



Social Security Scotland
Tèarainteachd Shòisealta Alba

Client representative guidelines

Part 6: DWP Appointees

Contents

Introduction	3
Children	3
DWP relationship to Social Security Scotland appointees	3
Social Security Scotland relationship to DWP appointees	3
Adults regarded as lacking capacity to manage their own benefits	4
DWP relationship to Social Security Scotland appointees	4
Social Security Scotland relationship to DWP appointees	4
Information sharing and changes of circumstances	5

Introduction

1. Part 5.2 of the Client Representative Guidelines set out that the Department for Work and Pensions (DWP) makes appointments for its Scottish clients where they are a child, or an adult incapable of managing their own affairs. It can only appoint a person aged 18 or over.
2. DWP's staff guide for agents, appointees, attorneys, deputies and third parties¹ sets out the processes for making appointments and other situations in which someone may have another person or organisation acting for them in the UK benefits system.
3. While there are significant legal and procedural differences between the two systems, it is recognised that in a majority of cases Social Security Scotland not only shares its client with DWP, but also their appointee. Where this is the case it is therefore sensible and in the client's interests that relevant information about appointments is shared between these agencies to simplify the experience of claiming benefits, and safeguard the client's interests.

Section 34 Scotland Act 2016

Children

DWP relationship to Social Security Scotland appointees

4. Where a person is:
 - over the age of 18; and
 - has been appointed by Social Security Scotland to act for a child (under section 85A(1) of the 2018 Scotland Act); and
 - they meet the conditions in paragraph 2 of [regulation 43 of the Social Security \(Claims and Payments\) Regulations 1987](#);

DWP can, if the person agrees, treat them as if appointed by the Secretary of State for Work and Pensions to act for that child.

*The Scotland Act 2016 (Social Security)(Consequential Provision)
(Miscellaneous Amendment) Regulations 2021*

5. For example, if a child on Child Disability Payment (CDP) moves from Scotland to England and wants to apply for Disability Living Allowance (DLA), DWP can treat a person appointed by Social Security Scotland to act for that child under section 85A, as though they were appointed by DWP, if that person agrees and meets the conditions in paragraph 2 of the 1987 Regulations.

Social Security Scotland relationship to DWP appointees

6. A person appointed by DWP for a child may be able to act for that child in relation to their Social Security Scotland benefits if:
 - they have legal authority to act on the child's behalf; and

¹ [Agents, appointees, attorneys, deputies and third parties: staff guide - GOV.UK \(www.gov.uk\)](#)

- are willing and practicably able to act on behalf of the child.

(Part 2 of the Client Representative Guidelines: Parents and Legal Guardians of Children)

7. Where a person appointed by DWP to act for a child does not have parental rights and responsibilities, Social Security Scotland must make its own assessment under the processes set out in statutory guidelines to decide whether it agrees that that person should be appointed (see Part 5.1 of the Client Representative Guidelines: Appointees for Children)*.

Section 85A Social Security (Scotland) Act 2018

**exceptions may apply in particular situations, such as case transfer, the assessment need not take place before benefits are paid, but will take place as soon as reasonably practicable).*

Adults regarded as lacking capacity to manage their own benefits

DWP relationship to Social Security Scotland appointees

8. Where someone over the age of 18 has been appointed by Social Security Scotland under section 85B(1) of the 2018 Act, (where the circumstances in subsection (7) apply) to act for an adult who is regarded as incapable within the meaning of the Adults with Incapacity (Scotland) Act 2000, DWP may accept that appointee without having to re-make it for its own purposes.

*The Scotland Act 2016 (Social Security)(Consequential Provision)
(Miscellaneous Amendment) Regulations 2021*

Social Security Scotland relationship to DWP appointees

9. Where DWP has appointed a person or organisation to act on a client's behalf under:
 - regulation 33 of the Social Security (Claims and Payments) Regulations 1987; or
 - regulation 57 of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013;
10. Social Security Scotland will not automatically accept that the appointment meets the requirements of section 85B(1) and (7) of the 2018 Act but will carry out its own assessment in line with the published statutory guidelines (Part 5.2 and 5.2.1-5 of the Client Representative Guidelines)*.

**exceptions may apply in particular situations such as case transfer, the assessment need not take place before benefits are paid, but will take place as soon as reasonably practicable after transfer).*

Information sharing and changes of circumstances

11. The circumstances in which Social Security Scotland and DWP may share relevant information about an appointee or someone acting for a shared client are:

- the client's circumstances have changed and they are now believed to be incapable of managing their own benefits
- the client's circumstances have changed and they are now able to manage their benefits themselves
- a person or organisation has had legal authority to act for a client granted or revoked
- an appointment has been terminated and the underlying reasons for that
- concerns for the client's welfare or financial affairs stemming from the actions of the appointee
- benefit fraud perpetrated by an appointee

12. In circumstances where there is an investigation into suspected benefit fraud by an appointee, Social Security Scotland may also participate in a Common Interest Investigation with DWP and/or other government agencies.

Social Security Scotland Code of Practice for Investigations²

² [Code of Practice for Investigations \(www.gov.scot\)](http://www.gov.scot)