

Case Transfer

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Introduction

1. The purpose of this chapter is to set out our approach to Child Disability Payment (CDP) cases transferred from Disability Living Allowance for children (DLAC). This includes how you should treat these cases differently from new applications.
2. DLAC is a disability benefit administered by the DWP. DLAC is being replaced with CDP for children and young people in Scotland. CDP is administered by Social Security Scotland. Apart from a few small exceptions, DLAC is equivalent to CDP in terms of eligibility rules and the amount individuals can receive.

The meaning of case transfer

3. Case transfer is the process of moving someone's existing benefit award from the United Kingdom social security system to the new Scottish social security system.
4. This means transferring responsibility for administering benefits that have been devolved to Scottish Ministers from the Department for Work and Pensions (DWP) to Social Security Scotland.
5. It also means changing the benefit entitlement of Scottish residents from the UK benefit they currently receive to the equivalent Social Security Scotland benefit.
6. The "point of case transfer" refers to the point the individual's CDP entitlement begins and their DLAC entitlement ends.

The case transfer process from Disability Living Allowance for children (DLAC) to Child Disability Payment (CDP)

7. Individuals cannot ask for their benefits to be transferred. DLAC cases are selected for transfer based on the postcode in DWP's client record. The timing of the transfer is based on:
 - if the individual meets the special rules for terminal illness (SRTI), with these given priority
 - the individual's age, with the oldest individuals being transferred first.

8. Individuals do not need to make a new application if their case has been selected for transfer. Instead, the DWP passes the information used to make the individual's DLAC award to Social Security Scotland. This information forms the basis for the individual's CDP determination.

9. Once Social Security Scotland receives this information from DWP, they send a notification to the individual explaining all of the following¹:
 - that their case has been selected for transfer
 - that a determination establishing their entitlement to CDP will be made within 17 weeks
 - that this determination will end their entitlement to DLAC
 - in what circumstances they should contact Social Security Scotland before that determination is made.

1 CDP regs, Sch 1, Part 3, Para 8

10. The individual will then receive a notification of their CDP determination that sets out¹:
 - what their CDP entitlement is
 - the reasons for the determination
 - when their entitlement to CDP begins
 - that their DLAC entitlement will end immediately before their CDP entitlement begins, so there is no break in entitlement
 - when they should expect their first and subsequent payments – which will be four weeks after their CDP entitlement begins and every four weeks after that
 - what their rights to request a re-determination or appeal are

1 CDP regs, Sch 1, Part 3, Para 9; Social Security (Scotland) Act 2018, Sec 40.

The CDP determination

11. The CDP determination is based on¹:

- the information Social Security Scotland receives from DWP regarding the individual's DLAC award
- any other relevant information available to Social Security Scotland at the time of the determination.

1 CDP regs, Sch 1, Part 3, Para 3

12. A case manager will not typically review the DLAC information before a determination is made. This is an automatic process.
13. In most cases an individual will receive the same components at the same rates of CDP as they received in their DLAC immediately before transfer¹. For example, if they received the highest rate of the care component and the lower rate of the mobility component for DLAC, they are entitled to the highest rate of the care component and the lower rate of the mobility component for CDP. There are exceptions to this rule however. **[See para. 15.]**

1 CDP regs, Sch 1, Part 3, Para 9(4)

14. The CDP determination must be made within 17 weeks of the individual being notified that their case is being transferred¹. The only exception to this rule is where all of the following are met, with Social Security Scotland having:
- good reason for extending this timeframe
 - agreed the length of the extension with DWP
 - notified the individual that this time frame has been extended and their reasons for doing so.

1 CDP regs, Sch 1, Part 3, Para 9(5)(c)

Example: Extension of 17 week period

Joanne is 7 years old and her case is chosen for transfer. The DWP sends the relevant DLAC information to Social Security Scotland. However, there are inconsistencies with the information Social Security Scotland received that they need to clarify with the Joanne's parents before making the CDP determination. Social Security Scotland:

- believes the questions will not be answered within the 17 week period
- agrees with DWP an extended time period so the questions can be resolved
- writes to Joanne's parents explaining the issue, that the 17 week period will be extended, and letting them know when they can expect the process to finish.

Example: CDP entitlement equals DLAC entitlement

Francis is 12 years old. He receives the highest rate of the care component and the lower rate of the mobility component of DLAC. His case is chosen for transfer. He is

entitled to the highest rate of the care component and the lower rate of the mobility component for CDP.

15. However, in some instances someone in the same circumstances will receive a higher CDP award than the DLAC they received. This is because the eligibility rules for CDP differ slightly from DLAC in some areas¹.

1 CDP regs, Sch 1, Part 3, Para 11 and 12

Differences between DLAC and CDP

16. An individual who both:

- meets the special rules for terminal illness **[link chapter]**
- received either the lower rate of the mobility component or no mobility component in their DLAC award at point of case transfer

is entitled to the higher rate of the mobility component of CDP¹.

1 CDP regs, Sch 1, Part 3, Para 11(a)

17. An individual who:

- is 16 years old or older and is so severely disabled physically or mentally that they cannot prepare a cooked main meal for themselves if they have the ingredients
- received no care component in their DLAC award

is entitled to the lowest rate of the care component of CDP¹.

1 CDP regs, Sch 1, Part 3, Para 11(b)

18. An individual who both:

- is 16 years old or older and their DLAC award was affected by the requirements set out in sections 72(1A)(b) and/or 73(4A) of the Social Security Contributions and Benefits Act 1992¹. These sections refer to DLAC rules that are identical to the requirements set out in **[LINK CHAPTER]** for CDP. It can therefore be assumed that if the CDP rules would have applied the DLAC rules would have been applied.
- If not for those sections would have been entitled to a higher rate of either component or both components of DLAC,

is entitled to an increased rate of either component or both components of CDP as appropriate². For example, where an individual's award of DLAC included the low rate of the care component, but would have been the middle rate of the care component if not for these rules, the CDP award should include the middle rate of the care component.

1 These requirements are identical to those set out in regulations CDP regs 11(2) and 12(3)

2 CDP regs, Sch 1, Part 3, Para 11(c)

19. An individual who both:

- is to be taken to have a severe visual disability
- did not receive the higher rate of the mobility component of DLAC;

is entitled to the higher rate of the mobility component of CDP¹.

1 CDP regs, Sch 1, Part 3, Para 11(d)

Example: CDP entitlement higher than DLAC entitlement at point of transfer

Jolanda, who is 10 years old, received the highest rate of the care component and the lower rate of the mobility component in DLAC. Jolanda is visually impaired but did not meet the definition set out in the DLAC rules. After Jolanda's carer received her initial case transfer notification, she contacted Social Security Scotland to:

- explain that Jolanda meets the definition
- send the relevant supporting information.

Her CDP award now includes a higher rate of the mobility component from the point her CDP entitlement begins. **[SEE BACKDATING SECTION BELOW]**

When payments of components that were suspended in DLAC should be paid for CDP indefinitely from the point of case transfer

20. There are three instances where payment that was suspended in DLAC should be put into payment at the beginning of the CDP entitlement. These do not constitute a change in entitlement.

21. The first instance is when the individual:

- is in legal detention **[cite legal detention chapter]** immediately before the date their case is transferred
- was entitled to the mobility component of DLAC but payment of it was suspended as a result of being in legal detention immediately before the date their case is transferred

- is still in legal detention on the date their CDP entitlement begins.

22. In this case, the individual's mobility component of CDP should be put into payment:

- from the date their CDP entitlement begins **[but see backdating]**
- at the rate the component in their DLAC would have been paid if it had not been suspended¹.

1 CDP regs, Sch 1, Part 3, Para 12

When payments of components that were suspended in DLAC should be paid for CDP temporarily from the point of case transfer

23. The second instance is when the individual:

- is in legal detention **[link to legal detention chapter]** immediately before the date their case is transferred
- was entitled to the care component of DLAC but payment of it was suspended as a result of being in legal detention immediately before the date their case is transferred
- is still in legal detention on the date their CDP entitlement begins.

24. In this case, the individual's care component should be put into payment:

- from the date their CDP entitlement begins
- at the rate the component in their DLAC would have been paid if it was not suspended
- for a period of 28 days¹.

1 CDP regs, Sch 1, Part 3, Para 13

Example: Case transferred while in legal detention

Jim is 16 years old. His case was transferred while he was in legal detention. He had been in legal detention for six months before the transfer occurred so both the care component and mobility component of his DLAC award were suspended. On the date his CDP entitlement begins, both his care component and mobility must be put into payment. If, after a further 28 days, he is still in legal detention:

- he will be paid £0 for the care component until he is released from legal detention
- his mobility component will remain in payment.

25. The third instance is where the individual:

- is in a care home **[link to care home chapter]** immediately before the date their case is transferred

- was entitled to the care component of DLAC but payment of it was suspended as a result of being in a care home immediately before the date their case is transferred
- is still in a care home on the date their CDP entitlement begins;

26. In this case, the individual's care component should be put into payment:

- from the date their CDP entitlement begins
- at the rate the component in their DLAC award would have been paid if it was not suspended
- for a period of 28 days¹.

1 CDP regs, Sch 1, Part 3, Para 13

27. In some circumstances, the case manager might see information received from the DWP that suggests either:

- CDP entitlement should be increased
- a suspended payment should be put into payment.

28. However, where the case manager does not have information which the individual may have, the individual must advise Social Security Scotland:

- that they think they meet the requirement
- before the CDP determination is made.

29. When this information is received before the initial CDP determination is made, a case manager should review this information in time to include it in the initial CDP determination made within the 17 weeks after the case transfer notification is sent.

30. However, where this is not possible, for example because the individual provided relevant information immediately before the end of the 17 week period, the case manager should make the initial CDP determination based on the information available at the time (i.e. the CDP award should be the same as the DLAC award).

31. If, after reviewing the information provided by the individual, the case manager decides the individual should have had a higher award of CDP due to one of the scenarios described above applying to their case at the point of case transfer, they should:

- make a determination without application on the basis of official error¹.
- increase the CDP award appropriately from the date the initial CDP determination was made². **[but see backdating]**

1 CDP regs, reg. 32

2 CDP regs, reg. 28(1)(c)

Example: CDP entitlement must be increased after initial CDP determination due to individual reporting relevant information immediately before initial CDP determination.

Camille is 17 years old. She receives the higher rate of the mobility component of DLA but does not receive the care component. She has been selected for case transfer and received her notice advising her to get in touch if she felt the circumstances described above applied to her.

One day before her initial CDP determination is due to be made, Camille's father contacts Social Security Scotland and explains that Camille cannot prepare and cook her own meal even if ingredients were provided to her.

The case manager does not have time to consider the information before the initial determination must be made, so Camille's initial CDP determination is made on the same rates as her DLA (i.e. the high rate of the mobility component and no care component).

The following week, the case manager considers the information provided by Camille's father and looks at the information provided by the DWP. They decide that due to her condition, Camille cannot cook her own meal even if ingredients are provided for her. The case manager therefore makes a determination without application to add the lowest rate of the care component to Camille's CDP award. This increase takes effect from the date the earlier CDP determination was made.

32. When an individual reports this information to Social Security Scotland after the CDP determination is made, the case manager makes a determination without application. The usual rules for when the determination without application takes effect apply **[link to the relevant section in unscheduled reviews chapter]**.

Backdating

33. In cases where the individual's CDP award is higher than their DLA award due to the scenarios set out in sections 17-21 above, their CDP entitlement can be backdated to whichever date is the later of¹:

- the point the condition necessary for increased entitlement was met
- case transfer pilot launch on 11 October 2021.

1 CDP regs, Sch 1, Part 3, Paras 10, 11(3) and 12(2)

34. In cases where the individual's award is higher due to the SRTI rules described in section 16 of this chapter, their CDP entitlement can be backdated to whichever is later of¹:

- the point the clinical judgement of terminal illness was made
- six months before the point of case transfer
- CDP pilot launch on 26 July 2021.

1 CDP regs, Sch 1, Part 3, Paras 10 and 11(2)

35. When CDP entitlement is backdated in this way, the CDP award will be reduced by the value of DLAC they were entitled to for any time periods that overlap¹.

1 CDP regs, Sch 1, Part 3, Paras 11(4), 12(3) and 13(zb)(iv)

Example: Backdating CDP entitlement for transfer cases

Janet is 10 years old. Her mother received notice on 13 September 2021 that Janet's case is going to transfer in about three months' time. Her mother gets in touch with Social Security Scotland two months before Janet's CDP determination to explain that Janet:

- meets the definition for severe visual disability
- only receives the lower rate of the mobility component of DLAC.

The case manager:

- looks at the information Janet's mother provides
- determines that she has had a severe visual disability for the past 10 years
- backdates Janet's CDP entitlement to 11 October 2021 when they make the initial CDP determination.

Janet's CDP award for this time period is reduced by the amount of DLAC she was entitled to during the same time period. The case manager should look to the information provided by DWP to decide what this amount should be.

Information received from the Department for Work and Pensions (DWP)

36. All information received from the DWP as part of the case transfer process should be assumed to be accurate on the date on which the determination of CDP entitlement is made¹.

1 CDP regs, Sch 1, Part 3, Para 9(5)(a)

37. Where information used to make a relevant CDP determination was assumed to be correct and is later determined to be incorrect, the case manager should make a determination without application¹. **[Link to unscheduled reviews chapter]**

1 CDP regs, Sch 1, Part 3, Para 33

Appointees

38. All individuals under 16 who receive DLAC will have an appointee in the DWP system. However, in Scotland children under 16 only require an appointee if there is no one who either:

- has authority to act on behalf of the child,

- resides with, has care of the child and is willing and practicably able to act on their behalf. **[Link to appointee guidance]**

39. For this reason, when someone makes a new and successful application for CDP, the award cannot be paid to a person as an appointee until Social Security Scotland checks that they can act as an appointee.

40. However, where an individual's initial CDP determination resulted from the case transfer process, the DWP appointee can continue to act for the individual in the Scottish system until these further checks are carried out¹.

1 CDP regs, Sch 1, Part 3, Para 14(1)

41. These checks need to be completed as soon as reasonably practicable. However, until then the appointee can continue to act on the individual's behalf, including receiving their payments of CDP¹.

1 CDP regs, Sch 1, Part 3, Para 14(2)

42. When these checks have been completed, Social Security Scotland must decide if the appointment should continue or be terminated. If the appointment is terminated, a decision should be made as to whether it would be appropriate for someone else to act on the individual's behalf and the usual appointee process should be followed¹. **[Link to appointee chapter]**

1 CDP regs, Sch 1, Part 3, Para 14(2)(a)-(c)

43. Some children and young people who had appointees in the DWP system do not need appointees in the Scottish social security system. These include children who are cared for by someone who has parental rights and responsibilities for them. We will not always be able to tell if someone does or doesn't have parental rights and responsibilities from the data received by DWP. Therefore, Social Security Scotland will contact the individuals and ask them to contact us if they do not have parental rights and responsibilities.

Example: Appointees for transfer cases

Fran is 8 years old and her uncle William looks after her. William claimed DLAC on Fran's behalf and was appointed by the DWP to maintain her DLAC award.

Fran's case is selected for transfer. William received a letter from Social Security Scotland asking him to get in touch if he does not have parental rights and responsibilities for Fran. He contacts Social Security Scotland to discuss the appointment. Social Security Scotland decide they would like to conduct a visit to speak with both William and Fran. The first time the three can meet at the same time is six weeks after Fran's case is transferred.

William can continue to act and receive CDP payments on Fran's behalf until Social Security Scotland:

- completes their visit
- decides if the appointment is appropriate.

Residence

44. A CDP determination made as part of the case transfer process assumes that the residence and presence conditions are met¹. **[Link to res and pres conditions]**

1 CDP regs, Sch 1, Part 3, Para 9(5)(b)

45. If the case manager later determines that the assumption was incorrect, they must make a determination without application¹. Where this finds that the individual did not meet the residence and presence conditions in the initial CDP determination, it will replace that initial CDP determination. See guidance on determinations and awards.

1 CDP regs, Sch 1, Part 3, Para 33

Example: Assumption of residence for transferred cases

Johann is 10 years old. The information received from DWP in relation to Johann's DLAC award stated he normally lived at an address with a Scottish postcode. Assuming this information was correct, Johann's case was selected for transfer and a determination was made that Johann was entitled to CDP. His DLAC award ended as a result.

Six months later, Johann's father advises that he did not normally live in Scotland when the CDP determination was made; Johann lived in Wales but his father had not updated his address with DWP.

The assumption that the residence conditions were met were incorrect. The case manager must therefore make a determination without application that finds Johann was not entitled to CDP on the date of transfer.

Temporary time abroad

46. Where an individual is temporarily abroad at the point of transfer, the time limits set out in **[link to res and pres section]** begin on the date of transfer.

47. We will not always be able to tell if someone is abroad at the point of case transfer. Therefore, we will contact the individuals and ask them to contact us if they are currently or are planning on going abroad in the near future.

Example: Individual is temporarily abroad at point of case transfer

Valentino is 7 years old. He normally lives in Scotland but is in Malaysia at the point of case transfer for medical treatment connected to a lifelong disease. Valentino continues to be treated as present in the common travel area for purposes of CDP

for 26 weeks beginning on the date his CDP entitlement begins. This means he should not be excluded from being entitled to CDP for 26 weeks from the point of case transfer, regardless of how long he was in Malaysia before the point of case transfer.

Re-determinations and appeals

48. The CDP determination made at the point of case transfer is subject to the same rights to re-determination and appeal as any other CDP determination. **[Link to redetermination chapter, appeals to the first-tier tribunal chapter, and upper tier tribunals chapter]**

Example: Re-determination for case transfer CDP determinations

Aashna is 11 years old. Her case has been transferred and her initial CDP determination was made last week. Her CDP award is exactly the same as it was for DLAC – she receives the same components at the same rates. However, she does not feel her CDP award accurately reflects her circumstances. She can request a re-determination of her CDP determination within the time limit.

When a DLAC award that ended at the point of case transfer is retroactively changed

49. There may be cases where the DLAC award that was ended by the case transfer process is changed after the CDP determination is made due to following:

- Revision made by the DWP
- Supersession made by the DWP
- Decision made by a tribunal or court on appeal.

These are the ways in which a DLAC award can be changed in the UK system. Where the DLAC award that was ended at the point of case transfer is changed sometime after the case transfer process has completed, the case manager must make a determination without application of the individual's CDP award¹.

1 CDP regs, reg. 31(c)

50. This determination without application does not need to result in the CDP award mirroring the changes made to the DLAC award. Case managers should consider the information and make a wholly new determination based on the information available. Like when making any determination, the case manager should ask for further supporting information to make an accurate determination, if they feel they need it.

51. Where a case manager makes a determination without application for this reason, the date the change takes effect should be the point of case transfer¹.

Example: DLAC award ended at point of transfer is retroactively changed

Binh is 10 years old. Her case transferred six months ago and she is currently in receipt of CDP. However, after receiving advice, her mother contacted the DWP and requested a revision of Binh's DLAC award. This is on the specific ground that the DWP decision maker failed to take into account relevant evidence they held when they made her most recent DLAC decision.

The DWP decides that Binh's DLAC award was incorrect and revises the award to increase it. This takes effect from the day the DLAC decision was originally made. The DWP will notify this change to Social Security Scotland.

A case manager must now look at Binh's CDP award and make a determination without application. After reviewing the information received from the DWP, the case manager decides that Binh's CDP award should have been higher at the point of case transfer and should remain at that rate currently. Binh's CDP award is therefore increased from the date of the initial CDP determination.

52. However, case managers should limit the time period such a change is in effect if at some point after the point of case transfer the individual's circumstances changed or it would otherwise be inappropriate for the change to the CDP award to be in effect past a certain date¹.

1 Social Security (Scotland) Act 2018, section 27

Example: DLAC award ended at point of transfer is retroactively changed – CDP award changed for a fixed period

Philip is 8 years old. His CDP entitlement began on 01 March 2022 as the result of determination without application made via the case transfer process. His CDP award was the low rate of the care component and the low rate of the mobility component, just as his DLA award was at the point of case transfer.

Philip's health declined and his mother promptly reported this change to Social Security Scotland. As a result, Philip's CDP award was increased to the high rate of the care component and the high rate of the mobility component from 01 September 2022.

On 01 December of 2022, Philip appeals the DLA award that was ended at the point of case transfer. The tribunal finds that Philip's DLA award should have been the middle rate of the care component and the low rate of the mobility component.

Because Philip's DLA award was changed, a case manager must conduct a determination without application of his CDP award. A case manager reviews the

information and decides Philip's CDP award should have been the middle rate of the care component and the low rate of the mobility component at the point of case transfer.

The Case Manager makes the determination without application setting Philip's CDP entitlement to the middle rate of the care component and the low rate of the mobility component for the period of 01 March 2022 to 31 August 2022, and the high rate of the care component and high rate of the mobility component from 01 September 2022 onwards.