

# Client representative guidelines

Part 5.1: Appointees for children (interim guidelines)

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## Introduction

1. Not all children who are entitled to social security assistance will be looked after by their parents or legal guardians. For children who are not looked after by a parent or guardian, Social Security Scotland may need to appoint someone else to act and receive assistance on the child's behalf. This is called appointing an appointee to manage the child's entitlement to assistance. The appointee will usually be the person who looks after the child at home. They may be a close relative to the child, a close family friend, a step-parent, foster parent, informal kinship carer or a pre-adoptive parent.
2. Children who live away from home in a residential school, hospital, legal detention or other residential establishment, but who are still looked after by a parent or guardian will not normally need an appointee.
3. The guidelines in this Part describes how Social Security Scotland will decide whether to:
  - appoint a person on behalf of a child
  - end an appointment on behalf of a child.
4. A child means a person less than 16 years old.

## When a child needs an appointee

5. In the Scottish social security system, legal guardians and most parents do not need to be appointed. This is different to the UK social security system where parents and legal guardians are appointed by the DWP on behalf of their children.
6. Parents and legal guardians already have authority to act on their child's behalf because the law, contained in the Children (Scotland) Act 1995, gives them a set of rights and legal duties called parental rights and responsibilities. One of these parental rights is the right to act as the child's legal representative. Acting as the child's legal representative can include managing the child's social security assistance for them (whilst acting in the best interests of the child).
7. For the purpose of these guidelines a 'person with parental rights' means a parent or a legal guardian with parental rights and responsibilities. Part 2 of these guidelines explains who has parental rights and why some parents do not have them.
8. The appointment gives a person, who does not have parental rights, the right to manage the child's social security assistance in the best interests of the child.
9. The majority of children for whom Social Security Scotland makes an appointment will have at least one parent with parental rights. However due to personal circumstances, the best interests of the child are served by letting someone else manage the child's entitlement to assistance.
10. The rights of the appointee will overlap with those of anyone who has parental rights for the child. Because of this, the law only allows Social Security Scotland to make an appointment in some circumstances. Social Security Scotland will also only ever make an appointment if it considers this to be in the interests of the child.

## Who should apply on behalf of a child

11. If a child has a parent or legal guardian with parental rights who is willing and practicably able to manage the child's entitlement to assistance, they should normally apply for assistance on the child's behalf.
12. Part 2 of the Client Representative Guidelines explains which parents and legal guardians have parental rights.
13. A person without parental rights can apply for assistance on behalf of a child if they are willing to manage the child's entitlement to assistance. Applicants should bear in mind that Social Security Scotland may only appoint a person on behalf of a child if there is no person in the child's life who meets all three of these conditions:
  - i. has parental rights or other legal authority to manage the child's entitlement to assistance,
  - ii. lives with, and looks after, the child
  - iii. is practicably able to act on behalf of the child and wants to do this instead of anyone else. To meet this 3<sup>rd</sup> condition, the person must generally be capable of:
    - arranging for the assistance to be spent in the child's interest,
    - engaging with Social Security Scotland on matters relating to the child's entitlement to assistance,
    - letting Social Security know if the child's circumstances have changed in a way that might affect the child's entitlement to assistance.
    - and they must actually want to manage the child's entitlement to assistance.
14. If the answer to any of these questions is no, then Social Security Scotland may decide that a person does not meet this 3<sup>rd</sup> condition. However, decision-makers in Social Security Scotland will have to show that they have considered all of these questions carefully and have considered all relevant information.
15. Social Security Scotland will also only appoint the applicant or anyone else if this is in the interests of the child.

## The law applicable to appointees for children

16. Social Security Scotland must consider whether to make or terminate an appointment if requested to do so by either:
  - the child, or
  - anyone who appears to Social Security Scotland to:
    - i. have parental rights or other legal authority to manage the child's entitlement to assistance
    - ii. reside with, and have care of, the child, or
    - iii. have an interest in the welfare or financial affairs of the child.

*(Section 85A(5A) of the 2018 Act)*

17. When deciding whether to make or end an appointment, Social Security Scotland must, insofar as possible, take account of the views of these people:
- the child
  - persons with parental rights
  - any parents (whether or not they have parental rights)
  - anyone else who appears to Social Security Scotland to have an interest in the welfare or financial affairs of the child.

*(Section 85A(5C) of the 2018 Act)*

## **When Social Security Scotland will consider making an appointment**

18. Social Security Scotland may consider making an appointment when:
- a. a person without parental rights asks to become an appointee as part of the child's application for social security assistance
  - b. a child who was receiving Disability Living Allowance from the DWP has their award transferred to an award of Child Disability Payment from Social Security Scotland.
  - c. a person asks Social Security Scotland to consider making an appointment when a different person is already managing the child's social security assistance. The person asking could be the child, a grandparent, a parent or anyone else with an interest in the welfare or financial affairs of the child. They may have concerns about the current arrangement for managing the child's entitlement to assistance.

## **How Social Security Scotland will consider making an appointment – introduction**

19. The guidelines on how Social Security Scotland will consider making an appointment have been split into two sets of guidelines.
20. The 1<sup>st</sup> set of guidelines apply when there is a person who would like to manage the child's entitlement to assistance and no one else is currently managing the child's entitlement to Child Disability Payment. In the 1<sup>st</sup> set of guidelines the person who would like to manage the child's entitlement to assistance is called the applicant.
21. The 2<sup>nd</sup> set of guidelines will be followed when a person asks Social Security Scotland to consider making an appointment, and a different person is already acting on behalf of the child. The 2<sup>nd</sup> set of guidelines are different to the first set of guidelines because:
- the person who asks Social Security Scotland to consider making an appointment may not want, or be able, to manage the child's entitlement to assistance, and
  - there is someone who currently is managing the child's entitlement to Child Disability Payment.

## Making an appointment when no one is currently managing the child's assistance

22. Social Security Scotland will work through the following steps.
  1. Gather information from the applicant.
  2. Seek the views of those with an interest in the welfare or financial affairs of the child.
  3. Deciding whether or not to seek the child's views,
  4. Deciding whether to make an appointment and who to appoint

### Step 1 – gather information from the applicant

23. Social Security Scotland will gather the following 5 items of information from the applicant.
  1. Confirmation from the applicant that, to the best of their knowledge, there is no person in the child's life with parental rights who meets all three of these conditions:
    - lives with the child,
    - looks after the child,
    - is practicably able to manage the child's entitlement to assistance and wants to do it instead of the applicant.
  2. A brief explanation, in the applicant's own words, of why an appointee is needed. This is to better understand why an appointment is in the best interests of the child.
  3. A brief description of the applicant's relationship to the child, such as grandparent, aunt or uncle, step-parent, pre-adoptive or foster parent.
  4. The contact details of certain people who considered to have an interest in the welfare or financial affairs of the child. These people are:
    - the child's parents
    - anyone else with parental rights for the child
    - the name of any social worker allocated to the child or at least the relevant local authority. Or if the child has a '*child's plan*'<sup>1</sup>, the lead professional co-ordinating the child's plan.

Social Security Scotland will aim to gather the contact details of at least one professional who knows the child. If the child is not known, or not well known, by a social worker, and does not have a child's plan, then Social Security Scotland will ask for evidence that the applicant cares for the child. This piece of evidence could be, for example, a letter from the child's nursery, GP, or school addressed to the applicant.

Applicants will be made aware that Social Security Scotland is under a duty to have regard to these people's views unless it is not feasible to do so for any reason. Social Security Scotland does not regard it as feasible to have regard to a person's views if:

- the person being asked their views would be very distressed by this,

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<sup>1</sup> [Getting it right for every child: Child's Plan leaflet - gov.scot \(www.gov.scot\)](http://www.gov.scot)

- the applicant believes that asking a particular person their views would put the applicant, the child, or anyone else at risk of harm or would be a source of significant stress or anxiety for the applicant, the child or anyone else,
- the person has decided not to be involved in the child's life and is not familiar with the child's care and mobility needs.

5. The applicant's views on whether it is possible to seek the views of the child without the child being worried, confused or upset.

## **Step 2 – seeking the views of those with an interest in the welfare or financial affairs of the child**

24. Social Security Scotland will try and make contact with those whose contact details have been provided by the applicant. This is in order to give them an opportunity to say:
- if they are happy with the applicant managing the child's entitlement to assistance
  - whether it is possible to seek the child's views on who should manage their (the child's) entitlement to assistance.
25. No one has to provide a view if they do not want to. In order to allow these people to provide an informed view, Social Security Scotland will explain to them:
- that appointees can act on behalf of the child and receive assistance on the child's behalf,
  - that appointments can only be made if there is no person with parental rights who meets all three conditions:
    - lives with the child,
    - looks after the child
    - is practicably able to manage the child's entitlement to assistance and wants to instead of the applicant.
  - that Social Security Scotland will only make an appointment if it considers this in the child's interests.
  - what it means to be willing and practicably able to manage a child's entitlement to assistance,
  - that Social Security Scotland must, if feasible, take account of the views of the child and others with an interest in the financial or welfare affairs of the child.
  - that the applicant has applied for assistance on behalf of the child and Social Security Scotland is considering appointing them,
  - who Social Security Scotland will share any information gathered with and how this will be done.
26. Social Security Scotland will provide this information to each person in a letter. If a person does decide to give a view on the appointment, Social Security Scotland should try and focus each person on giving views on what is in the child's interests based on all circumstances, including who is willing and practicably able to manage the child's entitlement to assistance. Social Security Scotland may ask relevant follow-up questions before deciding either whether to make the appoint or who to appoint.

### Step 3 – deciding whether or not to seek the child’s views

27. Social Security Scotland will also ask those whose details have been provided by the applicant if Social Security Scotland ask the child for their views. Considering the child’s views, in so far as feasible, is a legal obligation.
28. Social Security Scotland will make clear that it is only feasible to ask the child for their views if they would not find this confusing, worrying or upsetting. This will depend on the child’s maturity, welfare, psychological, social situation and level of understanding. This will be done by asking the following sorts of questions:
  - If Social Security Scotland explained to the child why it is considering appointing someone for them, do you think the child would understand this?
  - How do you think the child would react to being asked to give a view?
  - How would this come across to the child?
  - Does the child have communication support needs we can help with, so they could understand the role of the appointee?
29. Social Security Scotland will give each person:
  - an illustrative example of the sort of explanation it would give to the child in order for the child to give their view on who should manage their assistance
  - suggestions of ways in which the child could be asked their views.
30. Here is an illustrative example what Social Security Scotland would say to the child when asking their views:

#### Illustrative Example

- Some people are entitled to be given money from Social Security Scotland. The money is to help them pay for the extra costs of living with a disability.
- Children who are entitled to this money cannot be given this money directly. Instead, Social Security Scotland must give the money to a grown-up who will decide how to spend the money.
- First of all, the grown-up will need to ask Social Security Scotland to check that the child is entitled to be given money.
- The grown-up must spend it in a way that helps you.
- When a grown-up does this, it is called acting on your behalf.
- Social Security Scotland is thinking of choosing your <grandfather> to act on your behalf. This is because he looks after you.
- Before Social Security Scotland decides who should act on your behalf, we want to know what you think of your <grandfather> acting on your behalf.
- You do not have to tell us if you do not want to, but we would really like to hear what you think.
- When we have chosen who will act on your behalf, we will tell you our reasons.



- If you tell us your views, we might have to tell other people some of what you have written or said. This is because we may need to explain our reasons for our decision to other people. Our reasons for our decision might be to do with what you have told us. We will try and not tell other people exactly what you have said.
31. Social Security Scotland will suggest ways for the child to be asked if they would like to provide a view. Social Security Scotland has a child-friendly form which will explain why it is considering making an appointment. The form will have space to include the child's views. The child can complete this form at home, on their own or with the support of another person. This person could be:
- a professional or family member who the child trusts
  - a member of Social Security Scotland's local delivery staff working in the local community
  - an advocacy worker specialising in children's advocacy. Social Security Scotland can arrange this. An advocacy worker can only be provided if this service is requested by the child, someone who looks after the child or who has parental rights.
32. If every person who provides their views agrees on the best way of having regard to the child's views, then Social Security Scotland will ask for the child's views in this way. If there is more than one way, then Social Security Scotland will choose whichever way the child would be most comfortable with.
33. If some, but not all, people think that there is a way for the child to be asked their views, then Social Security Scotland will decide carefully whether it is possible to ask the child for their views. Social Security Scotland will make this decision by considering:
- the views of who Social Security Scotland considers the child's main carer(s) to be
  - the views of the lead professional under the child's plan and / or a social worker who is allocated to the child
  - the need to respect the wishes of whoever has care and control of the child day-to-day (unless coercion or abuse is suspected).

#### **Step 4 - Deciding whether to make an appointment and who is willing to be appointed**

34. Once Social Security Scotland has gathered all possible views, it will decide:
- whether to make an appointment
  - who to appoint.

Decision makers working for Social Security Scotland will make decisions which are:

- lawful
- reasonable and rational
- made following a fair procedure and in accordance with these guidelines.

35. Decision makers will accept facts to be true 'on the balance of probabilities'. This means that a fact will be accepted as true if, based on the information available to the decision maker, it appears more likely than not that it occurred.
36. Decisions must be based on all relevant information and must not be based on information that is irrelevant. When making a decision, one or more facts will count in favour of deciding one outcome over another. Some facts will be more persuasive than others. Decision makers must decide how much importance or 'weight' to attach to each fact. Facts which count in favour of the same outcome form a set of facts. Decision makers must decide overall which set of facts is most persuasive. This is sometimes described as weighing up the competing sets of facts and reaching a balanced decision.

### **Deciding whether to make an appointment**

37. When deciding whether to make an appointment, Social Security Scotland will consider if there is anyone who is not in favour of the appointment.
38. If there is someone who is not in favour of the appointment, Social Security Scotland will only make an appointment if this is considered in the interests of the child and if satisfied that there is no person in the child's life who meets the following three conditions:
  - lives with the child,
  - looks after the child,
  - is practicably able to manage the child's entitlement to assistance and wants to instead of the applicant.
39. If everyone who was asked is in favour of the appointment, then Social Security Scotland can consider who to appoint.

### **Example of a decision on whether to make an appointment**

40. Evie's mum works away from home roughly 4 out of every 6 weeks. Evie is looked after by her big sister when Evie's mum is away from home. Evie's dad is not involved in Evie's life.
41. Under the above example, Evie's mum may apply for assistance on Evie's behalf. Social Security Scotland would not consider making an appointment because Evie's mum has parental rights.
42. If under the above example, Evie's big sister applies for assistance on Evie's behalf, then Social Security Scotland would consider appointing Evie's big sister.
43. Social Security Scotland would seek to establish if anyone is not in favour of the appointment.
44. If everyone is in favour of the appointment, then Social Security Scotland would decide to make an appointment, and would decide who to appoint. Social Security Scotland can make the appointment despite Evie's mum living with, and looking after, Evie for some of the time. This is because even though Evie's mum may be very capable of managing Evie's assistance, she is willing for Evie's sister to do it instead of her.

45. If someone is not in favour of making any appointment, Social Security Scotland would need to find out their reasons for this.
46. If Evie’s mum wanted to manage Evie’s entitlement to assistance, then Social Security Scotland would only make the appointment if it considered this necessary because Evie is not practicably able to manage Evie’s entitlement to assistance. Social Security Scotland would need to understand how Evie’s mum would manage Evie’s entitlement to assistance. If, for example, Evie’s mum explained that:
- she already gives financial support to Evie and her big sister,
  - she understands Evie’s care and mobility needs because she cares for Evie two out of every six weeks,
  - she talks regularly with Evie’s big sister when Evie’s mum is living away from home,
- then, under the circumstances, an appointment would not be necessary. Social Security Scotland would decide not to make an appointment because a decision to make an appointment, against the wishes of Evie’s mum, would be disproportionate.
47. Any views that Social Security Scotland has gathered will be used by it to determine who is in favour of the appointment and whether an appointment is necessary. If the child has given their views on the appointment, then the older and more mature a child, the more weight should be attached to their views.

## Who to appoint

48. Once Social Security Scotland has taken the decision to make an appointment, the decision maker will decide who to appoint. Both of these decisions will be based on the views that Social Security Scotland gathers. The decision to appoint a particular person must be made in the interests of the child. Social Security Scotland will also need to consider who is willing to be appointed. If the child has given a view on the appointment, then the older and more mature a child is, the more weight should be given to their views when considering their interests.
49. In general, those who look after the child at home are likely have the best understanding of the child’s day-to-day care needs. This should make them best-placed to act on behalf of the child and to decide how the child’s assistance is spent. This may not be the case for every child, so every decision must be based on the child’s individual circumstances.
50. If the child is looked after at home, then any adult who looks after the child at home, and who is willing to be appointed, is potentially suitable for appointment. An adult in this position may not be the only potential suitable person to appoint. There are other factors that might make an individual suitable for appointment, despite them not looking after the child at home. For example, a child may be living with a foster carer or an informal kinship carer and the local authority may have a policy preventing foster carers from managing the child’s entitlement to assistance, meaning the local authority may need to be appointed. Another example an adult who manages all of the child’s household’s finances despite not looking after the child at home: the person looking after the child at home may be unwilling or would struggle to manage the child’s entitlement to assistance, even with support.
51. If Social Security Scotland has decided to make an appointment, and the child resides in a residential establishment or in legal detention, then Social Security Scotland will look at which private individuals are continuing to look after the child’s welfare. It will usually be

considered in the best interests of the child to appoint the individual who liaises with the staff regarding the child's welfare. If there are no private individuals who fulfil this role, then Social Security Scotland will consider appointing a corporate person to act on the child's behalf, such as a local authority.

52. If there is more than one person who is able and willing to be appointed, then Social Security Scotland will decide who to appoint based on the child's interests. When carrying out this assessment of the child's interests, decision makers will want to consider who is most capable of acting for child and arranging for the assistance to be spent in the child's interests.

### **When to gather more information before making a decision**

53. If no person has provided a view on the appointment, then decision makers will only have the information provided by the applicant to base their decision on. In this case, Social Security Scotland will ask the applicant for evidence that the applicant cares for the child. This piece of evidence could be, for example, a letter from the child's nursery, GP, or school addressed to the applicant.
54. Decision makers may need to ask follow-up questions from those who have provided a view. This could be the case where two or more people have a contradictory view of what is in the interests of the child.

### **Making an appointment when someone is already acting on behalf of the child**

55. This 2<sup>nd</sup> set of guidelines will be followed when a person asks Social Security Scotland to consider making an appointment while a different person is already managing the child's entitlement to assistance.
56. It is important to recognise that there might be a variety of situations in which a person may request an appointment when there is already an arrangement for someone else to act on behalf of the child. The child themselves or an adult can ask Social Security Scotland to consider making an appointment. Social Security Scotland must handle these requests with particular sensitivity and care, taking account of child's maturity, understanding, welfare, psychological and social situation.
57. In this 2<sup>nd</sup> set of guidelines, the 'requester' means the person who asks Social Security Scotland to consider making an appointment. The requester may wish to be appointed or could suggest someone else is appointed. If the requester is a child, then they will not be able to manage their own entitlement to assistance.
58. If the child already has an appointee at the time of the request, the requester will be asking Social Security Scotland to end the current appointment.
59. Social Security Scotland will first arrange a discussion with the requester. Social Security Scotland will explain the steps that is must go through to consider making appointment. This is so that the requester can make an informed decision about whether to formally request an appointment.

60. The discussion should cover:
- under what circumstances Social Security Scotland will make an appointment,
  - whose views Social Security Scotland must have regard to, if feasible, when considering making an appointment
  - the requester’s reasons for the request
  - who the requester would like to be appointed
  - who may be willing to be appointed
  - whether the person who is currently managing the child’s entitlement to assistance knows about the request,
  - what information may be shared with the child and those who have an interest in the welfare or financial affairs of the child, including the person who is currently managing the child’s entitlement to assistance,
  - whether requesting an appointment is likely to address the person’s concerns.
61. If the requester is a child, the child could be signposted to appropriate sources of legal assistance. This could include contacting:
- the Scottish Child Law Centre
    - for free on 0800 328 8970, or 0301 421 from a mobile
    - [www.sclc.org.uk](http://www.sclc.org.uk)
  - Clan Childlaw
    - for free on 0808 129 0522
    - [www.clanchildlaw.org](http://www.clanchildlaw.org).
62. After this discussion, Social Security Scotland will ask the requester if they would like to proceed with requesting an appointment. If so, Social Security Scotland will work through the four steps described in paragraphs 22 to 53.
63. These are:
- Step 1- Gather contact details of those with an interest in the welfare or financial affairs of the child from the requester (see paragraph 20.4). Social Security Scotland may have most or all of these contact details already.
  - Step 2 – Seek the views of those with an interest in the welfare or financial affairs of the child, including the person who is currently managing the child’s entitlement to assistance.
  - Step 3 – Decide whether or not to seek the child’s views. This step applies unless the requester is the child.
  - Step 4 - Decide whether or not make an appointment or, as the case may be, end the existing appointment and make a new appointment.

## Ending an appointment

64. An appointment must end if there is a person with parental rights who meets these three conditions:
  - lives with the child,
  - looks after the child
  - is practicably able to manage the child's entitlement to assistance and wants to instead of the current appointee.
65. An appointment must also end when the child turns 16. This is when the child acquires the right to manage their own entitlement to assistance. If the child is unable to manage their own entitlement to assistance once they turn 16, a new appointment must be made under a different procedure. Guidelines on this procedure are found in chapter 5.2 of the Client Representative Guidelines [\[link\]](#).
66. Social Security Scotland can also decide to end an appointment at its discretion.
67. The appointment could be ended at Social Security Scotland's discretion because:
  - the current appointee is not practicably able or no longer willing to be the appointee,
  - there is someone more suitable who can be appointed on behalf of the child instead, or
  - it is not acceptable for the appointee to continue in that role.

## Requesting that an appointment is ended

68. Social Security Scotland must consider whether to end an appointment if requested to do so by:
  - the child
  - persons with parental rights for the child
  - anyone who appears to Social Security Scotland to have an interest in the welfare or financial affairs of the child.
69. When considering whether to end an appointment at Social Security Scotland, Social Security Scotland must, in so far as it is feasible, have regard to the views of:
  - the child
  - persons with parental rights
  - parents (whether or not they have legal rights)
  - anyone else who appears to have an interest in the welfare or financial affairs of the child.

Social Security Scotland is under a duty to have regard to these people's views unless it is not feasible or practicable to do so for any reason. Social Security Scotland does not regard it as practicable to have regard to a person's views if Social Security Scotland is satisfied that, under the circumstances, it is legally required to end the appointment.

## How Social Security Scotland will consider ending the appointment

70. This section is split into two sets of guidelines depending on the reason why Social Security Scotland is considering ending the appointment.
71. The 1<sup>st</sup> set of guidelines applies when the appointment may not be able to continue as a matter of law because either:
- there is a person with parental rights who appears to meet all three of these conditions:
    - lives with the child,
    - looks after the child
    - is practicably able to manage the child’s entitlement to assistance and wants to instead of the current appointee; or
  - the child has turned 16.
72. The 2nd set of guidelines apply where the child continues to need an appointee, but it may be in the interests of the child to end the current appointment.

## Ending an appointment when required by law

73. Social Security Scotland will work through the following steps:
- Step 1: consider if Social Security Scotland can end the appointment without seeking the views of both those with an interest in the welfare or financial affairs of the child and the child (insofar as seeking these views is feasible or practicable), and then end the appointment. If this is not possible, proceed to step 2;
  - Step 2: seek the views of those persons (insofar as feasible or practicable) and then consider ending the appointment.
74. If the reason for the request is because there is a person with parental rights who is practicably able to manage the child’s entitlement to assistance and wants to do this instead of the appointee, then Social Security Scotland will end the appointment under step 1 only if:
- a person with parental rights confirms that they:
    - lives with the child,
    - looks after the child, and
    - are practicably able to manage the child’s entitlement to assistance and wants to instead of the current appointee; and
  - the current appointee agrees that the person with parental rights meets these three conditions.
75. Social Security will proceed to step 2 instead of immediately ending the appointment if either:
- a person with parental rights confirms that they do not meet all three conditions but nonetheless they are practicably able to manage the child’s entitlement to assistance and they want to instead of the appointee; or
  - a person with parental rights confirms that they do meet all three conditions, but the current appointee disputes this.

76. This second step involves seeking the views of those with an interest in the welfare or financial affairs of the child and the child. Social Security Scotland is under a duty to have regard to these people's views unless it is not feasible or practicable to do so for any reason.
77. Social Security Scotland will consider the views of these persons when deciding if either:
- Social Security must end the appointment because:
    - there is a person with parental rights who:
      - lives with,
      - looks after the child,
      - is practicably able to manage the child's entitlement to assistance and wants to instead of the appointee,
    - the appointee is no longer willing or practicably able to continue in this role,
    - there is a person with parental rights who is practicably able and willing to manage the child's entitlement to assistance and the appointment is no longer in the interests of the child,
    - ending the appointment is in the interests of the child for another reason.
78. Social Security Scotland will end the appointment if it reaches any of these conclusions.

### **Ending an appointment when the child continues to need an appointee**

79. A requester may give reasons why the current appointee should not continue, for example:
- the person currently appointed is no longer willing or practicably able to continue in that role
  - there is someone more suitable who can be appointed on behalf of the child
  - it is not acceptable for the appointee to continue in that role.
80. When the request is made, Social Security Scotland will ask if the requester, or another person, is willing to be appointed in place of the current appointee. If this is the case, Social Security Scotland will consider ending this appointment and appointing this person at the same time. If this is not the case, Social Security Scotland will only consider ending the appointment. Social Security Scotland will then follow the steps described in paragraph 63 of these guidelines.

### **Notifying interested parties of a decision to make or end an appointment**

81. Social Security Scotland may notify every person identified as having an interest in the welfare or financial affairs of the child of their decision. Social Security Scotland will usually only notify the applicant or, as the case may be, the requester as well as any person whose views do not support Social Security Scotland's final decision. Social Security Scotland would not normally notify anyone whose views they did not seek because it was not considered practicable or feasible to do so.
82. Every person with an interest in the financial or welfare affairs of the child will be able to request a review of the decision, and will be told this in the decision letter.



83. If the child gave their views, they will receive feedback on how these views informed the overall decision. Feedback will be given in a way that is appropriate to the age, maturity, understanding, welfare, choice and needs of the child.
84. All children aged 12 or over, regardless of whether they were asked for their views, will be issued with their own decision letter. The decision letter will use simple vocabulary to inform the child of:
  - the decision and the reasons for it,
  - the child's right to request a review of the decision.

## Confidentiality

85. Any views that are shared with Social Security Scotland could be shared with the following persons:
  - the child
  - persons with parental rights
  - parents (whether or not they have parental rights)
  - others identified as having an interest in the welfare or financial affairs of the child whose views were sought including the applicant or the requester.
86. But this can only be done for the purpose of the child and those with an interest in the welfare or financial affairs of the child:
  - understanding the reason for Social Security Scotland's decision about whether to make or end an appointment
  - giving a reasonably informed view about the matter that Social Security Scotland is asking their views on.
87. Social Security Scotland would not normally share information with individuals whose views they did not seek because it was not practicable or feasible to do so.
88. Social Security Scotland will not share what was said word-for-word if this is not necessary to achieve these two aims. It will only disclose as much as necessary to achieve these two aims.