 27(4)*

16. If an application is submitted after the 8 week period, the date that their entitlement begins may be later, depending on whether they have good reason for submitting it late. For example, if the individual had been in hospital. Please see the 'late completion of application' section for more information on good reason.

17. Social Security Scotland will notify an individual when their completed application has been received, 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.

### **Date the application is to be treated as made**

18. 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 date<sup>1</sup>. This includes meeting the residence and

presence rules, the age criteria and the backwards test in relation to the daytime and/or night-time conditions.

*1 PADP regs, reg 27(1)(a)*

19. When an individual does not meet all of the eligibility criteria on the date Social Security Scotland receives their application, but they will do within the following 26 weeks, the date the application is treated as made will be the date within that 26 week period where all of the eligibility criteria are satisfied<sup>1</sup>. These are referred to as pre-emptive applications.

*1 PADP regs, reg 27(2)*

### **Example: An individual has satisfied the backwards test**

Ian is 73 years old and applies for PADP for the first time. He begins part 1 of the application via the online portal on 15 June and goes on to complete and submit part 2 of the application within the 8 week period. As Ian completed part 2 within 8 weeks, the case manager will use the 15 June date to consider whether Ian has satisfied the backwards test.

To meet the backwards test, Ian's needs would have to exist on or before 16 December, which is 26 weeks before the date that part 1 of the application was received by Social Security Scotland. Ian tells us his needs began on 17 November. This means his needs have existed for more than 26 weeks and he therefore meets the backwards test. If the application is successful, Ian will be entitled to PADP from and including 15 June, the date he completed part 1, as he returned part 2 of the application within 8 weeks.

### **Example: An individual has not yet satisfied the backwards test**

Georgia is 82 years old and had a stroke on 28 April. Georgia's son applies for PADP on her behalf on 21 May. As her needs only began on 28 April, the backwards test will not be satisfied until 27 October, so no payment can be made before then.

The application is successful and the case manager determines Georgia is entitled to the lower rate of PADP. As the backwards test is met on 27 October, the case manager will treat the application as made on that date and payment will start from then.<sup>1</sup>

*1 PADP regs, reg 27(2)(b)*

### **Date of entitlement**

20. The PADP backwards test does not apply to applications under Special Rules for Terminal Illness.<sup>1</sup> For information on the date of entitlement for PADP under special rules for terminal illness, reference should be made to the Special Rules for Terminal Illness chapter.

*1 PADP regs, reg 5(7)*

21. Entitlement to PADP begins on whichever date is later, either the date part 1 is received by Social Security Scotland, or the date the individual meets all of the eligibility criteria.<sup>1</sup> This is provided that the individual returns a completed part 2 of the application within 8 weeks of the required data at part 1 being received.<sup>2</sup>

*1 PADP regs, reg 27(2)(a) and (b)*

*2 PADP regs, reg 27(4)*

22. 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.<sup>1</sup>

*1 PADP regs, reg 27(3)*

23. The date that an individual provides their full name and date of birth (the required data) should be clearly recorded, as this can influence when an individual becomes eligible for PADP.

24. In some instances, the required data may not be supplied on the same date an individual submits part 1 of the application. For example, if the individual requests that both part 1 and part 2 are sent out in paper format, the required data will have been provided by the individual in order to trigger the issue of a paper part 1 and part 2.

25. 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.<sup>1</sup>

*1 PADP regs, reg 27(5)*

26. If the individual has good reason for why part 2 of the application is returned after 8 weeks, Social Security Scotland can decide to determine entitlement as if it had been returned within the 8 week period<sup>1</sup>.

*1 PADP regs, reg 27(5) and (6)*

27. If Social Security Scotland does not accept the reasons for the late completion of part 2, the individual has the right to request a re-determination in relation to the start date of their PADP award.

28. Circumstances considered as 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 has contacted Social Security Scotland to request more time, for example, to liaise with welfare rights support or to access accessibility support through a translation service or interpreter.

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

**Example: Social Security Scotland considers that there is a good reason why an application was completed late**

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

Part 2 is not submitted until 9 July. When asked for why the application was completed late, Kay 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 being discharged.

The case manager considers Kay's explanation for submitting the application form late and accepts good reason. This means their application is treated as being completed on time and the date of application can be accepted as 6 May, the date that part 1 was submitted to Social Security Scotland through the digital portal.

**Example: An individual does not provide Social Security Scotland with a good reason for why their application was completed late**

Magnus 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 him that this should be completed and returned by 18 August.

The completed part 2 is not received until 7 September. When asked for reasons why the application was completed late, Magnus advises that he completed the form and forgot to post it on time, and only remembered when he came across it again on 1 September.

The case manager decides this is not a good reason for lateness. This means that the date of application will be taken as 7 September, the date the full completed application, including both part 1 and part 2, was received by Social Security Scotland.

29. 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.

30. Other scenarios which the case manager may consider to be good reason are:

- technical issues in the digital portal preventing the individual from applying for PADP
- when no application form is received by the individual after they requested it

- when the actions of Social Security Scotland officials or the IT 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 to PADP should begin on the date the application was registered, where the individual satisfies the eligibility criteria <sup>1</sup>.

*1 PADP regs, reg 27(4) and (6)*

### **Acceptable and unacceptable applications**

31. The Social Security (Scotland) Act 2018 sets out that an application must be submitted both:

- in the form described by Social Security Scotland
- with the supporting information that is required<sup>1</sup>

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

32. Supporting information for PADP, where required, does not have to be submitted at the time of application. Case managers should refer to the Supporting Information chapter for further information about supporting information for PADP.

This supporting information may include:

- confirmation from a professional,
- supporting information to establish the individual's entitlement

33. 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.<sup>1</sup>

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

34. For more information on gathering supporting information, and when supporting information is not available, see the Supporting information chapter.

35. It may be that an individual:

- makes an application for PADP using a Child Disability Payment or Adult Disability Payment application form
- does not provide any, or any relevant or suitable, confirmation from a professional
- does not provide enough information, including supporting information, to establish their level of need in order to make a determination.

In these situations, the case manager can accept the application. As the criteria differ between different forms of disability assistance, such applications may not provide the details necessary for a determination of entitlement to PADP to be made. Case managers will likely have to gather additional information from the individual or the contacts they might have provided in their application form (i.e. from a professional or their wider support network), where appropriate.

36. Similarly, if an individual fills in an application for PADP using an Attendance Allowance application form, it may be treated as though it was an application for PADP where there is enough information to make a determination. Attendance Allowance is delivered by the Department for Work and Pensions (DWP) and is the benefit that PADP replaces in Scotland.

### **Rejecting an application**

37. 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 has been considered, because there is not enough information to make a determination about entitlement.

38. An application may be rejected before a determination is made if the individual has either: <sup>1</sup>

- not made an application in the form that is set out by Social Security Scotland
- not provided appropriate information to process part 1 of the application, for example, confirmation of their identity or residence status.

*1 SS (Scotland) Act 2018 s.38(5)*

39. Before an application is rejected due to not having appropriate information to process part 1, further information should be sought through engagement with the individual. An application should only be rejected where this information is unavailable.

40. For example, where an individual's identity cannot be verified, more information should be sought by a client advisor to confirm the individual's identity so that their application can then be passed to a case manager to make a determination of entitlement.

41. If a client advisor has exhausted seeking further information to process part 1 and the application is then rejected, Social Security Scotland must:

- inform the individual of the decision to reject their application. This is different from a determination of entitlement.
- explain why the decision was made
- state the individual's right to appeal the rejection decision <sup>1</sup>.

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

42. As an application is rejected by a client advisor before the eligibility criteria has been considered, it is not possible for the individual to request a re-determination. Instead, if an application has been rejected, the individual has 31 days to appeal the decision to the First-tier Tribunal for Scotland from the date that they were informed of the decision<sup>1</sup>.

*1 SS (Scotland) Act 2018 s.61(2)(a)*

43. This type of appeal is called a process appeal, and individuals must make a process appeal directly with the First-tier Tribunal for Scotland. For more information on process appeals, please see the Appeals to the First-tier Tribunal chapter.

44. An application should not be rejected due to not having accompanying supporting information relating to the individual's needs at the time of application, including confirmation from a professional.

45. During the decision-making process, case managers may decide that they require supporting information to make a determination. Case managers should engage with the individual to gather supporting information.

46. Where supporting information is needed to establish the individual's entitlement but is unavailable following engagement with the individual, the case manager should consider whether other decision-making tools should be used. For more information on gathering supporting information and the other decision-making tools available, refer to the PADP Supporting Information chapter.

### **Making an application before the qualifying age**

47. In order to be entitled to PADP, an individual must be of State Pension age and over<sup>1</sup>. For more information on the State Pension age, please see PADP Rates and Criteria chapter.

*1 PADP regs, reg 17*

48. Social Security Scotland provides Adult Disability Payment for new applications if an individual is between the age of 16 and State Pension age. Individuals in Scotland who have not yet reached the State Pension age should be signposted to apply for Adult Disability Payment.

49. If an individual receives Adult Disability Payment before reaching State Pension age, they will continue to receive this once they reach State Pension age, provided the individual continues to meet the necessary eligibility requirements.
50. However, if an individual still wants to make an application for PADP after signposting to Adult Disability Payment, they can make an application for PADP up to 26 weeks before reaching State Pension age. This is because the backwards test for PADP is 26 weeks. This is called a pre-emptive application.
51. If the individual meets the other eligibility criteria, including the backwards test, entitlement should begin on the date that the age criteria is met. The case manager should consider the application as having been made on the day that the age criteria is satisfied<sup>1</sup>.

*1 PADP regs, reg 27(2)(a) and (b)*

### **Making an application before residence and presence requirements are met**

52. An application can be submitted for an individual who does not meet the residence and presence requirements on the date that the application is submitted. An individual may be taken to have met these requirements if they meet them within 26 weeks of the application being received<sup>1</sup>.

*1 PADP regs, reg 27(2)(a) and (b)*

53. In this circumstance, a case manager may determine that the individual is entitled to PADP from the date they meet the residence and presence requirement. This is provided that the other eligibility criteria have been met. For more detailed information and examples of the residence and presence rules for PADP, see the PADP Residence and Presence Chapter.

### **Change of circumstances before an initial determination has been made**

54. This section applies in circumstances where an individual provides additional information:

- after having submitted their application
- before an initial determination has been made.

55. Case managers should take any new information they receive into account when making a determination.

56. A further application is not necessary when an individual reports a change of circumstances before the initial determination is made.

57. Case managers will need to make two determinations if the individual's needs have changed since their application was initially submitted, where the change reported affects the initial rate of award.
58. This includes the possibility of an individual not being entitled to PADP for the period before or after the change of circumstances.
59. The first determination takes into account the needs of the individual based on the original information provided in the application.
60. The second determination takes into account the needs of the individual based on the change reported, or new information provided.
61. This could result in two different rates of award, which is known as a split award. See operational guidance on split awards.
62. The second award is effective for payment once the individual meets the backwards test for the new information provided.
63. Where an individual has reported a change of circumstances for an award that is already in payment, case managers should refer to the 'Change of Circumstances' chapter.

**Example: a change of circumstances is reported in advance of a determination**

Francis is 78 and has arthritis and a heart condition. He applies for PADP on 6 April, stating that his needs have existed for 2 years prior to applying. This means that he satisfies the backwards test at the time of application. The information within the application form suggests that Francis is likely to be entitled to the lower rate of PADP from the date of application in relation to his daytime needs.

Before the case manager has made their determination, Francis' spouse contacts Social Security Scotland on 27 May to say that Francis had a stroke on 21 May and now has increased needs. After considering the additional information the case manager decides that Francis will be entitled to the higher rate of PADP, as he has developed night-time needs.

As Francis' increased needs began on 21 May, the date that he had a stroke, he does not yet satisfy the backwards test for an award of the higher rate of PADP. This will be satisfied on 19 November. Therefore, Francis will be entitled to the lower rate of PADP from 6 April, and the earliest date that he can be paid the higher rate will be 19 November.

Two separate determinations of entitlement set out both of these awards.

**Example: a change of circumstances is reported in advance of a determination**

Rana is 75 and applied for PADP on 4 June due to having depression and anxiety. Her application form states that her needs have existed for more than 6 months prior to applying. Therefore, Rana has satisfied the backwards test. The information

provided in the initial application suggests that Rana will be entitled to the lower rate of PADP as she needs someone to watch over her during the night.

Before the case manager makes their determination, Rana writes to Social Security Scotland to say that she was involved in a road traffic 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 Rana's injuries and sets out the long-term nature of Rana's condition. The case manager decides an award of the higher rate of PADP is appropriate, as Rana now requires attention throughout the day.

As Rana's increased needs began on 23 July, the backwards test will be satisfied on 21 January. This is the earliest date that the higher rate of PADP can be paid from

Therefore, the case manager will make an initial determination that Rana is entitled to the lower rate of PADP from 4 June to 21 January, and a second determination that she is entitled to the higher rate of PADP from 21 January onwards. A review is scheduled for 3 years from the date the determination was made, to check whether Rana's needs have changed.

### **Determination of entitlement**

64. An individual will be notified when their application has been received by Social Security Scotland if they have opted to receive notifications.
65. Those applying for PADP will receive a reminder from Social Security Scotland two weeks before the end of the 8 week period. This is the period when part 1 of the application has been made, but a completed part 2 has not yet been received.
66. Following the completion of part 1 and 2 of the application, a case manager will make a determination of entitlement. An individual will receive a determination of entitlement on their completed application for PADP in writing.

### **Withdrawal of an application**

67. Individuals have the right to withdraw their application at any time before a determination of entitlement is made on their application<sup>1</sup>. Case managers are not to make a determination on applications which have been withdrawn.

*1 SS (Scotland) Act 2018, s.39*

**[END OF CHAPTER]**