



Social Security Scotland
Tèarainteachd Shòisealta Alba

Client representative guidelines

Part 7: Third Party Representatives

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Introduction

1. The Scottish Government is committed to ensuring that people can effectively engage with Social Security Scotland without barriers, whether intentional or otherwise, being put in their way. Whilst there are people who may require formal representatives, such as appointees due to lack of capacity, or people who require the support of advocacy services, the Scottish Government recognises that there are people who may not fall into these categories but may still need or want support from a third party representative to provide or receive information relating to their dealings with Social Security Scotland. This has to be balanced with the Scottish Government's obligation to protect personal information as set out in the Data Protection Act 2018.

What is a third party representative?

2. A third party representative may, for example, be:
 - a friend or family member
 - professionals such as social workers, community nurses or doctors
 - advice, advocacy or welfare rights organisations
3. A third party representative is not:
 - an attorney appointed under a power of attorney
 - a Guardian
 - an appointee
4. The third party representative can support someone with any part and at any point of their interactions with Social Security Scotland by providing or receiving information on behalf of the person they are supporting subject to having authorisation to do so. Third party representatives may be asked to help someone in several ways including:
 - enquiries on the progress of an application
 - helping make a claim
 - seeking an explanation of entitlement and how it has been decided
 - supporting with a redetermination or appeal
 - supporting them to manage their finances
5. The role of the third party representative is solely a supportive role and the person who is the client of Social Security Scotland retains full responsibility for all aspects of their application.

Sharing information with a third party representative

6. There are two ways in which the Agency may share information with a third party representative:
- by “authorised consent” – this is where the client has provided clear consent for Social Security Scotland to share information with the third party representative
 - by “unavailable consent” – this is the term used by Social Security Scotland to describe situations where Social Security Scotland cannot verify that consent has been given by the client, but an exceptional circumstance has occurred that allows Social Security Scotland to share general information with a third party representative to help them support the client

Authorised consent

7. This is when clients must give authorised consent to allow a third party representative to act for them, in respect of certain aspects of their benefit application and/or entitlement, and have access to relevant information about them. This authorisation can be provided in the following ways:
- signed letter from the client
 - authorisation given on the application form
 - Social Security Scotland’s online mandate
 - an organisations own mandate which would be signed by the client (providing the mandate explicitly allows Social Security Scotland to share information with the third party representative)
 - verbally by the client on the provision that Social Security Scotland are satisfied that it is the client providing the consent

Duration of authorised consent

8. In order to protect a client’s information consent will not automatically be valid from the point in time a client provided the consent to the end of the lifecycle of their business with Social Security Scotland. Relationships change and client’s may not realise that the consent is still valid for someone they no longer wish to have access to their information. The duration of authorised consent is therefore determined by the following:
- for the duration of a specific part of a process as defined by the client, e.g. application, change of circumstance, redetermination, appeal. The authorisation to act should be treated as current for the duration of the process of a new claim or change of circumstances, including any follow-up redetermination process. A separate authorisation is required for an appeal, unless the existing authorisation specifically covers the appeals process:

- a period of time determined by the client up to and including a specific end date. This can be reinstated where a client either writes in or calls and gives authorisation again, subject to the appropriate security process
- for a limited period of 3 months where no specific end date has been provided by the client (unless bullet 1 applies in which case authorisation is still valid)
- the client withdraws their authorisation
- the third party representative advises they no longer wish to act as a representative for the client

Unavailable consent

9. In cases where Social Security Scotland is unable to verify that the client has consented, it may provide some information to a third party representative, in exceptional circumstances, on the basis that it is reasonable to assume the client consented to that information being shared.

For example, where the client has suddenly taken ill and is unable to speak on the phone, Social Security Scotland may consider that it is reasonable to assume the client has given their consent to certain information being shared with a third party representative.

10. Where there is no valid written or verbal authority in place, or the client is not present to confirm permission verbally, Social Security Scotland will follow clear guidance to decide whether it is reasonable to come to the view that the client has given their consent to share the requested information with the third party representative in the absence of explicit authorisation.

Duration of unavailable consent

11. Unavailable consent is not for an indefinite period. Authority to represent the client under unavailable consent is considered to be for the particular item of business that the third party representative is asking for at that time.
12. Should the third party representative wish to interact further with Social Security Scotland on behalf of the client then the process should be followed to obtain authorised consent.

What information can be shared?

13. Where authorised consent is in place, and the consent explicitly allows Social Security Scotland to share information with the third party representative, personal information that is necessary for the purpose of the enquiry can be shared in full. There are some exceptions to this regardless of the type of consent in place:
 - addresses

- dates of birth
 - National Insurance numbers
 - bank details
 - telephone numbers
 - names of household members
 - names of employers or former employers
14. These forms of information are excluded because they would have no bearing on the outcome of an application and it is information that a third party representative would be able to obtain from the client should they require it for any reason.
15. Where there is no valid authorised consent but unavailable consent has been established only generic information should be shared with the third party representative. This would be limited to information such as:
- information about the progress of the claim – representative can be told that a claim has been received or that an award has been made and a letter has been or will be issued to the client
 - rates of specific benefits in payment – the representative should know which benefit(s) are in payment therefore information on the standard rates can be given
 - what future action is likely to be taken on the claim – this should be limited to non-specific information such as advising the caller that the client is to be asked for further information.
16. There may be exceptional circumstances under which Social Security Scotland can consider disclosing more specific information under unavailable consent, such as the information disclosed under authorised consent, however there will be an escalation route that Social Security Scotland will need to follow before this is decided as an appropriate course of action.

Reporting change of circumstances

17. Where there is valid authorised consent a third party representative can report a change of circumstance on a client's behalf, should verification be required to support the change of circumstance the client will be asked to provide the verification.
18. Details that will not be accepted from a third party representative, regardless of the type of consent are:
- new bank details
 - new address

19. Where unavailable consent has been established this only covers the disclosure of certain information to the third party representative. Should the third party representative report a change of circumstance the client will be contacted to confirm.