

# Case Transfer

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## Introduction

1. The purpose of this chapter is to set out our approach to Adult Disability Payment cases transferred from Personal Independence Payment. This includes how you should treat these cases differently from new applications.

2. Personal Independence Payment is a disability benefit administered by the Department for Work and Pensions. Personal Independence Payment is being replaced with Adult Disability Payment for Adults in Scotland. Adult Disability Payment is administered by Social Security Scotland. Apart from a few exceptions, Personal Independence Payment is equivalent to Adult Disability Payment 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 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 “date of transfer” refers to the date the individual’s Adult Disability Payment entitlement begins and their Personal Independence Payment entitlement ends.

### **The case transfer process from Personal Independence Payment to Adult Disability Payment**

7. Individuals cannot ask for their benefits to be transferred. Personal Independence Payment cases are selected for transfer when the client has a Scottish postcode as part of their Personal Independence Payment record and:

- The client reports a relevant change of circumstances to Department for Work and Pensions that would require a face to face assessment after Adult Disability Payment national launch;
- The client’s fixed term award whose end of award date falls after Adult Disability Payment national launch where the client has not already begun the process of making an advance claim for Personal Independence Payment;
- The client’s scheduled review with Department for Work and Pensions is due to begin after the Adult Disability Payment national launch where the process for reviewing the case has not already begun, ie they have not yet received the review form from the Department for Work and Pensions.

This is called “natural transfer”, because a specific circumstance triggers the case’s selection for transfer.

Cases that are not subject to natural transfer (i.e. where one of the above circumstances does not occur) will eventually be selected for transfer based on a set of prioritisation criteria still to be agreed. This is called “managed transfer”.

8. Individuals do not need to make a new application for Adult Disability Payment for the transfer to take place. Instead, the Department for Work and Pensions passes the information used to make the Personal Independence Payment award to Social Security Scotland. This information forms the basis for the individual’s Adult Disability Payment determination.

9. Once Social Security Scotland receives the transfer information from Department for Work and Pensions, they will send a notification to the individual explaining all of the following<sup>1</sup>:

- that their case has been selected for transfer from PIP to ADP
- a determination to begin entitlement of ADP and end PIP will be made within the period of specified time within the communication
- a determination will be made without the individual submitting an application

- the individual will be notified when the determination is made and information about their award and start date of ADP
- the individual's PIP award will cease immediately before the award of ADP begins so there is no break in entitlement
- what their rights are to request a re-determination or appeal<sup>2</sup>

<sup>1</sup>Adult Disability Payments regs, Sch 2, Para 8(2)

<sup>2</sup>Section 40 of the Social Security (Scotland) Act 2018

## The Adult Disability Payment determination

10. Where their case has transferred, an individual's initial Adult Disability Payment determination (called a "transfer determination") is based on<sup>1</sup>:

- the information Social Security Scotland receives from Department for Work and Pensions regarding the individual's Personal Independence Payment award
- any other relevant information available to Social Security Scotland at the time of the determination unless the individual has reported a change to Department for Work and Pensions which has not been taken into account for Personal Independence Payment

<sup>1</sup> Adult Disability Payment regs, Sch 2, Part 3, Para 9(3)

11. A case manager will not typically review the Personal Independence Payment information before the initial Adult Disability Payment determination is made. This is an automatic process.

12. In most cases an individual will receive the same components at the same rates of Adult Disability Payment as they received in their Personal Independence Payment immediately before transfer when their initial Adult Disability Payment determination is made<sup>1</sup>. For example, if they received the enhanced rate of the daily living component and the standard rate of the mobility component of Personal Independence Payment, they are entitled to the enhanced rate of the daily living component and the standard rate of the mobility component of Adult Disability Payment. There are exceptions to this rule, however. [See para 18]

<sup>1</sup> Adult Disability Payment regs, Sch 2, Part 3, Para 9(5)

### **Example: Adult Disability Payment entitlement equals Personal Independence Payment entitlement**

Ivy receives the enhanced rate of the daily living component and the standard rate of the mobility component of Personal Independence Payment. Her case is selected for transfer. When her initial Adult Disability Payment determination is made, she is entitled to the enhanced rate of the daily living component and the standard rate of the mobility component of Adult Disability Payment.

13. The Adult Disability Payment determination must not be made later than the period set out in the notice. The only exception to this rule is where all of the following are met, with Social Security Scotland having<sup>1</sup>:

- good reason for extending this time frame
- agreed the length of the extension with the Secretary of State for Department for Work and Pensions
- notified the individual that the time frame has been extended and the reasons for doing so

<sup>1</sup> *Adult Disability Payment regs, Sch 2, Part 3, Para 9(6)(c)*

### **Example: Extension of the period set out in the notice**

Daisy's Personal Independence Payment case is selected for transfer. The Department for Work and Pensions send the relevant Personal Independence Payment information to Social Security Scotland. There are however, inconsistencies with the information Social Security Scotland receive therefore they need to clarify with Daisy before making the Adult Disability Payment determination. Social Security Scotland:

- believes the questions will not be answered within the period set out in the notice, therefore
- agrees with the Secretary of State for Work and Pensions an extended time period so the questions can be resolved
- writes to Daisy explaining the issue, that the notice period will be extended and letting her know when she can expect the process to finish

14. There are some instances, however where someone in the same circumstances will receive an increased rate of Adult Disability Payment award than the Personal Independence Payment they received. This is because the eligibility rules for Adult Disability Payment differ slightly from Personal Independence Payment in some areas<sup>1</sup>. (See paragraph 18)

<sup>1</sup> *Adult Disability Payment regs, Sch2 Part 3, Para 11(1)*

### **Ending the client's Personal Independence Payment award**

15. When a case completes the transfer process, the client's entitlement to Personal Independence Payment will usually cease immediately before their entitlement to Adult Disability Payment begins<sup>1</sup>. However, where the client's Adult Disability Payment award is backdated because they meet the special rules for terminal illness (See para 18), the client's entitlement to Personal Independence Payment ceases on the day the client's Adult Disability Payment would have begun had the award not been backdated<sup>2</sup>.

<sup>1</sup>Adult Disability Payment regs, Sch 2, Part 3, Para 10(a)  
<sup>2</sup>Adult Disability Payment regs, Sch 2, Part 3, Para 10(b)

## Information received from Department for Work and Pensions

16. An assumption<sup>1</sup> can be made that the transferring individual's circumstances are at the point of transfer:

- accurate on the date the determination is made
- the residence and presence conditions are satisfied for the individual

<sup>1</sup> Adult Disability Payment regs, Sch 2, Part 3, Para 9(6)

17. Where information used to make a relevant Adult Disability Payment determination was assumed to be correct and is later determined to be incorrect, the case manager should make a determination without application<sup>1</sup>.

<sup>1</sup> Adult Disability Payment regs, Regs 49 and 50

## Special Rules for Terminal Illness

An individual who meets the special rules for terminal illness immediately before the date of transfer is entitled to the enhanced rate of both daily living and mobility components of Adult Disability Payment<sup>1</sup>.

<sup>1</sup> Adult Disability Payment regs, Sch2, Part 3, Para 11(1)

## Special Rules for Terminal Illness backdating

18. In cases where the individual's Adult Disability Payment award is higher due to Special Rules for Terminal Illness as described in paragraph 18., their Adult Disability Payment entitlement will be backdated to whichever is the later of<sup>1</sup>:

- the point the Adult Disability Payment regulations took effect, 21 March 2022;
- when they met the SRTI conditions (i.e. the date the BASRiS / DS1500 is signed); or
- the day one year before their transfer determination.

<sup>1</sup> Adult Disability Payment regs, Sch2, Part 3, Para 11(2)(b)

19. The amount of Adult Disability Payment they receive for this period should be reduced by the value of the Personal Independence Payment the client was entitled to for that same period<sup>1</sup>.

## **Effect of legal detention on payment of the mobility component: 16 and 17 year olds**

20. Where an individual is:

- aged 16 or 17 on the date of transfer,
- was in legal detention immediately before the date of transfer **and** was entitled to the mobility component of Personal Independence Payment immediately before the date of transfer

entitlement to the mobility component of Adult Disability Payment is to begin before the date of the determination<sup>1</sup>

<sup>1</sup>Adult Disability Payment regs, Schedule 2, Part 3, Para 13(2)

## **Legal detention backdating**

21. In cases where the individual is 16 or 17 and in legal detention at the point of case transfer as described above in paragraph 21, their Adult Disability Payment entitlement must be backdated to whichever is the later of<sup>1</sup>:

- the date the client met the condition (i.e. when they entered legal detention);  
or
- 13 June 2022

22. The amount of Adult Disability Payment they receive for this period should be reduced by the value of the Personal Independence Payment the client was paid for that same period<sup>1</sup>.

<sup>1</sup>Adult Disability Payment regs, Schedule 2, Part 3, Para 13(3)

### ***Example: mobility component due before date of transfer***

Paul, aged 17 is in legal detention, with his case transferring from Personal Independence Payment to Adult Disability Payment on 1 September 2022. Paul was awarded the mobility component of Personal Independence Payment on 1 June 2022. He is therefore due payment of the mobility component of Adult Disability Payment from 13 June 2022.

### ***Example: Personal Independence Payment made after Adult Disability Payment mobility component due***

Trudi aged 17 is in legal detention and was awarded the mobility component of Personal Independence Payment. Following transfer from Personal Independence Payment to Adult Disability Payment on 15 October 2022, Trudi is now due the mobility component from 15 September 2022 as this is the date she entered legal detention. It has now been established that Trudi remains entitled to but is not paid Personal Independence Payment and therefore no payment was due to be made. She has already received payment of Personal Independence Payment up to and including 14 October 2022. Payment of Adult Disability Payment is due to be made from 15 September 2022 to 14 October 2022. For that period the Adult Disability Payment is to be reduced by the amount of Personal Independence already paid to Trudi for that period.

### **Reported relevant change of circumstance**

23. Where a Scottish resident is in receipt of Personal Independence Payment reports a relevant change of circumstances to the Department for Work and Pensions, their case will be selected for transfer and an initial determination without application (the “transfer determination”) of Adult Disability Payment will be made. This transfer determination will not take the reported change into account, and the resulting Adult Disability Payment award will be for the same components at the same rates as the Personal Independence Payment award before the change was reported<sup>1</sup>.

*1 Adult Disability Payment regs, Sch 2, Part 3, Para 9(4)*

24. As soon as reasonably practicable after the transfer determination is made, a subsequent “review determination” must be made<sup>1</sup>.

*1 Adult Disability Payment regs, Sch 2, Part 3, Paras 12 (1),(2)*

25. This review determination must take into account the change that was reported to the Department of Work and Pensions or to Social Security Scotland after the transfer notice was sent.<sup>1</sup>

*1 Adult Disability Payment regs, Sch 2, Part 3, Para 12(3)(b)*

### **Reported relevant change of circumstances backdating**

26. When the review determination made because of a reported relevant change of circumstances leads to an increased Adult Disability Payment award, the Adult Disability Payment award should be backdated to<sup>1</sup>:

- Where the change is reported within one month of the change occurring, the date the client first satisfies the requirements for an increased rate of the daily living or mobility component; or
- Where the change is reported more than one month after the change occurred, but within 13 months of it occurring, and where Social Security

Scotland considers that the client has good reason for reporting the change late, the date the client first satisfies the requirements for an increased rate of the daily living or mobility component or the date of notification of the change. If the change is before the regulations, the date the regulations came into force which is 21 March 2022.

*1 Adult Disability Payment regs Sch 2, Part 3, Para 12(4)*

27. Note that satisfying the requirements for the increased rate of either component includes meeting the required period test including the 13 week “backwards test”.

28. The amount of Adult Disability Payment they receive for this period should be reduced by the value of the Personal Independence Payment the client was paid for that same period<sup>1</sup>.

*1 Adult Disability Payment regs, Sch 2, Part 3, Para 12(6)*

29. When the review determination made because of a reported relevant change of circumstances leads to no change or a decreased Adult Disability Payment award, the Adult Disability Payment award should not be backdated. Any decrease should take effect from the date of the review determination<sup>1</sup>.

*1 Adult Disability Payment regs, Sch 2, Part 3, Para 12(5)*

### ***Example: Reported change of Circumstances to Department for Work and Pensions***

John receives the standard rate of the daily living component and the enhanced rate of the mobility component of Personal Independence Payment. John contacts the Department for Work and Pensions and reports that his condition has deteriorated and his care needs have increased as a result.

John’s case is selected for transfer. The transfer determination is made and the Adult Disability Payment award he receives is for the standard rate of the daily living component and the enhanced rate of the mobility component, just as his Personal Independence Payment award was. The reported change of circumstance is not taken into consideration in the transfer determination.

As soon as practicable after the transfer determination is made, a review determination is made. This determination does include the changes John reported, and as a result his Adult Disability Payment award is increased to the enhanced rate the daily living component and the enhanced rate of the mobility component.

John reported the change within two weeks of it occurring, therefore his Adult Disability Payment award is backdated to the day he first met the requirements of the enhanced daily living component – 13 weeks after his condition deteriorated.



The amount of Adult Disability Payment he receives for this period is decreased by the value of the Personal Independence Payment he was entitled to for any overlapping period.

**Example: decreased rate of Adult Disability Payment following determination**

Jo was in receipt of the enhanced rate of the mobility component of Personal Independence Payment and contacted the Department of Work and Pensions to report that her condition and mobility had improved. Her case is selected for transfer. The transfer determination is made on a like-for-like basis meaning her initial Adult Disability Payment award is for the enhanced rate of the mobility component.

At the review determination Jo has had her mobility component award reduced to the standard rate of mobility, rather than the enhanced rate she was previously receiving. The review determination was made on 8 August 2022. Therefore, the date of her award change is 8 August 2022 meaning Jo has not incurred an overpayment of her Adult Disability Payment.

### **Scheduled Review**

30. Where a Scottish resident, in receipt of Personal Independence Payment is coming to the end of their fixed term Personal Independence Payment award or where their Personal Independence Payment award is scheduled to be reviewed, their case will be selected for transfer. Their Adult Disability Payment award will be made on a like-for-like basis with their Personal Independence Payment award<sup>1</sup> and a review date set.

*1 Adult Disability Payment regs Sch 2, Part 3, Para 9(5)*

### **Scheduled review backdating**

31. Where:
- the client's Personal Independence Payment award was selected for transfer because it was scheduled to be reviewed; and
  - the first scheduled review of the Adult Disability Payment award (and only the first scheduled review of the Adult Disability Payment award) leads to an increase in that Adult Disability Payment award; and
  - the client has not reported a relevant change of circumstances since their award was selected for transfer

that increased Adult Disability Payment award should be backdated to:

- the day the client's award was selected for transfer; or
- the date the client first satisfies the requirements for an increased rate of the daily living or mobility component

whichever is later.

32. This is because it would be unjust to begin entitlement any later than this<sup>1</sup> as the client may have been better off had they remained on Personal Independence Payment otherwise.

*<sup>1</sup>Adult Disability Payment regs, Reg 45(2)*

33. Where the above applies but the first scheduled review leads to a decrease in that Adult Disability Payment award, the Adult Disability Payment award should not be backdated. Any decrease should take effect from the date of the review determination<sup>1</sup>.

*<sup>1</sup>Adult Disability Payment regs, Reg 46(1)(b)(ii)*

34. Note that any subsequent scheduled reviews will be subject to the usual effective date rules<sup>1</sup>.

*<sup>1</sup>Adult Disability Payment regs, Regs 45 and 46*

## **Appointees**

35. Where an appointee has already been accepted by Department for Work and Pensions to receive Personal Independence Payment on behalf of the transferring individual, the appointee is to be treated on or after the transfer date as though they act on behalf of the individual claiming Adult Disability Payment.

36. When someone makes a new and successful application for Adult Disability Payment, the award cannot be paid to a person as an appointee until Social Security Scotland checks that they can act as an appointee.

37. However, where an individual's initial Adult Disability Payment determination resulted from the case transfer process, the Department for Work and Pensions appointee can continue to act for the individual in the Scottish system until these further checks are carried out<sup>1</sup>

*<sup>1</sup>Adult Disability Payment regs, Sch 2, Part 3, Para 15(1)*

38. 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 Adult Disability Payment<sup>1</sup>.

*<sup>1</sup>Adult Disability Payment regs, Sch 2, Part 3, Para 15(2)*

39. 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 followed<sup>1</sup>.

**Example: Appointees for transfer cases**

Milly is cared for by her uncle Robbie. Robbie was appointed by the Department for Work and Pensions to maintain Milly's Personal Independence Payment.

Milly's case is selected for transfer. Robbie received a letter from Social Security Scotland asking him to get in touch to discuss the appointment. Social Security Scotland decide they would like to conduct a visit to speak with both Milly and Robbie. The first time the three can meet at the same time is six weeks after Milly's case is transferred.

Robbie can continue to act and receive Adult Disability Payment payments on Milly's behalf until Social Security Scotland completes their visit and decides if the appointment is appropriate.

**Residence**

40. The transfer determination made as part of the case transfer process assumes the residence and presence conditions are met<sup>1</sup>

<sup>1</sup> Adult Disability Payment regs, Sch 2, Part 3, Para 9(6)(b)

41. If the case manager later determines that the assumption was incorrect, they must make a determination without application.<sup>1</sup> Where this finds that the individual did not meet the residence and presence conditions in the transfer determination, it will replace that determination.

<sup>1</sup> Adult Disability Payment regs, Reg 50

**Example: Assumption of residence for transferred cases**

The information received from Department for Work and Pensions in relation to Ryan's Personal Independence Payment award stated he normally lives at an address with a Scottish postcode. Assuming this information was correct, Ryan's case was selected for transfer and a determination was made that Ryan was entitled to Adult Disability Payment. His Personal Independence Payment award ended as a result.

Four months later, Ryan advises that he did not normally live in Scotland when the Adult Disability Payment award was made, rather he resided in Wales and did not update his address with Department for Work and Pensions.

The assumption that the residence conditions were met were incorrect. The case manager therefore makes a determination without application that finds Ryan was not entitled to Adult Disability Payment on the date of transfer.

### **Temporary time abroad**

42. Where an individual is temporarily abroad at the point of transfer, the time limits set out in begin on the date of transfer<sup>1</sup>.

<sup>1</sup> *Adult Disability Payment regs, Reg 16*

43. 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***

Lori normally lives in Scotland but is in the USA at the point of case transfer for medical treatment connected to a lifelong disease. Lori continues to be treated as present in the common travel area for purposes of Adult Disability Payment for 26 weeks beginning on the date her Adult Disability Payment entitlement begins. This means she should not be excluded from being entitled to Adult Disability Payment for 26 weeks from the point of case transfer.

### **Time in alternative accommodation**

44. Where a client is in alternative accommodation:

- immediately before the date their case is transferred
- was entitled to the daily living and/or mobility component of Personal Independence Payment but payment of it was suspended as a result of being in alternative accommodation immediately before the date their case is transferred
- is still in alternative accommodation on the date their Adult Disability Payment entitlement begins

the relevant components of Adult Disability Payment should be put into payment:

- from the date their Adult Disability Payment entitlement begins
- at the rate the component in their Personal Independence Payment award would have been paid if it was not suspended
- for a period of 28 days<sup>1</sup>.

<sup>1</sup>*Adult Disability Payment regs, Sch 2, Part 3, Para 14(a)*

## Re-determinations and appeals

45. The Adult Disability Payment transfer determination made at the point of case transfer is subject to the same rights to re-determination and appeal as any other Adult Disability Payment determination.

### ***Example: Re-determination for case transfer Adult Disability Payment determinations***

Aimee has had her case transferred and her initial Adult Disability Payment determination made last week. Her Adult Disability Payment award is exactly the same as it was for Personal Independence Payment– she receives the same components at the same rates. However, she does not feel her Adult Disability Payment award accurately reflects her circumstances. She can request a re-determination of her Adult Disability Payment determination within the time limit.

### **When a Personal Independence Payment award that ended at the point of case transfer is retroactively changed**

46. There may be cases where the Personal Independence Payment award that was ended by the case transfer process is changed after the Adult Disability Payment determination is made due to following:

- Revision made by the Department for Work and Pensions or the Department for Communities in Northern Ireland,
- Supersession made by the Department for Work and Pensions or the Department for Communities in Northern Ireland, or
- Decision made by a tribunal or court on appeal.

These are the ways in which a Personal Independence Payment award can be changed in the UK system. Where the Personal Independence Payment 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 Adult Disability Payment award<sup>1</sup>.

<sup>1</sup> *Adult Disability Payment regs, Reg 48(c)*

47. This determination without application does not need to result in the Adult Disability Payment award mirroring the changes made to the Personal Independence Payment 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.

48. Where a case manager makes a determination without application for this reason, the date the change takes effect should be the point of case transfer<sup>1</sup>.

<sup>1</sup> *Adult Disability Payment regs, Reg 45(1)(a) and 46(1)(a)*

***Example: Personal Independence Payment award ended at point of transfer is retroactively changed***

Mariam has had her case transferred six months ago and is currently in receipt of Adult Disability Payment. After receiving advice, she contacted the Department for Work and Pensions and requested a revision of her Personal Independence Payment award. This is on the specific ground that the Department for Work and Pensions decision maker failed to take into account relevant evidence they held when they made her most recent Personal Independence Payment decision.

The Department for Work and Pensions decides that Mariam's Personal Independence Payment award was incorrect and revised to an increased award. This takes effect from the day the Personal Independence Payment decision was originally made. The Department for Work and Pensions will notify this change to Social Security Scotland.

A case manager must now look at Mariam's Adult Disability Payment award and make a determination without application. After reviewing the information received from Department for Work and Pensions. The case manager decides that Mariam's Adult Disability Payment award should have been higher at the point of case transfer and should remain at that rate currently. Mariam's Adult Disability Payment award is therefore increased from the date of the transfer determination.

49. 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 Adult Disability Payment award to be in effect past a certain date<sup>1</sup>.

<sup>1</sup> *Social Security (Scotland) Act 2018, section 27*

***Example: Personal Independence Payment ended at point of transfer is retroactively changed – Adult Disability Payment award changed for a fixed period***

Ninian's Adult Disability Payment entitlement began on 1 May 2023 as the result of a determination without application made via the case transfer process. His Adult Disability Payment award was the standard rate of the daily living component and the standard rate of the mobility component, just as his Personal Independence Payment award was at the point of case transfer.

Ninian's health deteriorated and he promptly reported this change to Social Security Scotland. As a result, Ninian's Adult Disability Payment award was increased to the enhanced rate of daily living component and the enhanced rate of the mobility component from 1 September 2023.

On 1 November 2023, Ninian appeals the Personal Independence Payment award that was ended at the point of case transfer. The tribunal finds that Ninian's Personal Independence Payment award should have been for the enhanced rate of the daily living component and the standard rate of the mobility component.

Because Ninian's Personal Independence Payment award was changed, a case manager must conduct a determination without application of his Adult Disability Payment award. A case manager reviews the information and decides Ninian's Adult Disability Payment award should have been for the enhanced rate of the daily living component and the standard rate of the mobility component at the point of case transfer.

The Case Manager makes the determination without application setting out Ninian's entitlement to the enhanced daily living component and the standard rate of the mobility component for the period 1 May 2023 to 31 August 2023 and the enhanced rate of daily living component and the enhanced rate of mobility component from 1 September 2023 onwards.