

## **Scheduled Reviews**

### **[H1] Index**

This chapter covers the following topics:

- Introduction
- What scheduled reviews are
- When new determinations take effect

### **[H1] Introduction**

1. This chapter covers the topic of scheduled reviews of existing Adult Disability Payment (ADP) awards.
2. Case managers should read this chapter together with the following chapters:
  - Principles of Decision-Making chapter
  - Determinations and Awards chapter, which explains components and rates of ADP.
  - Relevant Considerations When Making a Determination for an Award Review chapter, which explains our approach to reviews, including what considerations and information are relevant when carrying out reviews
  - Choosing an Appropriate Review Period, which sets out which factors case managers should consider when setting a review period or making an indefinite award.
  - Operational guidance provides information on the process of carrying out scheduled reviews.

**[H1] What scheduled reviews are**

3. Social Security Scotland disability benefits are ongoing. This means that they don't have an end date after which the individual has to reapply in order to remain entitled to assistance.
4. In most ADP cases, case managers set a period of time after which awards are reviewed to make a new determination of the individual's entitlement to ADP<sup>1</sup>. This period is called a review period.

*1 ADP regs, reg. 47*
5. The decision whether an individual is still entitled to ADP, and if so, at what rate, is called a determination without application.
6. Scheduled reviews ensure that the individual continues to receive the assistance to which they are entitled. The determination will decide the individual's entitlement to ADP and take into consideration a change to the individual's entitlement.
7. In order to make a determination, the case manager may ask an individual to provide information so they can make a decision on<sup>1</sup>:
  - whether the individual is entitled to any of the ADP components
  - what rate of each component the individual is entitled to.

*1 SS(S)A 2018, s. 54(1)*
8. All scheduled reviews are light-touch. For more information on light-touch reviews see the Relevant Considerations When Making a Determination for an Award Review chapter and Operational Guidance.
9. Individuals may be invited to a consultation to help a case manager make a decision on entitlement to Adult Disability Payment, though this will only take place when it is the only practicable way to obtain the information needed to make a decision.
10. For more information on how to carry out scheduled reviews refer to the Operational Guidance on scheduled reviews.

**[H1] When new determinations take effect**

11. If the individual has just been transferred from PIP because their PIP award was due to be reviewed, the case manager should follow guidance in the Adult Disability Payment Case Transfer chapter [Link to Adult Disability Payment Case Transfer]. For all other scheduled reviews, the rules set out in this chapter apply.
12. Individuals in receipt of disability benefits have the duty to report changes of circumstances to Social Security Scotland<sup>1</sup>. People are expected to report a change of circumstance that is likely to impact on their level of entitlement as soon as reasonably practicable after that change happened. This then triggers an unscheduled review.
13. The rules on when entitlement starts in these scenarios are set out in the Change of circumstances: change in care and mobility needs DMG chapter.
14. However people might not proactively report a change of circumstance and might only tell us about that change in their next scheduled review.
15. For scheduled reviews an increase in their entitlement will normally take effect on the date the case manager makes the determination<sup>1</sup>.

*1 ADP regs, reg. 45(1)(d)*

16. In a situation where the award is due to increase and an individual proactively tells us that there are clear reasons as to why they were unable to report a change sooner, you should consider whether it would be unjust not to set an earlier start date for their increase in entitlement<sup>1</sup>.

*1 ADP regs, reg. 45(2)*

17. If the individual challenges the initial determination and gives a reason for why an earlier date should be considered the case manager must consider this and choose an earlier date if they feel it would be unjust not to do so. Where the scheduled review includes multiple changes, it is possible separate determinations may be needed. This will depend on the reason given (for an earlier date) and whether this affects all changes, or just one of them.
18. If you've established that it would be unjust not to set an earlier date, you should refer to the section "Setting an earlier start date if it would be unjust not to do so" for a change resulting in increased entitlement or for more detail on when these changes will take effect.
19. It is possible that a review reveals a decrease in the individual's level of needs which they should have reported earlier. Where the individual has knowingly failed to report such a change or failed to notify the change as soon as

reasonably practical after that change occurring, the case manager would set the date of either:

- lower entitlement
- cessation of entitlement

to the date the individual should have notified the change <sup>1</sup>.

See guidance at section “If the decrease should have been reported sooner”

In any other case where the review reveals a decrease this change should take effect from the date of the determination <sup>2</sup>.

*1 ADP regs, reg. 46(1)(b)(i)*

*2 ADP regs reg 46(1)(b)(ii)*

20. In a situation where the individual tells us that there are clear reasons why a later date would be more fair for a reduced award to commence from, you should consider whether it would be unjust not to set a later start date for their decrease in entitlement<sup>1</sup>.

*1 ADP regs, reg. 46(2)*

21. If you’ve established that it would be unjust not to set a later date, you should refer to the section “If the decrease should have been reported sooner” for a change resulting in decreased entitlement or ceased entitlement for more detail on when these changes will take effect.

## **[H2] If there has been no change in level of entitlement**

22. If the individual returns their review pack and reports that they have either
- not experienced a change
  - experienced a change in need that does not translate into a change in entitlement

the case manager should make a determination that the award will remain the same and set an appropriate review period. See the Choosing an Appropriate Review Period chapter for guidance on how to set an appropriate review period and to understand whether an indefinite award would be appropriate [LINK].

23. This new determination will take effect on the date the case manager makes the determination without application<sup>1</sup>.

*1 ADP regs, reg. 45(1)(d)*

## **[H2] If there has been an increase in level of entitlement**

24. This section covers scenarios where the individual reports a change of circumstances.

25. If the individual both
- returns their review pack and reports an increase in need that leads to an increase in entitlement,

- has already met the backwards test for this increase,

their change in entitlement will take effect on the date the case manager makes the determination without application<sup>1</sup>.

*1 ADP regs, reg. 45(1)(d)*

26. Individuals must satisfy the backwards test before they can become entitled to an increased rate of ADP when their award is reviewed. For more information on the backwards test please refer to the Backwards and Forwards Tests chapter. Reference should also be made to the 'Change of circumstances: change in mobility or care needs' chapter for guidance on applying the backwards test appropriately.

### **Example – a client reports a change**

The client returns their review pack on 1 February 2023, shortly after having received it. The client reports a change in circumstances and tells us that their level of needs increased from 1 January 2023.

A case manager picks this up to process in March 2023. After considering all the information they determine the award will increase.

However, the client has not yet met the backwards test. The change in their level of needs was on 1 January 2023. They meet the backwards test for this on 2 April 2023. So, the increase in award should take effect from the 2 April 2023.

### **Example – a client reports their changes late**

The client returns their review pack on 1 February 2023, shortly after having received it. The client reports a change in circumstances and tells us that their level of needs increased on 15 June and 1 September 2022, respectively.

A case manager picks this up to process in March 2023. They make a new determination on 25 March. The award increases.

The client met the backwards test for their changes on 14 September and 1 December 2022, respectively.

As the determination was made later than that, this means the case manager uses the date of determination to set when any increase in award takes effect. This is on 25 March 2023.

***[H3] Setting an earlier start date if it would be unjust not to do so***

27. There are circumstances that would make it unjust not to set an earlier date for the increase in entitlement to take effect<sup>1</sup>.

*1 ADP regs, reg. 45(2)*

28. Case managers should make the decision
- whether it would be unjust not to set an earlier date
  - what that earlier date should be,

based on information already available to them. This could be, for example, through details provided on the client's review form or further information provided later in a redetermination form.

29. One scenario where it would be unjust not to set an earlier start date would be where both:
- the award review has been delayed
  - the delay was caused by Social Security Scotland

30. Examples of scenarios where Social Security Scotland is responsible for delays in reviewing a case include:
- forms or documents submitted by the individual as part of their review have got lost
  - pre-review notifications or review packs were not sent out on time
  - after completed review forms have been received, reviews are concluded more than 12 weeks after their review date

This list is not exhaustive.

31. The case manager must refer to the relevant operational guidance chapter where processing has been delayed and DMG chapter when deciding whether setting an earlier date would be appropriate [LINK].
32. Another scenario would be where the client reaches out to Social Security Scotland to explain that they didn't notice the change, or have a good reason not to have reported it within a reasonable timeframe due to, for example:
- Impacts of their condition or overall health
  - Bereavement
  - A hospital stay

This list is not exhaustive.

33. If a case manager is uncertain about whether it would be unjust to not set an earlier date for a change of entitlement, they should seek advice from their decision team manager.

**Example – a client has provided a good reason for reporting a change late**

The client returns their review pack on 1 February 2023, shortly after having received it. The client reports a change in circumstances which means their level of needs increased from 1 July 2022.

A case manager makes a new determination on 1 April 2023 and the award increases.

The client mentioned on their review form that, due to the increase in severity of their mental health condition and subsequent change in medication, they've been struggling with living an organised life, including completing administrative tasks. They've been feeling unable to report the change sooner, due to still adjusting to their new medication.

Based on this information, the case manager establishes that the client has good reason for not reporting their change earlier, when it occurred. Therefore, they decide that it would be unjust not to set an earlier start date for the increased award. They set the start date to be the date the client first met the eligibility criteria for the increased entitlement. This is 13 weeks after 1 July 2022, which is 30 September 2022.

## **[H2] If there has been a decrease in level, or end, of entitlement**

34. This section covers scenarios where

- the individual reports a change of circumstances leading to a decrease or end of entitlement, and
- the entitlement arising from this change continues throughout the review and beyond.

35. If during a scheduled review a case manager determines that both:

- there has been a change in the individual's level of need
- this change leads to either a decrease or end of entitlement

this change will take effect on the date the individual should have reported their change sooner<sup>1</sup>. See guidance at section "If the decrease should have been reported sooner".

*1 ADP regs, reg. 46(1)(b)(i)*

In any other case, this change should take effect from the date the case manager makes the determination without application.<sup>2</sup>

*2 ADP regs, reg. 46(1)(b)(ii)*

36. However, the date when a change comes into effect can be different if it would be unjust not to set a later start date for the new entitlement<sup>3</sup>. See “Setting a later start date if it would be unjust not to do so”.

3 ADP regs, reg. 46(2)

### **Example 1**

A client experiences a decrease in needs on 15 May 2023.

Their change in needs becomes apparent during their scheduled review, when they return their review pack to Agency on 1 June 2023.

The determination is made on 1 August 2023.

As the client reported their decrease in needs within one month of them occurring, the start date of their new entitlement is the date the case manager makes the determination.

### ***[H3] If the decrease should have been reported sooner***

37. It is possible that a scheduled review reveals a change in the individual's level of needs, resulting in a decrease of entitlement, which they should have reported sooner. To find out whether that is the case, refer to the Change of Circumstances: Change in mobility or care needs chapter.

38. If the individual either
- knowingly fails to report the change
  - fails to report the change as soon as reasonably practicable after the change occurred,

the case manager would set the date of either:

- change
- end

of entitlement to the date the individual should have notified the change<sup>1</sup>.

1 ADP regs, reg. 46(1)(b)(i)

39. In all other cases, the decrease or end of, entitlement should take effect when the case manager makes the determination.
40. The case manager should use the timeframes set out in the Change of circumstances: change in mobility or care needs chapter to establish whether the individual could reasonably have been expected to report this change sooner. This is to establish when the individual's change of entitlement begins.

### **Example – a client reports their decrease in needs late**



A client experiences a decrease in needs which they could have reasonably been expected to report on 1 January 2023.

Their change in needs becomes apparent during their scheduled review, when they return their review pack to Agency on 1 June 2023.

The determination is made on 1 August 2023.

The client should have reported the change shortly after 1 January 2023. The case manager sets the start date for their reduced entitlement to this date.

41. If the individual should have reported their change sooner, but informs the case manager of circumstances which meant they could not report the change sooner, the case manager can set a later start date for the change in entitlement, if it would be unjust not to do so. See the 'Setting an later start date if it would be unjust not to do so' section for more information.

***[H3] Setting a later start date if it would be unjust not to do so***

42. When completing the change of circumstances form as part of their review pack, clients might tell us that they have circumstances which meant they could not report their change sooner or give a reason why they think a reduction in their award should happen from a later date.

The case manager can set a later start date (than the date they should have notified us) if the entitlement has decreased or ended following the determination. This is only possible if it would be unjust not to do so<sup>1</sup>. One example would be where the individual's condition has improved slowly and the decrease in needs was therefore not noticed for a while, however they should still have reported it before they reached scheduled review

*1 ADP regs, reg. 46(2)*

43. The case manager must refer to the relevant DMG chapter when deciding whether setting an later start date would be appropriate [LINK].
44. If a case manager is uncertain about whether it would be unjust to not set an later date for a change of entitlement, they should seek advice from their decision team manager.

**Example – a client has reported circumstances which meant they were unable to report the change earlier**

A client experiences a decrease in needs on 1 January 2023.

Their change in needs becomes apparent during their scheduled review, when they return their review pack to Agency on 1 June 2023, shortly after receiving it.

The determination for their scheduled review is made on 1 August 2023.

After submitting their review form, the client calls Social Security Scotland and explains that they did not report their change when it occurred, because they had a bereavement in the family around the same time. The case manager establishes that the client could have been reasonably expected to notice and report their change at the beginning of March 2023.

The case manager therefore sets March 2023 as the effective date of determination.

**Example: a client requests a redetermination**

A client experiences a decrease in needs on 1 January 2023.

Their change in needs is reported during their scheduled review, when they return their review pack to Agency on 1 June 2023, shortly after receiving it.

The determination for their scheduled review is made on 1 August 2023. The case manager sets 1 January 2023 as the start date for the new entitlement.

The client requests a redetermination. Their social worker contacts the Agency to explain that the client leads a chaotic life and, due to their circumstances, could not reasonably have been expected to notice the change in their needs. They also explain that they had to remind the client to submit their review form before the deadline.

The case manager processing the redetermination establishes that the client could not have been reasonably expected to notice and report their change before the date they did report it (1 June 2023).

The case manager sets the start date for the new entitlement to 1 August 2023, which is the date the original review determination was made.

**Example: a client has circumstances which meant they could not report one of their changes sooner**

A client experiences a decrease in needs on 1 October 2022 as well as on 1 January 2023.

Their changes in needs become apparent during their scheduled review, when they return their review pack to Agency on 1 June 2023, shortly after receiving it.

The determination for their scheduled review is made on 1 August 2023.

On their review form, the client informs Social Security Scotland and explains that they did not report their second change when it occurred, because they were in hospital with a broken leg. The case manager establishes that the client could have been reasonably expected to notice and report this change by mid-February 2023. The case manager establishes that they will have to make two separate determinations to account for the different dates the changes will come into effect.

For the first decrease in award there is nothing to suggest that they were not able to report this change around the time it happened. This means this change should come into effect on 1 October .

For the second change, 15 February 2023 is set as the effective date for this decrease in award as this is the date the client could have been reasonably expected to notice and report the change.