

Consultations

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Introduction

1. This chapter relates to clients applying for Adult Disability Payment (ADP). It describes the rules about client consultations.

What is a consultation

2. A consultation is an assessment of physical condition or mental health¹ involving a discussion between a client and a Social Security Scotland practitioner that takes place either in person or via telephone or video call.

1 Social Security (Scotland) Act 2018, s.13

3. A consultation will provide formal supporting information to help a case manager make a decision on entitlement to Adult Disability Payment.

What is a practitioner

4. A practitioner is a person who is Suitably Qualified² to carry out a consultation.

2 ADP regs, reg. 61

When a consultation can be requested by Social Security Scotland

5. A consultation can be requested by:
 - a case manager
 - a client experience officer

- a client
6. Social Security Scotland can request a consultation take place:
- when a client applies for Adult Disability Payment
 - during a re-determination
 - during a review

A client should only be requested to attend a consultation where it is the only way of gathering the information necessary to make a determination of their entitlement.¹

1 Social Security (Scotland) Act 2018, s.14 (a)

7. Before requesting a consultation, a case manager should ensure that appropriate effort has been made to gather information relevant to a client's application. This should include seeking advice from a Social Security Scotland practitioner. This is called a case discussion.
8. A practitioner may advise the need for a consultation following a case discussion when they are not able to provide the information necessary to inform a case manager's decision.
9. Case managers should consider if a consultation is needed to:
- gather more information to make a determination and
 - if they have the necessary justifications for a consultation (justifications for a consultation request must be clearly set out in the request issued to the client)¹.

1 Social Security (Scotland) Act 2018, s.55

Client requests for a consultation

10. A client can request a consultation. They may request a consultation when they first apply for Adult Disability Payment or during a re-determination.
11. A client may request a consultation because they believe that a discussion with a practitioner is the best way for them to introduce supporting information as part of their application.
12. When a client requests a consultation at the application stage, a case manager should consider whether there are any good reasons why a consultation should not take place. Good reasons include:
- the case manager already has sufficient information to award the enhanced rate of both components of Adult Disability Payment
 - the existence of information on the application form that clearly shows that the client is not eligible
13. A case manager should discuss client requests for a consultation with the client to ensure that they are aware of other ways of providing supporting information. A

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case manager may refuse a client request for a consultation if a safety risk is identified. This may be a risk to the client or a risk to the practitioner.

14. Where it is established that a consultation can take place, a case manager should arrange for it to be carried out via the appropriate channel. They should establish with the client whether there are any reasons that a consultation should not take place over the phone.
15. When a consultation is requested at re-determination stage, it should only be granted where a client experience officer agrees that it is necessary for reaching a decision after reviewing all the available information from the previous determination.
16. A consultation is an opportunity for a client to introduce supporting information. It does not need to cover the entire application. Where a client has requested a consultation, the practitioner should ensure they know in advance what parts of the application it will cover.

Example: a client request for a consultation at application stage is granted

Wendy is 43 years old and applies for Adult Disability Payment for the first time. She has Post Traumatic Stress Disorder and Dyslexia and finds filling out forms difficult and stressful. When Wendy applies she requests a consultation because she feels it is the best way she can explain the impact of her disability. She says she would prefer a telephone consultation.

Wendy meets the basic eligibility criteria. The case manager attempts to gather supporting information to support her application, including seeking advice from a Social Security Scotland practitioner by way of a case discussion. Because the supporting information gathered is not sufficient to award the higher rates of Adult Disability Payment, the case manager agrees the consultation can take place.

Example: a client request for a consultation at application stage is refused

Alexander is 33 years old and applies for Adult Disability Payment for the first time. He is deaf and has requested in his application that he has an in-person consultation so that he can explain the difficulties that he has.

Alexander has included supporting information showing that he cannot hear at all and hearing aids would be of no assistance.

He explains in his application the difficulties he has with making journeys and communicating with others. The case manager has noted his request for a consultation but as there is sufficient information to determine Alexander is entitled to the enhanced rates of both components of Adult Disability Payment with no requirement for review, the request is declined.

Example: a client request for a consultation at re-determination stage is granted

Kayleigh is 29 years old and applies for Adult Disability Payment for the first time. She has needs as a result of Chronic Fatigue Syndrome. After being invited to participate in a telephone consultation, Kayleigh is awarded the standard rate daily living component of Adult Disability Payment.

Kayleigh requests a re-determination including a consultation. A client experience officer discusses Kayleigh's request for a second consultation with her and Kayleigh explains that she does not think the consultation report reflects the effect her condition has on her mobility. The client experience officer agrees that it would be helpful for Kayleigh to explain her mobility needs to a practitioner because there is insufficient information available about her mobility. Therefore Kayleigh's request for a consultation at re-determination stage is granted.

Example: a client request for a consultation at re-determination stage is refused

James is 24 years old and applies for Adult Disability Payment for the first time. He has recently been diagnosed with dyslexia and dyscalculia. After seeking advice from a practitioner, the case manager makes a determination that James is not eligible for Adult Disability Payment.

James requests a re-determination and a telephone consultation. The client experience officer discusses the request with James and decides that they do not have any new information to introduce to the application. They therefore decide that there is not good enough reason to justify a consultation.

Client refuses a request for a consultation

17. A client has the right to refuse a Social Security Scotland request for a consultation. The case manager or client experience officer should discuss with the client why a consultation would be helpful and explain the potential impact of not having one on the determination. The case manager or client experience officer will then make a determination based on the available supporting information.

Scheduling and rescheduling a consultation

18. Social Security Scotland should take into account any preference a client communicates about where and how a consultation is carried out¹.

1 Social Security (Scotland) Act 2018, s.14(b)

19. When a client applies for Adult Disability Payment, they are be able to reschedule a consultation up to 3 times within 3 months of the first consultation appointment.

20. If a client has already rescheduled their consultation 3 times and does not attend their 4th scheduled consultation appointment, a case manager may make a determination on the available information. However, consideration should be

given to any exceptional circumstances which mean that a client can be given another scheduled appointment. Exceptional circumstances may include:

- a bereavement
- an unexpected illness or a medical emergency relating to the client or client's relative

21. A consultation may be rescheduled by Social Security Scotland when necessary and this should not count as one of the 3 times a client can reschedule. Reasons Social Security Scotland may reschedule include:

- the consultation ends early because of circumstances beyond the client's control
- there being no suitable practitioner available
- technical difficulties experienced by the client, the practitioner or someone else taking part in the consultation.
- Social Security Scotland request to reschedule the consultation because of practitioner availability.

22. If a client is required to attend another consultation due to issues with the first, justifications for doing so would have to be provided in line with the 2018 Act¹, including an explanation of why it is necessary to have another consultation to gather information needed to make a determination.

1 Social Security (Scotland) Act 2018, s.55

23. During a re-determination, a client can reschedule their consultation up to 2 times.

Example: a client reschedules their consultation multiple times

Maria is 21 years old and applies for Adult Disability Payment for the first time. They have recently been diagnosed with epilepsy as a secondary symptom of a traumatic brain injury. They are invited to a telephone consultation to discuss missing information around their abilities to wash, dress and engage with others.

The supporting information shows that Maria has unpredictable seizures on a daily basis. These result in around 20 minutes of disorientation and an hour of severe fatigue. Because of these unpredictable seizures Maria's mother has cancelled and rearranged 3 of their consultation appointments. The case has been flagged to the case manager for consideration of next steps.

The case manager determines that the cancellations are beyond Maria's control and so agrees to rearrange the consultation a fourth time.

Who should carry out a consultation

24. Where a consultation is required it must be carried out by a suitably qualified person employed by Social Security Scotland¹. Practitioners employed by Social Security Scotland will be suitably qualified because they meet the requirements set out in the ADP regulations.²

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*1 Social Security Scotland Act, s 13 and ADP Regs, reg 61
2 ADP regs, reg. 61*

25. Practitioners belong to at least one of four categories. A senior practitioner should select the most appropriate practitioner to carry out a consultation. The categories are:
- Adult Health Social Care Learning Disabilities Mental Health
26. A client may have multiple health conditions and/or disabilities. A senior practitioner should select a practitioner based on the area(s) of discussion they have identified for the consultation. A consultation may cover multiple health conditions and/or disabilities. A senior practitioner should select a practitioner from the category that is relevant to the most significant discussion areas.
27. Where the client has reported a learning disability or mental health condition, a practitioner from one of the below categories should be assigned to carry out the consultation .
- Learning Disabilities
 - Mental Health
28. A client may report a learning disability and a mental health condition. In this case the senior practitioner should decide which category of practitioner is most relevant to the areas of discussion identified for the consultation.

Who can participate in a consultation

29. The client has the opportunity to be joined during a consultation by up to two other people, in addition to an interpreter or translator. This should be the case regardless of how a consultation is undertaken. They can participate fully in the consultation. The client may be joined by a:
- family member
 - friend
 - supporter worker
 - advocate

This list is not exhaustive.

30. The details of additional attendees will be required at appointment booking stage.

Where the client requests that more than two other people attend the consultation, this should be accommodated where there is good reason for the request. Good reason may exist because the client needs the support of more than two people due to their disability, ill health condition or terminal illness.

31. Where Social Security Scotland has appointed a person to act on behalf of a client, they can participate in a consultation instead of the client.²

How a consultation can be carried out

32. A consultation can be carried out in a number of ways. These are:

- by telephone
- by video call
- in person – at the client’s home
- in person – at another location such as a GP’s practice or a suitable local delivery office.

33. Consultations should be carried out by telephone as standard. However a case manager should consider whether any information in the client’s application exists that indicates that a telephone consultation would not be appropriate.

34. If a client expresses a preference as to how they participate in a consultation, Social Security Scotland must consider their preferences.¹ They are able to express their preferences at the application stage. For example, a client may feel most able to articulate the impacts of their disability or health condition when communicating face-to-face. These preferences should be taken into account by a case manager selecting the most appropriate channel for a consultation. Social Security Scotland must demonstrate how it has taken a client’s preferences into account.

1 SSS Act, s.14 (b)

Example: a case manager requests a video consultation

22 year old Georgia submits an application for Adult Disability payment without expressing a preference for how a consultation should take place on her application form. The case manager concludes that a consultation is necessary to ascertain Georgia’s level of entitlement. The case manager notes from her application that Georgia is Deaf. Therefore, the case manager contacts Georgia to ask if she requires any support such as a British Sign Language interpreter. Following this discussion the case manager records that a telephone consultation is not appropriate and a video consultation with an interpreter is arranged.

Example: a client requests an in person consultation

47 year old Brian is in receipt of the standard rate of the daily living component and the standard rate of the mobility component. This is because he has needs relating to relapsing / remitting multiple sclerosis. Brian’s needs increase because his condition progresses to primary progressive multiple sclerosis. He contacts Social Security Scotland to report a change of circumstances.

Brian firstly has support from Local Delivery to gather supporting information. Brian requests that the consultation takes place in-person because he is more comfortable

discussing the impact of the condition face-to-face with the practitioner. The case manager discusses this with Brian and agrees that an in-person consultation should take place.

What a consultation should cover

35. A consultation is a discussion between a practitioner and the client.
36. The practitioner should only discuss the areas identified by the case manager in advance of the consultation unless directed otherwise by the client. A record of the consultation should be made by the practitioner. This is called a consultation report.
37. The consultation may focus on at least one of the activities which are used to make a decision on eligibility and entitlement. The activities relate to either the client's daily living or their mobility.
38. Each activity contains a series of descriptors. Descriptors describe the level of ability associated with the activity. The consultation report will provide advice relating to client ability within the relevant activity.
39. The consultation may also cover the client's:
 - social history
 - medical history
 - medication
40. The client may use the consultation to introduce new information that is relevant to their application. This should be recorded in the consultation report.
41. During the consultation the practitioner may observe something that is relevant to the application. This is called an informal observation. When this happens, the practitioner must discuss with the client what they have observed and any conclusions they have reached as a result. Both the observation and any response provided by the client must be recorded in the consultation report .
Anything observed:
 - before,
 - after,
 - or outsideof the consultation should not be considered or recorded by the practitioner.

Unexpected findings

42. During a consultation, a practitioner may identify an unexpected factor such as the possibility of a significant undiagnosed medical condition. When this happens, a practitioner has a responsibility to complete an 'Unexpected Information' report with information on what was said during the consultation. As well as sharing this with the client as part of their determination, this will be shared with someone involved in the care of the client, such as their GP too. The practitioner should seek the consent of the client before informing a GP of the finding.

43. If the finding is of a life-threatening nature, the practitioner should seek the client's consent to telephone the GP or call an ambulance if appropriate. This telephone call should be followed up with a written notification to the GP. The practitioner should seek the client's consent to telephone their GP and inform them of the finding.
44. If the client does not give consent for the practitioner to contact their GP, the practitioner should judge whether the situation is serious enough to break confidentiality by telling the GP without the client's consent. This should always be shared with the client where appropriate.

Audio recording of the consultation

45. Consultations are audio recorded as standard by Social Security Scotland.
46. Clients are informed in their invitation letter that a consultation will be audio recorded.
47. A client is able to opt out of having their consultation recorded. A client can request to opt out at any point in the application process until the consultation commences.
48. Where a client requests that audio recording is stopped during a consultation, the practitioner may end the consultation. When this happens, the consultation should be rescheduled. This counts as one of the three times the client may reschedule a consultation within the 3 months of submitting an application.
49. A client can request for the audio recording of their consultation to be deleted at any time during the retention period of the recording. Notes taken during the consultation can be retained.
50. A client, or anyone accompanying the client, may take notes during a consultation.

Ending a consultation

51. There are circumstances in which a consultation may end early. A consultation may end early because:
- a client has chosen to end the consultation
 - a practitioner has chosen to end the consultation
 - the partnership location has become unsuitable and / or unsafe and has resulted in an in-person consultation ending
 - disruption to a connection has resulted in a telephone or video consultation ending
52. A client has the right to end a consultation at any point. It may be appropriate to reschedule the consultation if a decision still cannot be made on eligibility. This counts as one of the three times the client may reschedule a consultation within the 3 months of submitting an application.

Client expenses

- 53. Where an in-person consultation takes place, clients can claim travel expenses if travel is necessary to attend the consultation.
- 54. Where the cost of an advocate or supporter attending an in-person consultation is met by the client, they are eligible to claim travel expenses for them to a maximum of 2 people.

After the consultation

- 55. All information raised in a consultation is recorded in the consultation report.
- 56. If anything was raised in the course of the consultation which was deemed harmful it would instead be recorded in a harmful information report.
- 57. If information was shared in the consultation which indicated someone could be terminally ill but was not aware of this the practitioner would ensure this is followed up.
- 58. The case manager should use the information in the consultation report to inform a decision alongside the other available supporting information.
- 59. The consultation report should be provided to clients with their decision letter along with any unexpected information report completed. Where an appeal takes place, a copy of the consultation report will be provided to members of the tribunal.